

STREETS

§ 93.040 GRADING, PAVING AND OTHER IMPROVEMENTS.

(A) The municipality has the power to provide for the grading and repair of any street, avenue, or alley. No street, avenue, or alley shall be graded unless the grading is ordered to be done by the affirmative vote of two-thirds of the Board of Trustees.

(Neb. RS 17-508)

(B) The Board of Trustees may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravell, macadamize, remacadamize, widen, or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the village corporate area and the area adjoining the village. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. RS 19-2428 to 19-2431. The Board of Trustees may by ordinance create improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of the improvements in one proceeding.

(Neb. RS 17-509)

(C) Whenever the Board of Trustees deems it necessary to make the improvements in division (B) which are to be funded by a levy of special assessment on the property especially benefitted, the Board of Trustees shall by ordinance create an improvement district.

(Neb. RS 17-511)

Statutory references:

Acquisition of additional land or an easement by purchase, gift, or eminent domain,

Neb. RS 18-1705

Authority to create improvement districts, impose special assessments, and issue bonds,

Neb. RS 17-509 to 17-524, 18-1751

Combined improvements, Neb. RS 19-2401, 19-2408 to 19-2415

Creation of improvement district by petition of owners, Neb. RS 17-510

Deferral of special assessments on land in agricultural use zone, Neb. RS 19-2428 through 19-2431

Duty to keep streets and alleys open, in repair, and free from nuisances, Neb. RS 17-567

Improvement of federal or state highway or main thoroughfare, Neb. RS 17-412

Improvement of street which divides city corporate area and area adjoining the city, Neb. RS 17-509

Inclusion of adjacent land in improvement district, Neb. RS 19-2427

Jurisdiction over street which forms common boundary with county or another municipality,

Neb. RS 18-2005

Limited street improvement districts, Neb. RS 19-2416

Objections to improvement district funded by special assessments, Neb. RS 17-511

*See #93.040.1
93.040.2*

§ 93.041 IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT.

(A) The municipality may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

(1) Any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or 1,325 feet, whichever is the lesser;

(2) Any unpaved street or alley which intersects a paved street for a distance not to exceed one block on either side of such paved street; and

(3) Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from such major traffic street.

(B) Such improvements may be performed upon any portion of a street or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the municipality for its paved streets.

(C) In order to defray the costs and expenses of these improvements, the municipality may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. RS 18-2003. (Neb. RS 18-2001 to 18-2004)

§ 93.042 VACATING PUBLIC WAYS.

(A) (1) *SPECIAL DAMAGES* shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the Board of Trustees vacating such street, avenue, alley, lane or similar public way.

(2) *SPECIAL DAMAGES* shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the village or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the village or public at large.

(B) The Chairperson shall appoint three or five or seven disinterested residents of the municipality to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the Board of Trustees vacating such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the Board of Trustees. Only special damages, as herein defined, shall be awarded to the abutting property owners.

(C) In determining the amount of compensation to award the abutting property owners as special damages, the Commission shall use the following rule:

ORDINANCE 93.040.1

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

AN ORDINANCE CREATING STREET IMPROVEMENT DISTRICT NO. 2004-1 IN THE VILLAGE OF GILTNER, NEBRASKA, ORDERING THE CONSTRUCTION OF STREET IMPROVEMENTS THEREIN.

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

Section 1. That there be and hereby is created in the Village of Giltner, Nebraska, a street improvement district to be known and designated as Street improvement District No. 2004-1 of the Village of Giltner, Nebraska.

Section 2. That the outer boundaries of Street Improvement District No. 2004-1 shall include the following described property to wit:

Lots 1 through 14 (inclusive), Block 1, Lots 1 through 7 (inclusive), Block 2, Lots 1 through 6 (inclusive), Block 3, Lots 1 through 12 (inclusive), Block 4, all within Wheeler's First Addition, to Giltner, Hamilton County, Nebraska; Together with Lots 1 through 12 (inclusive), Block 1, Lots 1 through 14 (inclusive), Block 2, all within Shaws First Addition, to Giltner, Hamilton County, Nebraska; Together with: A tract of land being the East 680.0 feet of the West 880.0 feet of the South 150.0 feet of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section six (6), Township Nine (9) North, Range Seven (7) West of the Sixth Principal Meridian, Hamilton County, Nebraska.

And within which District, the following streets shall be improved by paving, grading and all necessary appurtenances thereto:

North Street, extending easterly from the East line of Derby Avenue to the West line of Pelham Avenue. Olive Street, extending easterly from the East line of Derby Avenue to the West line of Pelham Avenue. Olive Street, extending easterly from the East line of Pelham Avenue to the West line of Enfield Avenue. Derby Avenue, extending southerly from the centerline of North Street to the North line of Barrett Street.

And within which District, the following streets shall be improved by asphalt, grading and incidental work connected therein.

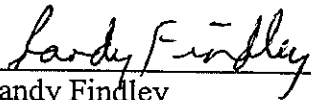
Section 3. Said street shall be improved and said improvements shall be made in accordance with the plans, specifications and estimate prepared by the special engineers for the Village and to be approved by the Chairperson and Board. The Chairperson and Board shall have the authority to levy special assessments to pay the costs of such paving excepting street intersections against the property within said district specifically benefited thereby in proportion to benefits.

Section 4. Notice of the creation of said District shall be published as provided by law in the Aurora News Register, a legal newspaper published in Hamilton County and of general circulation in Giltner, Nebraska.

Section 5. Any other ordinance or section passed and approved prior to passage and approval of this ordinance and in conflict with its provisions is repealed.

Section 6. This ordinance shall take effect and be in full force from and after its passage, approval, and required publishing and posting.

PASSED AND APPROVED THIS 13th day of December, 2004.



Randy Findley
Chairperson

ATTEST:



Charlynn Kral Krcilek
Village Clerk



ORDINANCE 93.040.2

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

AN ORDINANCE CREATING STREET IMPROVEMENT DISTRICT NO. 2004-2 IN THE VILLAGE OF GILTNER, NEBRASKA, ORDERING THE CONSTRUCTION OF STREET IMPROVEMENTS THEREIN.

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

Section 1. That there be and hereby is created in the Village of Giltner, Nebraska, a street improvement district to be known and designated as Street improvement District No. 2004-2 of the Village of Giltner, Nebraska.

Section 2. That the outer boundaries of Street Improvement District No. 2004-2 shall include the following described property to wit:

Lots 1 through 12 (inclusive), Lots 13 through 24, (inclusive), all within Third Addition, to Giltner, Hamilton County, Nebraska; Together with Lots 1 through 18 (inclusive), Block 9, Lots 1 through 4 (inclusive), Block 10, all within the Original Town of Giltner, Hamilton County, Nebraska.

And within which District, the following street shall be improved by paving, grading and all necessary appurtenances thereto:

Amherst Street, extending easterly from the East line of Commercial Avenue to the northeasterly line of North Railroad Street running adjacent to the Burlington Northern Santa Fe Railroad.

And within which District, the street shall be improved by asphalt, grading and incidental work connected therein.


Section 3. Said street shall be improved and said improvements shall be made in accordance with the plans, specifications and estimate prepared by the special engineers for the Village and to be approved by the Chairperson and Board. The Chairperson and Board shall have the authority to levy special assessments to pay the costs of such paving excepting street intersections against the property within said district specifically benefited thereby in proportion to benefits.

Section 4. Notice of the creation of said District shall be published as provided by law in the Aurora News Register, a legal newspaper published in Hamilton County and of general circulation in Giltner, Nebraska.

Section 5. Any other ordinance or section passed and approved prior to passage and approval of this ordinance and in conflict with its provisions is repealed.

Section 6. This ordinance shall take effect and be in full force from and after its passage, approval, and required publishing and posting.

PASSED AND APPROVED THIS 13th day of December, 2004.



