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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle to intentionally obstruct, impair or hinder the enforcement of the penal law or the preservation of the peace by a peace officer acting under color of his or her official authority. (Neb. Rev. Stat. §28-906)

SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER

It shall be unlawful for any person in this village to hinder, obstruct or resist any police officer in making any arrest or performing any duty of his or her office or to refuse or neglect to assist any such officer when called upon by him or her in making any arrest or conveying a prisoner to jail. (Neb. Rev. Stat. §28-903, 28-904)

SECTION 3-103: IMPERSONATING OFFICER

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610)

SECTION 3-104: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON

A. It shall be unlawful for any person to intentionally prevent or attempt to prevent a law enforcement officer, acting under color of his or her official authority, from effecting an arrest on said person or on another by (1) using or threatening to use physical force or violence against the said officer or another; (2) using any other means which creates a substantial risk of causing physical injury to the officer or another; or (3) employing means which require substantial force to overcome resistance to effecting the arrest; provided, this section shall apply only to those actions taken to resist arrest without the use of a deadly or dangerous weapon.

B. It is an affirmative defense to prosecution under this section if the officer involved was out of uniform and did not identify himself or herself as a law enforcement officer by showing his or her credentials to the person whose arrest is attempted. (Neb. Rev. Stat. §28-904)

SECTION 3-105: CONCEALED WEAPONS

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section

shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §69-2429. (Neb. Rev. Stat. §28-1202)

SECTION 3-106: DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the performance of his or her official duty, to fire or discharge any gun or pistol within the village; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Village Board. (Neb. Rev. Stat. §17-556) (Ord. No. 179, 12/3/74)

SECTION 3-107: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the village. (Neb. Rev. Stat. §17-207) (Ord. No. 179, 12/3/74)

SECTION 3-108: STALKING

A. Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

B. For purposes of this section, the following definitions shall apply:

1. "Harass" means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;
2. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of or stalking the person or telephoning, contacting, or otherwise communicating with the person;
3. "Family or household member" means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a

casual relationship or an ordinary association between persons in a business or social context;

(Neb. Rev. Stat. §28-311.02, 28-311.03, 28-311.04)

SECTION 3-109: CRIMINAL TRESPASS

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so:

A. To enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or

B. To enter or remain in any place as to which notice against trespass is given by (1) actual communication to the actor; or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) fencing or other enclosure manifestly designed to exclude intruders.

(Neb. Rev. Stat. §28-520, 28-521)

SECTION 3-110: PUBLIC INDECENCY

It shall be unlawful for any person 18 years of age or over to perform, procure or assist any other person to perform in a public place and where the conduct may reasonably be expected to be viewed by members of the public:

A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);

B. An exposure of the genitals of the body done with intent to affront or alarm any person; or

C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.

(Neb. Rev. Stat. §28-806)

SECTION 3-111: WINDOW PEEPING

It shall be unlawful for any person to go upon the premises of another and look or peep into any window, door or other opening in any building located thereon which is occupied as a place of abode.

SECTION 3-112: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$1,500.00. (Neb. Rev. Stat. §28-519)

SECTION 3-113: THEFT

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be property having a value of less than \$500.00, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §28-509 through 28-518)

SECTION 3-114: THREATS; ASSAULT IN THE THIRD DEGREE

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310)

SECTION 3-115: DISORDERLY CONDUCT

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-556)

SECTION 3-116: DISTURBING AN ASSEMBLY

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556)

SECTION 3-117: DISTURBING THE PEACE

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood. (Neb. Rev. Stat. §17-556, 28-1322)

SECTION 3-118: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system or similar device which reproduces or amplifies radio broadcasts or musical recordings in or upon any street, alley or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities, such as parades, shall not be deemed in violation of this section.

SECTION 3-119: MISREPRESENTATION BY MINOR

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §53-180.01, 53-180.05)

SECTION 3-120: CURFEW

A. It shall be unlawful for any minor person under 13 years of age to be or remain in or upon any of the streets, alleys, or public places in the village at night after the hour of 10:00 p.m. It shall be unlawful for any person under 16 years of age to be or remain in or upon any of the streets, alleys, or public places in the village at night after the hour of 11:00 p.m., unless such minor person (1) is accompanied by a parent, guardian or other person having his or her legal custody, (2) is going to or from some meeting or assemblage of lawful character, (3) is in the performance of an errand or duty directed by a parent, guardian or other person having his or her legal custody, or (4) has employment which makes it necessary to be upon the streets, alleys or public places during the night after such specified hours.