Randy Findley
Chairperson

ATTEST:



Charlynn Kral Krcilek
Village Clerk

seal

4. Said special assessments shall be a lien on the property on which they are levied from the date of the passage of this resolution and shall be certified by the Village Clerk to the Treasurer of this Village for collection; that the Village Clerk shall also at the time provided by law cause such assessments or the portion thereof then remaining unpaid to be certified to the County Treasurer of this County for entry upon the property tax list; that said assessments shall be payable to the Village Treasurer until so certified to the County Treasurer and shall thereafter be collected by the County Treasurer.

5. Said assessments for paving are payable in ten equal installments, the first of which shall become delinquent not less than fifty (50) days from the date of adoption of the resolution, and the remaining installments shall become delinquent on the 1st day of February subsequent to the date of levy and thereafter, in one, two, three, four, five, six, seven, eight and nine years respectively; that each of said installments shall draw interest from the date of the passage of this resolution at the rate of seven per centum (7%) per annum, until the same become delinquent, and after the same become delinquent interest at the rate specified by law for delinquent special assessments for such districts and projects shall be paid thereon; provided all said assessments may be paid at one time on any lot or land within fifty (50) days from the date of levy without interest.

PASSED AND APPROVED this 21st day of November, 2005.

ATTEST:

By _____
Chairperson

Christina K. Kulek
Village Clerk

(SEAL)



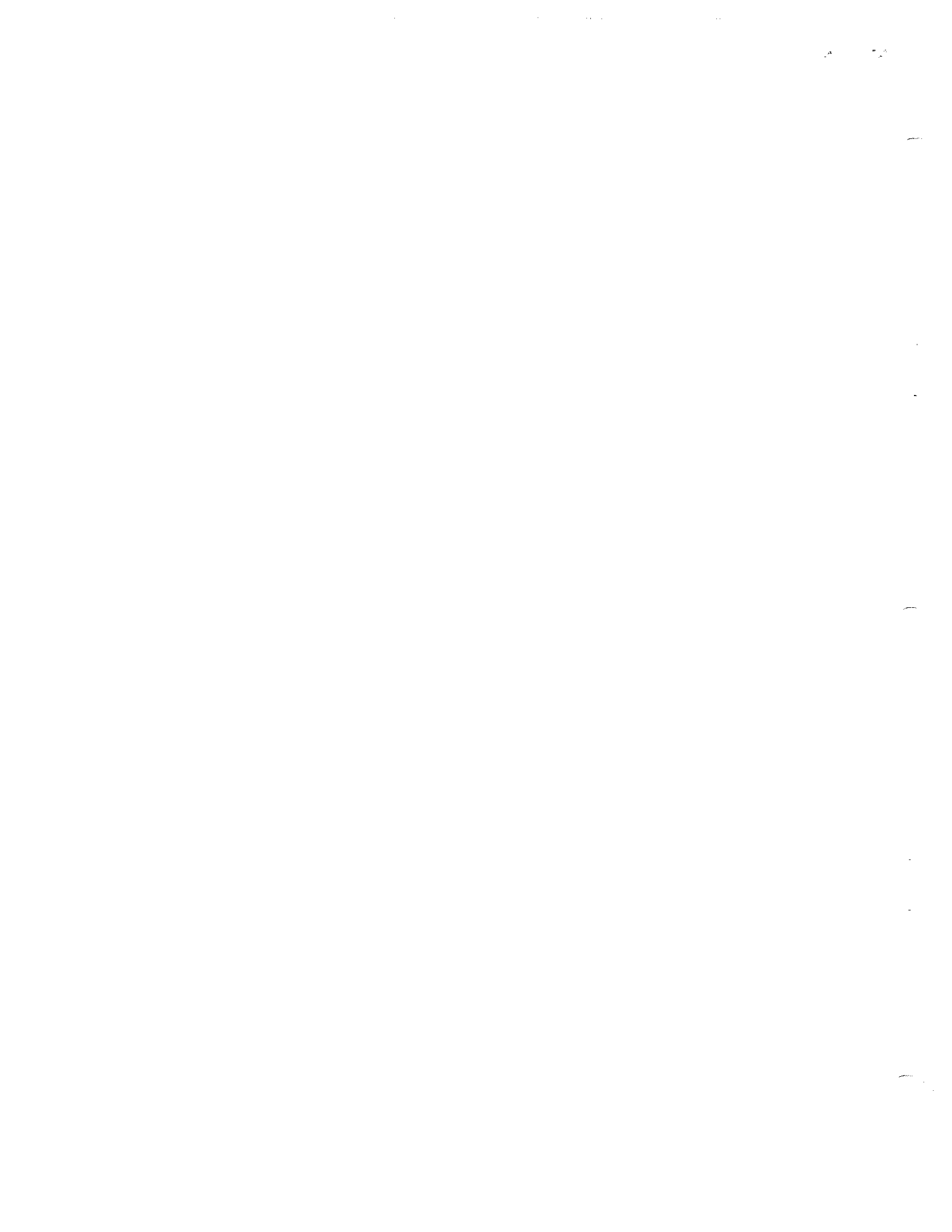
ORDINANCE NO. 93.040.3

AN ORDINANCE AUTHORIZING THE ISSUANCE OF DISTRICT IMPROVEMENT BONDS OF STREET IMPROVEMENT DISTRICTS NOS. 2004-1 AND 2004-2 OF THE VILLAGE OF GILTNER, NEBRASKA OF THE PRINCIPAL AMOUNT OF NINETY THOUSAND DOLLARS (\$90,000) ISSUED TO PAY THE COST OF IMPROVING CERTAIN STREETS (EXCLUSIVE OF INTERSECTIONS AND AREAS FORMED BY THE CROSSING OF STREETS, AVENUES AND ALLEYS) IN STREET IMPROVEMENT DISTRICTS NOS. 2004-1 AND 2004-2 OF SAID VILLAGE; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR A SINKING FUND AND FOR THE LEVY OF TAXES TO PAY SAID BONDS; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

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

Section 1. The Chairperson and Board of Trustees of the Village of Giltner, Nebraska hereby find and determine as follows: (a) that pursuant to ordinances heretofore duly enacted and proceedings duly had, Street Improvement Districts Nos. 2004-1 and 2004-2 were created in the Village and paving and other improvements were constructed therein which have been completed and have been and hereby are accepted by the Village; b) that the cost of paving and other improvements in said Districts as certified by the engineers for said Districts does not exceed \$90,000, none of which cost involves the improvement of the intersection of any street, avenue or alley in the Village; that the total cost of construction in said Districts including the discount on the sale of the bonds is not less than \$90,000; and c) that all conditions, acts and things required by law to exist or to be done precedent to the issuance of District Improvement Bonds of Street Improvement Districts Nos. 2004-1 and 2004-2 of the Village of Giltner, Nebraska, in the principal amount of Ninety Thousand Dollars (\$90,000) to pay the cost of such paving and other improvements do exist and have been done as required by law.

Section 2. For the purposes set out in Section 1 hereof, there shall be and there hereby are ordered issued District Improvement Bonds of Street Improvement Districts Nos. 2004-1 and 2004-2 of the principal amount of \$90,000 to bear date of original issue of May 16, 2006, and to be in fully registered form. Said bonds shall bear interest at the rates per annum and mature on May 15 of each year in the principal amounts as follows:



<u>Principal Amount</u>	<u>Maturing on May 15 of Year</u>	<u>Interest Rate Per Annum</u>
\$10,000	2008	3.85%
10,000	2009	3.95
10,000	2010	4.05
10,000	2011	4.15
10,000	2012	4.20
10,000	2013	4.30
10,000	2014	4.40
10,000	2015	4.50
10,000	2016	4.60

The bonds shall be issued in the denomination of \$5,000 or any integral multiple thereof and shall be numbered from 1 upwards in the order of their issuance. No bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the bonds issued shall be as directed by the initial purchasers thereof. Interest on the bonds shall be payable semiannually on November 15 and May 15 of each year, starting November 15, 2006. The interest due on each interest payment date shall be payable to the registered owners of record as of the close of business on the last day of the calendar month immediately preceding the calendar month in which the interest payment date occurs (the "Record Date"), subject to the provisions of Section 3 hereof. Payment of interest due on the bonds prior to maturity or redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check in the amount due for such interest on each interest payment date to the registered owner of each bond, as of the applicable Record Date, to such owner's registered address as shown on the books of registration, as required to be maintained in Section 3 hereof. Payment of principal due at maturity or at any date fixed for redemption, together with any accrued interest then due, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the bonds to said Paying Agent and Registrar. In the event that bonds of this issue are held in the nominee name of a national clearinghouse or depository, payment of principal or interest shall be made by wire transfer of funds in accordance with any applicable regulations governing "Depository Eligible Securities". The Village and said Paying Agent and Registrar may treat the registered owner of any bond as the absolute owner of such bond for the

purpose of making payments thereon and for all other purposes and neither the Village nor said Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary whether such bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any bond shall be valid and effectual and shall be a discharge of the Village and said Paying Agent and Registrar, in respect of the liability upon the bonds or claims for interest to the extent of the sum or sums so paid. If any bond is not paid upon presentation of the bond at maturity or any interest installment is not paid when due, the delinquent bond or delinquent interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska, 2004, as now existing or as the same may be amended from time to time by the Nebraska Legislature.

Section 3. The Village Treasurer is hereby designated as Paying Agent and Registrar for the bonds. Said Paying Agent and Registrar shall keep and maintain for the Village books for the registration and transfer of the bonds at the office of the Paying Agent and Registrar in Giltner, Nebraska. The names and registered addresses of the registered owner or owners of the bonds shall at all times be recorded in such books. Any bond may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar upon surrender of such bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to such Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar will register such transfer upon said registration books and deliver to the transferee registered owner or owners (or send by registered mail to the transferee owner or owners at such owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new bond or bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the bonds by this ordinance, one bond may be transferred for several such bonds of the same interest rate and maturity and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a bond, the surrendered bond or bonds shall be cancelled and destroyed. All bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the Village evidencing the same obligations as the bonds surrendered and shall be entitled to all benefits and

protection of this ordinance to the same extent as the bonds upon transfer of which they were delivered. The Village and the Paying Agent and Registrar shall not be required to transfer bonds during any period from any Record Date until its immediately following interest payment date or to transfer any bonds called for redemption for a period of 30 days next preceding the date fixed for redemption prior to maturity. In the event that payments of interest due on the bonds on an interest payment date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such interest payment date and shall be payable to the registered owners of the bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 4. Bonds maturing on or after May 15, 2012 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after May 15, 2011, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The Village may select the bonds to be redeemed in its sole discretion but bonds shall be redeemed only in the amount of \$5,000 or integral multiples thereof. Any bond redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new bond evidencing the unredeemed principal thereof. Notice of redemption of any bond called for redemption shall be given at the direction of the Chairperson and Board by the Paying Agent and Registrar by mail not less than thirty days prior to the date fixed for redemption, first class postage prepaid, sent to the registered owner of such bond at said owner's registered address. Such notice shall designate the bond or bonds to be redeemed by number and maturity, the date of original issue, the date fixed for redemption and state that such bond or bonds are to be presented for prepayment at the office of the Paying Agent and Registrar. In case of any bond partially redeemed, such notice shall specify the portion of the principal amount of such bond to be redeemed. No defect in the mailing of notice for any bond shall affect the sufficiency of the proceedings of the Chairperson and Board designating the bonds called for redemption or the effectiveness of such call for bonds for which notice by mail has been properly given and the Chairperson and Board shall have the right to further direct notice of redemption for any such bond for which defective notice has been given.

Section 5. If the date for payment of the principal of or interest on the Bonds shall be a

Saturday, Sunday, legal holiday or a day on which banking institutions in the Village of Giltner, Nebraska are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 6. The bonds shall be executed on behalf of the Village by being signed by the Chairperson and the Village Clerk, both of which signatures may be facsimile signatures, and shall have the Village seal impressed on each bond. The Village Clerk shall make and certify a transcript of proceedings had and done precedent to the issuance of said bonds which shall be delivered to the purchaser of said bonds. After being executed by the Chairperson and Village Clerk, said bonds shall be delivered to the Treasurer of the Village who shall be responsible therefor under his/her official bond and such Treasurer shall maintain a record of information with respect to said bonds in accordance with the requirements of Section 10-140, R.R.S. Neb. 1997, as amended, and shall cause the same to be filed with the Auditor of Public Accounts of the State of Nebraska. The Paying Agent and Registrar shall register each bond in the name of its initial registered owner as designated by the initial purchaser. Each bond shall be authenticated on behalf of the Village by the Paying Agent and Registrar. The bonds shall be issued initially as "book-entry only" bonds using the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers of the Village are authorized to execute and deliver a letter of representations and inducement (the "Letter of Representations") in the form required by the Depository, for and on behalf of the Village, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the bonds. Upon issuance of the bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The Village and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a bond from a Bond Participant while the bonds are in book-entry form (each a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to



any ownership interest in the bonds.

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the bonds. The Paying Agent and Registrar shall make payments with respect to the bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable to or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the Village, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the bonds or (ii) to make available bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such bonds shall designate.

(c) If the Village determines that it is desirable that certificates representing the bonds be delivered to the ultimate Beneficial Owners of the bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such bond and all notices with respect to such bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the bonds may be

delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent and Registrar's Agreement (if any).

(f) In the event of any partial redemption of a bond unless and until such partially redeemed bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such bond as is then outstanding and all of the bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced or upon termination by the Village of book-entry-only form, the Village shall immediately provide a supply of bond certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement bond certificates upon transfer or partial redemption, the Village agrees to order printed an additional supply of bond certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any bond shall cease to be such officer before the delivery of such bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such bond. The bonds shall not be valid and binding on the Village until authenticated by the Paying Agent and Registrar. The bonds shall be delivered to the Paying Agent and Registrar for registration and authentication.

Section 7. Said bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF HAMILTON
VILLAGE OF GILTNER

DISTRICT IMPROVEMENT BONDS OF STREET
IMPROVEMENT DISTRICTS NOS. 2004-1 AND 2004-2

No.				\$
	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
	%	May 15, ____	May 16, 2006	

Registered Owner: _____

Principal Amount: _____

KNOW ALL PERSONS BY THESE PRESENTS: That the Village of Giltner, in the County of Hamilton, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above the principal amount specified above in lawful money of the United States of America on the maturity date specified above, with interest thereon from date of original issue specified above or most recent interest payment date, whichever is later, to maturity (or earlier redemption) at the rate per annum specified above. Said interest shall be payable semiannually on the fifteenth day of November and May in each year, starting November 15, 2006. If this bond is not paid upon presentation at maturity or any interest installment hereon is not paid when due, the bond or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska 2004, as now existing or as the same may be amended from time to time by the Nebraska Legislature. The interest hereon due prior to maturity or earlier redemption shall be paid on each interest payment date by the Village Treasurer, as Paying Agent and Registrar for the Village, by wire transfer (but only in accordance with the limited terms of the authorizing ordinance), check or draft mailed to the registered owner hereof, as shown on the records of the Paying Agent and Registrar as of the close of business on the last day of the month immediately preceding the month in which the interest payment date occurs, at such owner's registered address as it appears on the books of registration of the Village. The principal of this bond and the interest due at maturity or upon call for redemption prior



to maturity are payable on presentation and surrender to said Paying Agent and Registrar at the office of the Paying Agent in Giltner, Nebraska. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available. For the prompt payment of this bond, principal and interest as the same become due, the full faith, credit and resources of said Village are hereby irrevocably pledged.