B. It shall be unlawful for the parents, guardians or other adult persons having the care and custody of a minor child under the age of 16 years to allow or permit said minor to be or remain in or upon any of the streets, alleys or public places in the village at night after the hours of curfew as provided herein, unless such minor person (1) is accompanied by a parent, guardian or other person having his or her legal custody, (2) is going to or from some meeting or assemblage of lawful character, (3) is in the performance of an errand or duty directed by a parent, guardian or other person having his or her legal custody or (4) has employment which makes it necessary to be upon the streets, alleys or public places during the night time after such specified hours.

(Ord. No. 163, 1/3/74)

SECTION 3-121: STREET GAMES

It shall be unlawful for any person to play catch, bat a ball, kick or throw a football, engage in any exercise or sport, push, coast or skate with roller blades, ice skates, inline skates, skateboards, scooters, or other kindred contrivances upon the streets.

SECTION 3-122: LITTERING

A. Any person who deposits, throws, discards, scatters, or otherwise disposes of any litter, refuse, waste matter or other thing on any public or private property or in any waters commits the offense of littering unless (1) such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or (2) the litter is placed in a receptacle or container installed on such property for such purpose.

B. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle or watercraft in violation of this section, the operator of such motor vehicle or water craft commits the offense of littering.

C. "Litter" as used in this section means all rubbish, refuse, waste material,

garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description, but does not include the wastes or primary processes of farming or manufacturing.

(Neb. Rev. Stat. §17-123.01, 28-523) (Ord. No. 276, 10/5/93)

SECTION 3-123: POSTING NOTICES

No person in the village shall fasten any poster or other advertising device in any way upon public or private property in the village unless legally authorized to do so.

SECTION 3-124: POSTED ADVERTISEMENTS

It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

SECTION 3-125: APPLIANCES IN YARD

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children, whether on private or public property, unless he or she shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720)

SECTION 3-126: OBSTRUCTING WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

SECTION 3-127: INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly and without lawful authority to cut down, carry away, injure, break down, or destroy any trees planted or growing in the corporate limits or their fruit. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by it, shall make an application to the Village Board, and the written permit of the board in accordance with its decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

SECTION 3-128: DISEASED OR DYING TREES

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

B. For the purpose of carrying out the provisions of this section, any village official shall have the authority to enter upon private property to inspect the trees there-

on.

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

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

(Neb. Rev. Stat. §18-1720, 28-1321)

Article 2 – Dogs and Cats

(Ord. 324, 1/7/03)

SECTION 3-201: DEFINITIONS

“Animal control authority” shall mean an entity authorized to enforce the animal control laws of the village.

“Animal control officer” shall mean any individual employed, appointed or authorized by an animal control authority for the purpose of aiding in the enforcement of this act 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.

“Owner” shall mean any person, firm, corporation, organization, political subdivision or department possessing, harboring, keeping or having control or custody of a dog; and specifically in reference to a collarless dog, every person who shall harbor such a dog about his or her premises for the space of ten days shall be held to be the owner. (Neb. Rev. Stat. §54-606, 71-4401)

SECTION 3-202: RABIES VACCINATION

Every dog or cat shall be vaccinated against rabies pursuant to Nebraska law. Unvaccinated dogs or cats acquired or moved into the village must be vaccinated within 30 days after purchase unless under the age for initial vaccination. The provisions of this ordinance with respect to vaccination shall not apply to any dogs or cats owned by a person temporarily residing within this village for fewer than 30 days, any dog or cat brought into this village for show purposes, or any dog or cat brought into this village for hunting purposes for a period of fewer than 30 days; such dogs or cats shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402)

SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog or cat over the age of six months within the village shall within 30 days after acquisition of the said animal acquire a license for each animal annually by or before May 1 each year. Application shall be made upon a printed form provided by the village, upon which the owner shall state his or her name and address and the name, breed, color and sex of each dog or cat owned and kept by him or her. A certificate stating that the animal 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. If the dog or cat has been spayed or neutered, a statement signed by a veterinarian verifying the spaying or neutering must be presented.

B. Upon payment of a license fee for each spayed female animal and each

such neutered male animal and an increased license fee for all other dogs and cats, as set by resolution of the Village Board and placed on file in the office of the village clerk, the said clerk shall issue to the owner a license certificate and a metallic tag for each animal so licensed. The village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.00. The clerk shall retain three cents from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The three cents collected shall be credited to the general fund.

C. The said dog or cat tax shall be delinquent from and after May 31; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to May 1 shall be liable for the payment of the animal tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. It shall be the duty of the village clerk to issue tags of a suitable design that are different in appearance each year.

D. The metallic tag shall be properly attached to the collar or harness of every dog or cat so licensed and shall entitle the owner to keep or harbor the said animal until April 30 of the following year. Said licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat.