The Village, however, reserves the right and option of paying bonds of this issue maturing on or after May 15, 2012, in whole or in part, on May 15, 2011, or at any time thereafter. Any bond redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new bond evidencing the unredeemed principal thereof. Notice of such redemption shall be given by mail, sent to the registered owner of any bond to be redeemed at said registered owner's address in the manner provided in the ordinance authorizing said bonds. Individual bonds may be redeemed in part but only in the amount of \$5,000 or integral multiples thereof.

This bond is one of an issue of fully registered bonds of the total principal amount of \$90,000, of like tenor herewith except as to denomination, date of maturity and rate of interest issued by said Village for the purpose of paying the cost of improving certain streets (exclusive of intersections and areas formed by the crossing of streets, avenues and alleys) in Street Improvement Districts Nos. 2004-1 and 2004-2 of said Village in strict compliance with Section 17-516, Reissue Revised Statutes of Nebraska, 1998, and has been authorized by an ordinance legally passed, approved and published and proceedings duly had by the Chairperson and Board of said Village.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The Village, its Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment hereof and for all purposes and shall not be affected by any



notice to the contrary, whether this bond be overdue or not.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT AND REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE PAYING AGENT AND REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE PAYING AGENT AND REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

This bond shall not be valid and binding on the Village until authenticated by the Paying Agent and Registrar.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of said Village, including this bond, does not exceed any limitations imposed by law. The Village covenants and agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in said Village, in addition to all other taxes, sufficient in rate

and amount to pay the interest on this bond when and as the same becomes due and to create a sinking fund to pay the principal of this bond when the same becomes due.

IN WITNESS WHEREOF, the Chairperson and Board of the Village of Giltner, Nebraska, have caused this bond to be executed on behalf of the Village by being signed by the Chairperson and Clerk of the Village, both of which signatures may be facsimile signatures, and by causing the official seal of the Village to be affixed hereto all as of the date of original issue shown above.

VILLAGE OF GILTNER, NEBRASKA

By _____ (do not sign)
Chairperson

ATTEST:

(do not sign)
Village Clerk

(S E A L)

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds authorized by an ordinance passed and approved by the Chairperson and Board of the Village of Giltner as described in said bonds.

(do not sign)
Village Treasurer, Paying Agent and Registrar

(FORM OF ASSIGNMENT)

For value received _____ hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____, Attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.

Date: _____

Registered Owner

SIGNATURE GUARANTEED

By _____

Authorized Officer

Note: The signature(s) of this assignment MUST CORRESPOND with the name as written on the face of the within bond in every particular without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 8. Said bonds are hereby sold to Ameritas Investment Corp., at 97.00% of the principal amount thereof, and the Village Treasurer is authorized to deliver the bonds to said purchaser upon receipt of the said amount plus accrued interest to the date of payment. Said bonds are sold to the purchaser subject to the opinion of independent bond counsel that said bonds are lawfully issued; that said bonds constitute a valid obligation of the Village; and that under existing laws and regulations the interest on said bonds is exempt from both Nebraska state and federal income taxes. The proceeds of the bonds herein authorized shall be used to pay the costs of certain improvements, each as set out in Section 1 of this ordinance.

Section 9. The Chairperson and Board shall cause to be levied and collected annually a tax by valuation on all the taxable property in the Village, in addition to all other taxes, sufficient in rate and amount to pay the interest on the bonds herein authorized as the same becomes due and to create a sinking fund to pay the principal of said bonds when and as such principal becomes due.

Section 10. The Village of Giltner, Nebraska, hereby covenants to the purchasers and holders of the bonds hereby authorized that it will make no use of the proceeds of said bond issue, including monies held in any sinking fund for the payment of said bonds, which would cause said bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and further covenants to comply with said Sections 103 and 148 and all applicable regulations thereunder throughout the term of said bond issue. The Village hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status of interest payable on the bonds with respect to taxpayers generally but not including insurance companies or corporations subject to the additional minimum tax. The Village hereby designates the bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not anticipate issuing tax-exempt obligations in calendar 2006 in an amount in excess of \$10,000,000.

Section 11. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this ____ day of _____, 2006.

ATTEST:

Chairperson

Village Clerk

(S E A L)

STATE OF NEBRASKA)
) SS.
COUNTY OF HAMILTON)

PROOF OF PUBLICATION AND POSTING

Charlynn Kral Krcilek, being first duly sworn under oath says that she is the Clerk of the Village of Giltner, and that the attached and foregoing copy of Ordinance No. _____ is a true and correct copy of said ordinance as passed by the Chairperson and Board of Trustees at the meeting of _____, 2006, and that said ordinance as published in pamphlet form and filed in my office this _____ day of _____, 2006, and a copy of the pamphlet was posted on said date in the following three public places:

Village Clerk

(SEAL)

ORDINANCE 93.042.01

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

AN ORDINANCE TO VACATE SUBURBAN STREET IN VILLAGE LIMITS OF GILTNER, HAMILTON COUNTY, NEBRASKA FROM HADLEY STREET FROM THE NORTH RIGHT OF WAY OF NORTH RAILROAD STREET TO THE SOUTH RIGHT OF WAY OF AMHERST STREET, TO PROVIDE A MANNER OF ASCERTAINING ALL DAMAGES SUSTAINED BY CITIZENS OF SAID VILLAGE OR THE OWNER OF PROPERTY THEREIN BY REASON OF SAID VACATION; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERWITH; AND TO PROVIDE FOR THE EFFECTIVENESS OF SAID ORDINANCE AFTER ITS PASSAGE, APPROVAL AND PUBLICATION AS REQUIRED BY LAW:

BE IT ORDAINED BY THE CHAIRMAN AND VILLAGE BOARD OF THE VILLAGE OF GILTNER, HAMILTON COUNTY, NEBRASKA:

WHEREAS, the following described street located in the Village of Giltner, Hamilton County, Nebraska, to-wit:

SUBURBAN STREET IN VILLAGE LIMITS OF GILTNER, HAMILTON COUNTY, NEBRASKA FROM HADLEY STREET FROM THE NORTH RIGHT OF WAY OF NORTH RAILROAD STREET TO THE SOUTH RIGHT OF WAY OF AMHERST STREET

Should be vacated and such vacation is expedient and for the public good and safety, therefore:

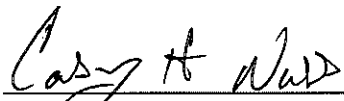
Section 1. The above described street located in the Village of Giltner, Hamilton County, Nebraska, is wholly and entirely vacated and shall no longer be and constitute a street of the Village of Giltner, Hamilton County, Nebraska, and the same shall revert to the owner or owners of the abutting real estate, one-half (1/2) on each side thereof, and shall become part of such property, all in accordance with Section 17-558 of the Revised Statutes of the State of Nebraska.

Section 2 The Chairman of the Village of Giltner, Nebraska, is authorized and instructed to appoint a board of appraisers, consisting of three (3) citizens of the Village of Giltner, Nebraska, to ascertain all damages, if any, sustained by the citizens of said Village, or by the owners of the property therein by the reason of said vacation.

Section 3 Any other ordinance or section passed and approved prior to passage and approval of this ordinance and in conflict with its provisions is repealed.

Section 4 This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED AND APPROVED this 13th day of May, 2013.



Casey Nus
Village Chairman

ATTEST:



Joan Eastman
Village Clerk

NOTICE OF MEETING

A meeting of the Chairperson and Board of Trustees of the Village of Giltner, Nebraska, was held at the Community Center in said Village on the 13th day of May, 2013, at 7 o'clock P.M. Present were Chairperson Nuss, Trustees, Eastman, Hinrichs, Larson. Absent was: Lindquist.