E. Every service animal shall be licensed but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed herein.

F. A violation of this section shall result in a fine for the first offense in any one calendar year, for the second offense in any one calendar year, and for the third and subsequent offenses in any one calendar year as set by the Village Board by resolution and placed on file in the office of the village clerk.

(Neb. Rev. Stat. §17-526, 54-603)

SECTION 3-204: LIMITATION ON NUMBER ALLOWED

It shall be unlawful for any dog or cat owner to harbor, feed or permit more than two dogs over the age of four months or more than five cats over the age of four months to be in or about any house, store, building, enclosure, premises or place owned, managed, controlled or leased by such person.

SECTION 3-205: LOST TAG

In the event that a licensing tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the village clerk 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 for each duplicate tag so issued. Such fee shall be set by resolution of the Village Board and placed on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §17-526, 54-603)

SECTION 3-206: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag or other village identification than that issued by the village clerk nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unsprayed female dog or cat with a license prescribed for a male or sprayed female dog or cat. (Neb. Rev. Stat. §17-526)

SECTION 3-207: REMOVAL OF LICENSE TAG

It shall be unlawful for any person to remove or cause to be removed the collar, harness, or metallic tag from any licensed dog or cat without the consent of the owner, keeper, or possessor thereof. (Neb. Rev. Stat. §17-526)

SECTION 3-208: COLLAR AND NAME TAG REQUIRED

It shall be the duty of every owner of any dog or cat to securely place upon the neck of such animal a good and sufficient collar with a metallic plate attached thereon which shall be plainly inscribed with the name of such owner. (Neb. Rev. Stat. §54-605)

SECTION 3-209: RUNNING AT LARGE

It shall be unlawful for the owner of any dog or cat to allow such dog or cat to run at large at any time within the corporate limits of the village. It shall be the duty of the animal control authority to cause any dog or cat found to be running at large within the village to be taken up and impounded. "Running at large" shall mean a dog or cat was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526, 54-607)

SECTION 3-210: DAMAGE; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog or cat owned, kept, or harbored by him or her 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 or cat, 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. (Neb. Rev. Stat. §18-1720, 54-601, 54-602)

SECTION 3-211: OFFENSIVE BEHAVIOR

It shall be unlawful for any person to own, keep, or harbor any dog or cat which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or al-

leys in the village. Upon the written complaint of one person filed with the village clerk that any dog or cat owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog or cat. The provisions of this section shall not be construed to apply to the village animal shelter. (Neb. Rev. Stat. §17-526)

SECTION 3-212: FEMALE IN SEASON

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog or cat to permit her to run at large within the village while in season. Any such female dog or cat 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. (Neb. Rev. Stat. §17-526)

SECTION 3-213: FIGHTING DOGS

It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting or by any gesture or word to encourage the same to fight. (Neb. Rev. Stat. §17-526)

SECTION 3-214: RABIES PROCLAMATION

It shall be the duty of the Village Board, whenever in its opinion the danger to the public safety from rabid animals is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat 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 past. The dog or cat may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

SECTION 3-215: RABIES SUSPECTED; IMPOUNDMENT

Any dog or cat suspected of being afflicted with rabies or any dog or cat not vaccinated in accordance with the provisions of this article 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 no fewer than ten days. If, upon examination by a veterinarian, the dog or cat 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 or cat, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog or cat 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 or cat shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog or cat may be released from confinement. (Neb. Rev. Stat. §71-4406)

SECTION 3-216: DANGEROUS DOGS; DEFINITIONS

“Dangerous dog” shall mean any dog that, according to the records of the animal control authority:

A. Has killed or inflicted injury on a human being of public or private property:

B. Has killed a domestic animal without provocation; or

C. 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.

D. Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog:

1. If the threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as defined in state statutes or any other tort upon the property of the owner of the dog; (b) at the time was tormenting, abusing or assaulting the dog; (c) has in the past been observed or reported to have tormented or assaulted the dog; or (d) at the time was committing or attempting to commit a crime; or
2. If the dog is a trained dog assisting a police officer engaged in law enforcement duties.

“Domestic animal” shall mean a cat, a dog, or livestock.

“Medical treatment” means treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one or more broken bones.