Notice of the meeting was given in advance thereof by posting in three places. Meeting notice was posted at the Community Center, Library, and Post Office. Publishing was in the legally declared newspaper, The Aurora News Register as shown by the Affidavit of Publication attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Chairperson and Board of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

ORDINANCE RECORD

1 READING & PASSED

Giltner, Nebraska

May 13, 2013

Trustee Nuss introduced Ordinance No. 93.042.01 entitled:

VACATING STREET

SUBURBAN STREET IN VILLAGE LIMITS OF GILTNER, HAMILTON COUNTY, NEBRASKA FROM HADLEY STREET FROM THE NORTH RIGHT OF WAY OF NORTH RAILROAD STREET TO THE SOUTH RIGHT OF WAY OF AMHERST STREET

and moved that the statutory rule requiring reading on three different days be suspended. Trustee Eastman seconded the motion to suspend the rules and upon roll call vote on the motion, the following Trustees voted YEA: Nuss, Eastman, Hinrichs,

Larson. The following Trustees voted NAY: -. Absent was: Lindquist.

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 Nuss moved for final passage of the ordinance, which motion was seconded by Trustee Hinrichs. The Chairperson then stated the question: "Shall Ordinance No. 93.042.01 be passed and adopted?" Upon roll call vote, the following Trustees voted YEA:

Nuss, Eastman, Hinrichs, Larson. The following voted NAY: -. Absent was: Lindquist.

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, Joan Eastman, Clerk of the Village of Giltner, Nebraska, hereby certify that Ordinance No. 93.042.01, as attached herewith, was passed and approved on the 13th day of May, 2013, and has been posted in three public places, Community Center, Library, and Post Office, for legally required time after said passage.

Joan Eastman

Joan Eastman
Village Clerk
Giltner, Nebraska

(SEAL)

“The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. However, if no difference in value exists the abutting property owner is entitled to no compensation.”

(D) Whenever the Board of Trustees decides that it would be in the best interests of the municipality to vacate a street, avenue, alley, lane, or similar public way, the Board of Trustees shall comply with the following procedure:

(1) *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the municipality. The content of the notice will advise the abutting property owners that the Board of Trustees will consider vacating such street, avenue, alley, lane, or similar public way at their next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

(2) *Consent; waiver.*

(a) The Board of Trustees may have all the abutting property owners sign a form stating that they consent to the action being taken by the Board of Trustees and waive their right of access. The signing of such form has no effect on claims for special damages, as defined in divisions (A) through (C) of this section by the abutting property owners but does create the presumption that the Board of Trustees' action was proper.

(b) However, if all the abutting property owners do not sign the consent/waiver form, the Board of Trustees may still proceed with vacating such street, avenue, alley, lane, or similar public way under the authority granted them by Neb. RS 17-558 and 17-559.

(3) *Ordinance.* The Board of Trustees shall pass an ordinance that shall state essentially the following:

(a) A declaration that the action is expedient for the public good or in the best interests of the municipality.

(b) A statement that the municipality shall have an easement for maintaining all utilities.

(c) A method or procedure for ascertaining special damages to abutting property owners.

(4) *Filing.* The Clerk shall file a copy of the ordinance with the County Register of Deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane, or similar public way and so that such land will be drawn to the attention of the County Assessor.

Statutory reference:

Authority, see Neb. RS 17-558 and 17-559

§ 93.043 CROSSINGS.

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

Statutory reference:

Authority, see Neb. RS 17-509

§ 93.044 NAMES AND NUMBERS.

The Board of Trustees may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Board of Trustees may require. It shall be the duty of the municipal official in charge of streets, upon the erection of any new building or buildings, to assign the proper numbers to the building or buildings and give notice to the owner or owners and occupant or occupants of the same.

Statutory reference:

Authority to improve, see Neb. RS 17-509

§ 93.045 CUTTING INTO PAVING, CURB, OR SIDEWALK.

It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the Board of Trustees therefor. Before any person shall obtain a permit, the person shall inform the Municipal Clerk of the place where such cutting is to be done, and it shall be the Utilities Superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the Board of Trustees or the Municipal Engineer. When the applicant is ready to close the opening made, the applicant shall inform the Utilities Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Board of Trustees to order the Utilities Superintendent, under the supervision and inspection of the Municipal Engineer or the committee of the Board of Trustees on the streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The Board of Trustees may consent to the work of cutting and closing the paving to be done by the party holding such permit. Before any permit is issued by the Board of Trustees, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the Board of Trustees for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the Municipality for the purpose of replacing the paving, curb, or sidewalk, in the event that the work is done by the municipality. In the event that the municipality elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall

be retained by the municipality until the work is completed to the satisfaction of the Utilities Superintendent or the committee of the Board of Trustees on streets and alleys. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the municipality with a good and sufficient surety or sureties to be approved by the Board of Trustees in a sum set by resolution of the Board of Trustees.

Statutory reference:

Authority, see Neb. RS 17-567

§ 93.046 DRIVEWAY APPROACHES.

(A) The Utilities Superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Utilities Superintendent may cause such work to be done and assess the cost upon the property served by such approach.
(Neb. RS 18-1748) Penalty, see § 10.99

§ 93.047 EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Utilities Superintendent authorizing such excavations.
Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 93.048 DRIVING STAKES.

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

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 93.049 MIXING CONCRETE.

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

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 93.050 HARMFUL LIQUIDS.

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

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 93.051 EAVE AND GUTTER SPOUTS.

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the municipality where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain the eave spouts into the alley.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-557

§ 93.052 HEAVY EQUIPMENT; SPECIAL TIRES.

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon the pavement, with wheels having cutting edges, with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb, provided that, where heavy vehicles, structures, and machines move along paved or unpaved streets, the County Sheriff is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with

metal or metal-type studs not exceeding 5/16 of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than 7/64 of an inch between November 1 and April 1, provided that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the municipality, the municipality in which the crane is intended to be transported has authorized a one-day permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the municipality, and such vehicle's gross weight does not exceed the limits set out in Neb. RS 60-6,294(10), and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

Penalty, see § 10.99

Statutory reference:

Tire requirements, see Neb. RS 60-6,250

Rubber-tired cranes, see Neb. RS 60-6,288(2)(j)

§ 93.053 PIPE LINES AND WIRES.

Poles, wires, gas mains, pipe lines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the municipality. Application for location of the above shall be made to the Board of Trustees in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines, and other appurtenances at such places and in such manner as shall be designated by the Board of Trustees. Such poles, wires, gas mains, pipe lines, and other appurtenances, shall be removed or relocated by the companies at their own expense when requested to do so by the Board of Trustees. Any such relocation shall be ordered by resolution of the Board of Trustees, and the Municipal Clerk shall notify any and all companies affected. The companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The Board of Trustees shall designate another location as closely as possible where the poles, wires, gas mains, pipe lines, or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipe lines, or other appurtenances, shall be reset, placed, or erected in such a manner that they will not interfere with the water system, sewerage system, poles, wires, and mains of any public utility, adjacent buildings, or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipe lines, or appurtenances shall be confined to the alleys of the municipality.

Penalty, see § 10.99

§ 93.054 SNOW, DEBRIS, AND THE LIKE ON STREET PROHIBITED.

It shall be unlawful to place, push, or deposit snow, sleet, ice, or mud or any debris, including leaves, grass, and branches, from private property onto the streets of the municipality.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 17-557

CHAPTER 94: ANIMALS

Section

General Provisions

- 94.01 Running at large
- 94.02 Prohibited animals and fowl
- 94.03 Wild animals
- 94.04 Killing and injuring
- 94.05 Enclosures
- 94.06 Abandonment, neglect and cruelty
- 94.07 Possession by non-residents; time limited

Dogs; General Provisions

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- 94.60 Owner and possessor of cats

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- 94.99 Penalty

GENERAL PROVISIONS

§ 94.01 RUNNING AT LARGE.