(Neb. Rev. Stat. §54-617)

SECTION 3-217: DANGEROUS DOGS; CONFINED; WARNING SIGN

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. Each warning sign shall be no less than 10 inches by 12 inches and shall

contain the words "WARNING" and "DANGEROUS ANIMAL" in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619)

SECTION 3-218: DANGEROUS DOGS; RESTRAINED

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618)

SECTION 3-219: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article. 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 article. 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. Rev. Stat. §54-620)

SECTION 3-220: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION

If a dangerous dog belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the owner shall be guilty of a misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. (Neb. Rev. Stat. §54-624)

SECTION 3-221: DANGEROUS DOGS; ADDITIONAL REGULATIONS

Nothing in this article shall be construed to restrict or prohibit the Village Board from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624)

SECTION 3-222: IMPOUNDMENT

A. It shall be the duty of the village police to capture, secure and remove in a humane manner to the village animal shelter any dog violating any of the provisions of this article. 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 pound for a period of five days after public notice has been given unless reclaimed earlier by the owner.

B. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the village clerk within 24 hours after impoundment as public notification of such impoundment. 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 Village Board and filed in the office of the village clerk. Such impoundment fee and boarding fee may be set and determined from time to time by resolution. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release. Any dog may be reclaimed by its owner during the period of impoundment by payment of the costs of impoundment.

C. If the dog is not claimed at the end of the required waiting period after public notice has been given, the village police may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, if a suitable home, in the judgment of the village police, can be found for any such dog within the village, 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 article.

D. The village shall acquire legal title to any unlicensed dog impounded in the 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 as provided in subsection (C) above.

(Neb. Rev. Stat. §17-548, 71-4408)

SECTION 3-223: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay or interfere with any animal control officer who is performing any duty enjoined upon him or her by the provisions of this article or to break open or in any manner directly or indirectly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter. (Neb. Rev. Stat. §28-906)

Article 3 – Animals Generally

(Ord. No. 324, 1/7/03)

SECTION 3-301: DEFINITIONS

As used in this section, "non-domesticated animal" means any wild animal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition or which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property.

SECTION 3-302: NON-DOMESTICATED ANIMALS; PROHIBITED

No person shall keep, maintain or harbor within the village limits any of the following animals:

- A. Any animal or species prohibited by federal or state law.
- B. Any non-domesticated animal or species, including but not limited to, the following:
 - 1. Skunks, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies.
 - 2. Large cats of the family *Felidae*, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.
 - 3. Members of the family *Canidae*, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs.
 - 4. Crossbreeds, such as crossbreeds between dogs and coyotes or dogs and wolves; does not include crossbreeds between domesticated animals.
 - 5. Poisonous snakes, such as rattlesnakes, coral snakes, water moccasins, cobras or copperheads.
 - 6. Raccoons.
 - 7. Apes and monkeys.
 - 8. All other animals which are not listed explicitly above but which can be reasonably defined as bears, wolverines and badgers.
 - 9. Pit bull dogs.

SECTION 3-303: NON-DOMESTICATED ANIMALS; IMPOUNDING

Any non-domesticated animal kept in violation of this article may be impounded by the village or an agency hired by the village, and after being so impounded for five days or more without being reclaimed by the owner may be destroyed or sold. Any person reclaiming such impounded animal shall pay the cost of impounding and

keeping the same, which may include veterinary expenses.

SECTION 3-304: NON-DOMESTICATED ANIMALS; SALE PROHIBITED

No person shall offer for sale within the village limits any animal prohibited in Section 3-302.

SECTION 3-305: EXCEPTIONS; PERMIT

A permit and approval of the Village Board shall be required for the following animals. The permit and waiver shall be renewed annually.

A. Any person desiring to keep animals prohibited under Section 3-302 shall obtain a permit from the Village Board which shall specify further conditions under which such animals shall be kept; provided, however, no such permit shall be issued unless such prohibited animal is brought into the village for entertainment, exhibition, show or promotional purposes only. A public zoo or other institution engaged in a permanent display of animals may be issued a permanent permit, provided applicable zoning requirements are met.

B. Any domestic dogs, domestic cats, mini-pigs, domestic rabbits, domestic ferrets, domestic rodents, birds kept indoors, except those defined as non-pet animals, chinchillas, nonlethal aquarium fish, nonlethal invertebrates, amphibians, turtles, nonvenomous lizards that will not grow to more than 5 feet in length at maturity, nonvenomous snakes that will not grow to more than 6 feet in length at maturity, or such other animals as may be specified and for which a permit shall be issued by the village; provided, however, any animal forbidden to be sold, owned, or possessed by federal or state law is not a pet animal.

C. Persons keeping animals for a public zoo as volunteers, docents or otherwise or any bona fide research institution or veterinary hospital shall be exempt from the permit requirement, provided protective devices adequate to prevent such animals from escaping or injuring the public are provided.