(A) It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way.

(B) It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-547

§ 94.02 PROHIBITED ANIMALS AND FOWL.

(A) It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock.

(B) It shall be unlawful for any person to keep or maintain within the corporate limits any poultry, chickens, turkeys, geese, or any other fowls.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-547

§ 94.03 WILD ANIMALS.

No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions.

Penalty, see § 10.99

Statutory reference:

Powers of the Board of Trustees, Neb. RS 17-207

§ 94.04 KILLING AND INJURING.

No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the animal.

Penalty, see § 10.99

Statutory reference:

Definitions, see Neb. RS 28-1008

Cruelty prohibited, see Neb. RS 28-1009

§ 94.05 ENCLOSURES.

All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the enclosure is located.

§ 94.06 ABANDONMENT, NEGLECT AND CRUELTY.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON. To leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health.

ANIMAL. Any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature.

CRUELLY MISTREAT. To knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal.

CRUELLY NEGLECT. To fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health.

HUMANE KILLING. The destruction of an animal by a method which causes the animal a minimum of pain and suffering.

LAW ENFORCEMENT OFFICER. Any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the municipality, or any other public official authorized by the municipality to enforce state or local animal control laws, rules, regulations, or ordinances.

(Neb. RS 28-1008)

Giltner - General Regulations**(B) Enforcement powers; immunity.**

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

(3) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.
(Neb. RS 28-1012)

(C) Violation. A person commits cruelty to animals if he or she abandons, cruelly mistreats, or cruelly neglects an animal.
(Neb. RS 28-1009) Penalty, see § 10.99

§ 94.07 POSSESSION BY NON-RESIDENTS; TIME LIMITED.

It shall be unlawful for any person to maintain any animal or fowl within the village limits for more than 20 days while they are not a resident within the village limits.
(Ord. 131B, passed 9-2-91)

DOGS; GENERAL PROVISIONS**§ 94.20 OWNER DEFINED.**

Any person who shall harbor or permit any dog to be for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the **OWNER** and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed.
(Neb. RS 54-606)

§ 94.21 RUNNING AT LARGE.

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the municipality. It shall be the duty of the County Sheriff or designated animal control officer to cause any dog found to be running at large within the municipality to be taken up and

impounded. **RUNNING AT LARGE** shall mean any dog found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint.

Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-526

Dog collars see required, see Neb. RS 54-605

§ 94.22 RABIES THREAT; PROCLAMATION; INSPECTION.

(A) It shall be the duty of the Board of Trustees whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.

(B) Any dog suspected of being afflicted with rabies, or any dog not vaccinated in accordance with the provisions of this chapter which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days. If upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the dog may be released from confinement.

Statutory reference:

Similar provisions, see Neb. RS 71-4406

§ 94.23 CAPTURE IMPOSSIBLE.

The County Sheriff or designated animal control officer shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.

Penalty, see § 10.99

§ 94.24 FEMALES IN SEASON.

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the municipality while in season. Any such female dog found running at large in

violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein.

Penalty, see § 10.99

§ 94.25 **DANGEROUS DOGS.** — See amended July 9, 2012

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the municipality.

ANIMAL CONTROL OFFICER. Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

DANGEROUS DOG. Any dog that, according to the records of the animal control authority:

- (1) Has killed or inflicted severe injury on a human being on public or private property;
- (2) Has killed a domestic animal without provocation while the dog was off the owner's property; or
- (3) Has been previously determined to be a potentially dangerous dog by an Animal Control Authority and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a **DANGEROUS DOG** if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, a dog, or livestock.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

POTENTIALLY DANGEROUS DOG.

- (1) Any dog that when unprovoked:

§ 94.25 DANGEROUS/VICIOUS DOGS. *(As Amended, July 9, 2012)*

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the municipality.

ANIMAL CONTROL OFFICER. Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

DANGEROUS DOG. Any dog that, according to the records of the animal control authority:

(1) Has killed or inflicted severe injury on a human being on public or private property;

(2) Has killed a domestic animal without provocation while the dog was off the owner's property; or

(3) Has been previously determined to be a potentially dangerous dog by an Animal Control Authority and the owner has received notice of such determination and such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog shall not be defined as a **DANGEROUS DOG** if the threat, any injury that is not a severe injury, or the damage was sustained by a person who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521 or any other tort upon the property of the owner of the dog, who was tormenting, abusing, or assaulting the dog, who has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, a dog, or livestock.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

POTENTIALLY DANGEROUS DOG.

(1) Any dog that when unprovoked:

Animals

(a) Inflicts a nonsevere injury on a human or injures a domestic animal either on public or private property;

(b) Chases or approaches a person upon streets, sidewalk, or any public grounds in a menacing fashion or apparent attitude of attack; or

(2) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

SEVERE INJURY. Any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. RS 54-617)

VICIOUS DOG.

(1) The following are hereby declared to be Vicious Dogs:

(i) Pit Bull;

(ii) Pit Bull Mixed Breed;

(iii) Rottweiler;

(iv) Doberman Pinscher;

(v) Mastiff;

(vi) Chow;

(vii) Wolf Hybrids;

(viii) Any dogs that have the appearance and characteristics of being predominantly of one (1) or more of the above breeds, and which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

(B) *Restraint.* No owner of a dangerous **or vicious** dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash, **muzzled, and supervised by a person at least nineteen (19) years of age.**

(Neb. RS 54-618)

(C) *Confinement.* While unattended on the owner's property, a dangerous **or vicious** dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded **not less than two (2) feet** in to the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous **or vicious** dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property.

(Neb. RS 54-619)

Animals

(D) *Failure to comply.*

(1) Any dangerous or vicious dog may be immediately confiscated by an animal control officer if the owner is in violation of this section. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous or vicious dog confiscated by an animal control officer or for the destruction of any dangerous or vicious dog if the action by the animal control authority is pursuant to the law and if the owner violated this section.

(Neb. RS 54-620)

(2) In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous or vicious dog in an expeditious and humane manner.

(Neb. RS 54-621)

(E) The owner of a vicious dog shall keep current the license for such vicious dog through renewal as provided in Ordinance §94.40. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee who is at least nineteen (19) years of age.

(F) The owner of a vicious dog shall be at least nineteen (19) years of age.

(G) The owner of a vicious dog shall, at the owner's own expense, have the vicious dog spayed or neutered and shall present to the animal control authority written proof from a licensed veterinarian that this sterilization has been performed.

(H) The owner of a vicious dog shall, at the owner's own expense, cause an identifying microchip to be inserted beneath the skin of the vicious dog by a licensed veterinarian who shall provide the chip identification number to the animal control authority within 72 hours of the procedure being completed. The animal control authority shall maintain a file containing the registration numbers and names of the vicious dogs and the names and addresses of the owners. The owner shall notify the animal control authority of any change of address.

(I) Severability.

If any provision clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Animals

(J) Additional regulations. Nothing in this section shall be construed to restrict or prohibit the Board of Trustees from establishing and enforcing laws or ordinances at least as stringent as the provisions of divisions (A) through (H).
(Neb. RS 54-624) Penalty, see § 10.99

WHEREAS, procedures to amend Code §94.25 in Nebraska Revised Statute 17-526 and 54-603 have been met;

THEREFORE BE IT ORDAINED, that the above written amendment change to §94.25 be added to the Giltner Village Code.

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

This amended 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.

Passed and approved this 9th day of July, 2012.

Casey A. Nuss
Casey Nuss, Chairperson

Attested:

Joan Eastman
Joan Eastman, Village Clerk



(a) Inflicts a nonsevere injury on a human or injures a domestic animal either on public or private property;

(b) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

(2) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

SEVERE INJURY. Any physical injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. RS 54-617)

(B) *Restraint.* No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is restrained securely by a chain or leash.

(Neb. RS 54-618)

(C) *Confinement.* While unattended on the owner's property, a dangerous dog shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property.

(Neb. RS 54-619)

(D) *Failure to comply.*

(1) Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this section. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this section.

(Neb. RS 54-620)

(2) In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner.

(Neb. RS 54-621)

(E) *Additional regulations.* Nothing in this section shall be construed to restrict or prohibit the Board of Trustees from establishing and enforcing laws or ordinances at least as stringent as the provisions of divisions (A) through (D).

(Neb. RS 54-624) Penalty, see § 10.99

§ 94.26 LIABILITY OF OWNER.

It shall be unlawful for any person to allow a dog owned, kept, or harbored by the owner, or under his or her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained.

Penalty, see § 10.99

Statutory reference:

Statutory liability, see Neb. RS 54-601

Joint liability, see Neb. RS 54-602

§ 94.27 IMPOUNDING.

It shall be the duty of any animal control official designated by resolution of the Board of Trustees to capture, secure, and remove in a humane manner to the municipal animal shelter any dog violating any of the provisions of this chapter. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the shelter for a period of not less than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk and at the shelter within 24 hours after impoundment as public notification of such impoundment. Notice of the impoundment of any licensed dog shall be mailed to the owner listed on the license application of such dog, by regular U.S. Mail, at the address of such applicant. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the Governing Body and on file at the office of the Municipal Clerk. The owner shall be required to comply with the licensing and rabies vaccination before release. If the dog is not claimed at the end of the required waiting period after public notice has been given, any animal control official designated by resolution of the Board of Trustees, may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of any designated animal control official, a suitable home can be found for any such dog within the municipality, the said dog shall be turned over to that person, and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter. The municipality shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

Statutory reference:

Pounds authorized, see Neb. RS 17-548

Pounds created by rabies control authorities, see Neb. RS 71-4408

Ordinance # 94.27 (Amended 2/11/13)

VILLAGE OF GILTNER
COUNTY OF HAMILTON
STATE OF NEBRASKA

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF GILTNER, NEBRASKA TO ADOPT AN AMENDMENT TO CHANGE THE WORDING OF CODE #94.27

§94.27 Impounding: It shall be the duty of any animal control official designated by resolution of the Board of Trustees to capture, secure, and remove in a humane manner to the municipal animal shelter any dog violating any of the provisions of this chapter. The dogs so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the shelter for a period of not less than five days after public notice has been given unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the Municipal Clerk and at the shelter, and the three posting areas in town, to be given on a timely manner, or to be notified on next business day by Municipal Clerk of such impoundment. Notice of the impoundment of any licensed dog shall be mailed to the owner listed on the license application of such dog, by regular U.S. Mail, at the address of such applicant. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the Governing Body and on file at the office of the Municipal Clerk. The owner shall be required to comply with the licensing and rabies vaccination before release. If the dog is not claimed at the end of the required waiting period after public notice has been given, any animal control official designated by resolution of the Board of Trustees, may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of any designated animal control official, a suitable home can be found for any such dog within the municipality, the said dog shall be turned over to that person, and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this chapter. The municipality shall acquire legal title to any unlicensed dog impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog.

Penalty, see §94.99

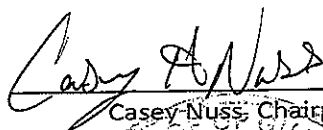
Statutory reference: Pounds authorized, see Neb. RS 17-548, Pounds created by rabies control authorities, see Neb. RS 71-4408.

WHEREAS, procedures to amend code #94.27 in Nebraska Revised State Statute RS 17-548 AND RS 71-4408 have been met,

THEREFORE BE IT ORDAINED, that the above written amendment change to Code #94.27 be added to the Giltner Village Code

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.


Casey Nuss, Chairperson




Joan Eastman, Village Clerk

Date: Febr. 11, 2013

DOGS; LICENSING

§94.40 LICENSE REQUIRED.- (As Amended 07.09, 2012)

Any person who shall own, keep, or harbor a dog over the age of six months within the municipality shall within 30 days after acquisition of the dog acquire a license for each such dog annually by or before May 1 of each year. The tax shall be delinquent from and after May 10, provided that the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days of bringing the dog into the corporate limits of the municipality. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of \$7 for each neutered dog and \$10 for each unneutered dog, provided that the tax shall be \$9 for each neutered dog for every license issued after the fee has become delinquent and \$12 for each unneutered dog for every license issued after the fee has become delinquent. Also in those fees a \$1 will go to the State of Nebraska. The license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose his or her name and address and the name, breed, color, and sex of each dog owned and kept by the owner. **The owner shall also provide a recent, color photograph of the dog, no larger than 4" by 6" which shall be retained by the Municipal Clerk.** A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for, and no license or tag shall be issued until the certificate is shown.

Any dog remaining unlicensed on May 11 each year or on the 11th day following the date the dog is brought into or harbored within the corporate limits shall be immediately impounded by the Animal Control Authority until the owner of the dog has complied with these licensing requirements. The owner shall also be liable for all costs associated with the impoundment and said costs must be paid in addition to the licensing fees before the dog will be returned to owner. Any dog remaining impounded for 14 days shall be deemed abandoned by owner at which time the Animal Control Authority shall determine an appropriate and humane disposition of the dog.

Penalty, see §94.99

Statutory reference:

Authority, see NEB RS 17-526 and 54-603

WHEREAS, procedures to amend Code §94.40 in Nebraska Revised Statute 17-526 and 54-603 have been met;

THEREFORE BE IT ORDAINED, that the above written amendment change to §94.40 be added to the Giltner Village Code.

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

This amended 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.



Casey Nuss, Chairperson

Attested:



Joan Eastman, Village Clerk



§ 94.28 ANIMAL SHELTER.

The municipal animal shelter shall be safe, suitable, and conveniently located for the impounding, keeping, and destruction of dogs. The said shelter shall be sanitary, ventilated, and lighted.

DOGS; LICENSING**§ 94.40 LICENSE REQUIRED.**

Any person who shall own, keep, or harbor a dog over the age of six months within the municipality shall within 30 days after acquisition of the dog acquire a license for each such dog annually by or before May 1 of each year. The tax shall be delinquent from and after May 10, provided that the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days of bringing the dog into the corporate limits of the municipality. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of \$7 for each neutered dog and \$10 for each unneutered dog, provided that the tax shall be \$9 for each neutered dog for every license issued after the fee has become delinquent and \$12 for each unneutered dog for every license issued after the fee has become delinquent. Also in those fees, \$1 shall go to the State of Nebraska. The license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose his or her name and address and the name, breed, color, and sex of each dog owned and kept by the owner. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for, and no license or tag shall be issued until the certificate is shown.

(Am. Ord. 94.40, passed 7-11-11) Penalty, see § 94.99

Statutory reference:

Authority, see Neb. RS 17-526 and 54-603

§ 94.41 DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS; EXEMPT FROM LICENSE TAX.

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing-impaired person, and service dog for a physically limited person shall be licensed as required by the municipal code, but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license tax.

Statutory reference:

Statutory fee exemption, see Neb. RS 54-603

§ 94.42 LICENSE TAGS.

(A) Upon the payment of the license fee, the person designated by the licensing authority shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until April 30 following such licensing.

(B) In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the person designated by the licensing authority shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the Board of Trustees for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the general fund. It shall be the duty of the person designated by the licensing authority to issue tags of a suitable design that are different in appearance each year.

Statutory reference:

Authority, see Neb. RS 17-526 and 54-603

§ 94.43 WRONG LICENSING.

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other municipal identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unneutered dog with a license prescribed for a neutered dog.

Penalty, see § 10.99

§ 94.44 UNCOLLARED DOGS.

All dogs found running at large upon the streets and public grounds of the municipality without a collar or harness are hereby declared a public nuisance. Uncollared dogs found running at large shall be destroyed or impounded by the person so designated by the Board of Trustees.

Statutory reference:

Similar provisions, see Neb. RS 54-605

§ 94.45 REMOVAL OF TAGS.

It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof.

Penalty, see § 10.99

CATS

§ 94.60 OWNER AND POSSESSOR OF CATS.

Any person who shall harbor or permit any cat to be for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such cat and shall be deemed to be liable for all penalties prescribed.

§ 94.61 RUNNING AT LARGE.

It shall be unlawful for the owner of any cat to allow such cat to run at large at any time within the corporate limits of the municipality. It shall be the duty of the County Sheriff or designated animal control officer to cause any cat found to be running at large within the municipality to be taken up and impounded. Running at large shall mean any cat found off the premises of the owner and not under control of the owner or a responsible person, either by leash, cord, chain, rope, cage or other suitable means of physical restraint.

Penalty, see § 10.99

§ 94.62 RABIES.

(A) It shall be the duty of the Board of Trustees, whenever in its opinion the danger to the public safety from rabid cats is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any cat to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is passed. The cats may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein said owner may reside. Upon issuing the proclamation, it shall be the duty of all persons owning, keeping, or harboring any cat to confine the same as herein provided.

(B) Any cat suspected of being afflicted with rabies, which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Board of Health for a period of not less than ten days. If upon examination by a veterinarian, the cat has no clinical signs of rabies at the end of such impoundment, it may be released to the owner. If the owner of the cat or animal has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the cat shall be examined by a licensed veterinarian at the owner's expense. If no signs of rabies are observed, the cat may be released from confinement.

§ 94.99 PENALTY.

(A) Any person, or that person's agents or servants, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon

conviction thereof shall be fined in any sum not exceeding \$100. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this code.

(B) (1) Whenever a nuisance exists as defined in this code, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(C) Any person violating any provisions of § 94.40 shall be fined \$25 per day per animal after May 10.

Statutory reference:

Authority to abate nuisances, see Neb. RS 18-1720 and 18-1722

CHAPTER 95: TREES

Section

- 95.01 Definitions
- 95.02 Street tree species to be planted
- 95.03 Spacing
- 95.04 Distance from curb and sidewalk
- 95.05 Distance from street corners, fire hydrants, alleys and driveways
- 95.06 Utilities
- 95.07 Public tree care
- 95.08 Tree topping
- 95.09 Pruning
- 95.10 Dead or hazardous tree removal
- 95.11 Removal of stumps
- 95.12 Interference prohibited
- 95.13 Permits and bonds

§ 95.01 DEFINITIONS.

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

LARGE TREES. Trees that when mature exceed 40 feet in height.

MEDIUM TREES. Trees that when mature in height are 25 to 40 feet tall.

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks and recreational property having individual names and all areas owned by the village, or to which the public has free access as a park.

SMALL TREES. Trees that at their mature height are less than 25 feet tall.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying on village right-of-way lying between property lines on either side of all streets, avenues, boulevards, cul-de-sacs, alleys or ways within the village and the driving surfaces thereof.

VILLAGE FORESTER. The Village Utility Superintendent. The Utility Superintendent shall have the authority and support to carry out, execute and administer the Comprehensive Village Tree Plan for the village as proposed by the Board of Trustees.

§ 95.02 STREET TREE SPECIES TO BE PLANTED.

The official street tree species list for the village shall be the correct zone recommendations for the village area of the most current "List of Woody Plants for Nebraska Communities" put out by the Nebraska Forest Service. No species other than those included in this list may be planted as street trees without written permission of the Board of Trustees. Tree species not recommended for plantings shall be contained in the Comprehensive Village Tree Plan.

§ 95.03 SPACING.

The spacing of street/park trees will be in accordance with the three species size classes listed in § 95.02 and the suggested spacing between street/park trees shall be no closer together than the following: small trees, 30 feet; medium trees, 40 feet; large trees, 50 feet; except in special plantings designed or approved by landscape architects or professional arborists.

§ 95.04 DISTANCE FROM CURB AND SIDEWALK.

The distance street/park trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in § 95.02 and trees should not be planted where there is less than six feet between any curb and/or sidewalk. If more than six feet exists in the property, trees planted in the property shall be equal distance but no less than three feet from the sidewalk and the curb. Private property trees shall be encouraged to be planted greater distances from sidewalks as described above for street/park trees.

§ 95.05 DISTANCE FROM STREET CORNERS, FIRE HYDRANTS, ALLEYS, AND DRIVEWAYS.

(A) No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines.

(B) No street tree shall be planted closer than 12 feet of any fireplug/fire hydrant.

(C) No street trees other than those species listed as small trees in § 95.02 may be planted within 15 feet of a neighbor's driveway without permission from the neighbor.

(D) No street trees other than those species listed as small trees in § 95.02 may be planted within 15 feet of a municipal alleyway.

Penalty, see § 10.99

§ 95.06 UTILITIES.

No street trees other than those species listed as small trees in § 95.02 may be planted under or within 15 lateral feet of any overhead utility wire, street light, or over or within seven lateral feet of any underground water line, sewer line, transmission line or other utility or as otherwise described by municipal easement rights.

Penalty, see § 10.99

§ 95.07 PUBLIC TREE CARE.

The municipality shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, boulevards, lanes, squares, cul de sacs and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Board of Trustees may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, communication lines, or other public improvements, or is affected with an injurious fungus, virus, bacteria, insect or other pest. This section does not prohibit the planting of street/park trees by adjacent property owners providing that the selection and location of the tree is in accordance with this chapter.

§ 95.08 TREE TOPPING.

It shall be unlawful as a normal practice for any person to top any street/park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than four inches in diameter within the tree crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Board of Trustees or the Governing Body.

Penalty, see § 10.99

§ 95.09 PRUNING.

(A) Every owner of any tree overhanging any street or right-of-way within the municipality shall prune the branches so that such the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 12 feet above the surface of the street or alleyways or traffic signs. The owners shall remove all dead or hazardous trees, broken or decayed limbs which constitute a menace to the safety of the public. The municipality shall have the

right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or intersection or interferes with visibility of any traffic control device or sign.

(B) Every owner of any tree overhanging any sidewalk within the village shall prune branches so a sidewalk clearance of eight feet is maintained.

Cross-reference:

Overhanging branches, see § 93.006

§ 95.10 DEAD OR HAZARDOUS TREE REMOVAL.

The municipality shall have the right to cause the removal of any dead or hazardous trees or shrubs within the municipal limits when such vegetation constitutes a hazard to life and property, or harbors, insects/diseases which are a potential threat to other trees within the village. The Board of Trustees shall notify in writing the owners of such trees. Removal shall be done by the owners at their own expense and shall be accomplished within the time limits set by the Board of Trustees. If any owner fails to comply with the removal notice, the municipality shall cause the trees removal and the expense thereof shall be charged to the owner and become a lien upon the real estate concerned.

§ 95.11 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground.

§ 95.12 INTERFERENCE PROHIBITED.

It shall be unlawful for any person to prevent, delay or interfere with the implementation of the decisions of the Board of Trustees, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street/park trees, or trees on public or private grounds, as authorized in this chapter.

Penalty, see § 10.99

§ 95.13 PERMITS AND BONDS.

It shall be unlawful for any person or firm to engage in the business or occupation of planting, pruning, treating, or removing of street or park trees within the village without first applying for and procuring a permit from the Governing Body. No license shall be required of any public service company or municipal employee during such work in the pursuit of their public service endeavors. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance and workman's compensation indemnifying the village or any person injured or damaged as a result of the negligence of the permittee or its employees or agents.

Penalty, see § 10.99