D. Handicapped persons keeping monkeys trained as household helpers are exempt.

SECTION 3-306: LIVESTOCK; PROHIBITED

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. (Neb. Rev. Stat. §17-547)

SECTION 3-307: FOWLS; RUNNING AT LARGE

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.
(Neb. Rev. Stat. §17-547)

SECTION 3-308: ENCLOSURES

All pens, cages, sheds, yards, or any other areas or enclosures 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 said enclosure is located.

SECTION 3-309: NOISY ANIMALS

No person shall harbor, keep or maintain any animal, fowl or bird which shall by loud and unusual noises disturb and destroy the peace and quiet of the neighbors in the locality where kept.

SECTION 3-310: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

The animal control authority as defined in Article 2 herein shall have the authority to kill any animal showing vicious tendencies or characteristics of rabies which make capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406)

Article 4 – Nuisances

(Ord. No. 273, 1993)

SECTION 3-401: GENERALLY DEFINED

A nuisance consists in doing any unlawful act, omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- A. Injures or endangers the comfort, repose health, or safety of others,
 - B. Offends decency,
 - C. Is offensive to the senses,
 - D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the village.
 - E. In any way renders other persons insecure in life or the use of property, or
 - F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (Neb. Rev. Stat. §18-1720)

SECTION 3-402: SPECIFICALLY DEFINED

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions and things are hereby declared to be nuisances:

- A. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish or fowl.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
- C. Filthy, littered or trash-covered cellars, houseyards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.
- D. Animal manure in any quantity which is not securely protected from flies and the elements, or which, is kept or handled in violation of any ordinance of the village.
- E. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided,

nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the village nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

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

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

H. Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

1. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;
2. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;
3. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
4. Those damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the village;
5. Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;
6. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;
7. Those having inadequate facilities for egress in the case of fire or panic,

or those having insufficient stairways, elevators, fire escapes, or other means of communication;

8. Those having parts thereof which are so attached that they may fall and injure persons or property;
9. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the village because of their condition;
10. Those having been inspected by the County Health Department or a professional engineer appointed by the village which are, after inspection, deemed to be in violation of any provision of the Health Department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;
11. Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of village ordinances, including but not limited to the building code adopted by the village.

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

J. Stagnant water permitted or maintained on any lot or piece of ground.

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

L. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height, or 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits during any calendar year if, within the same calendar year, the village has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same

lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Am-brosiaceae*).

M. It shall be unlawful for any person to permit any household appliance to be stored in the open on private or public property for more than 30 days.

N. Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remains longer than thirty (30) days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer or farm implement dealer), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition;

O. Any motor vehicle as follows: It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any non-operating, wrecked, junked, or partially dismantled vehicle to remain on such property longer than 30 days. It shall be unlawful for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property. This section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the lawful operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner.

P. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §18-1720)

SECTION 3-403: WEEDS OR OTHER NUISANCES; ABATEMENT; NOTICE

A. Whenever the chief of police or code enforcement officer appointed by the village chairman determines that any weeds or grasses in excess of 12 inches or weeds, grasses or worthless vegetation 8 inches or more in height, as described in Section 3-402(L), are growing on property within the village, or other nuisance as defined herein except dangerous buildings, is found on any property, the village clerk

shall give notice to mow, abate and remove such nuisance as follows: (1) to each owner or owner's duly authorized agent by certified mail, which shall be conspicuously marked as to its importance; and (2) to the occupant, if any, by personal service by a village police officer or county sheriff or deputy.

B. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the village to appeal the order to mow, abate or remove the nuisance by filing a written appeal with the office of the village clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the village chairman as hearing officer, who shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the village may have such work done unless such decision is appealed to the District Court. The hearing shall be conducted according to the provisions set forth in Section 3-412(B) hereafter, except that the hearing shall be conducted by the village chairman instead of the Village Board.

C. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the village or fails to comply with the order to mow, or abate and remove the nuisance, the village may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the village may either (1) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (2) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

SECTION 3-404: WEEDS OR OTHER NUISANCES; FAILURE TO CORRECT

Any owner or occupant of premises within the village who maintains a nuisance, as defined herein except dangerous buildings, shall be guilty of a misdemeanor. Each day's further violation shall be a separate offense.

SECTION 3-405: WEEDS OR OTHER NUISANCES; SECOND OFFENSE

In the event that an owner or agent of any property with the village shall have received a notice to correct or abate a nuisance within the past 12 months and is again charged with maintaining a nuisance, as defined herein except dangerous buildings, the chief of police shall forthwith file a complaint against such owner or agent for maintenance of a nuisance with the County Court.

SECTION 3-406: DANGEROUS BUILDINGS; DEFECTS

Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

A. Those having walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;

B. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;

C. Those with improperly distributed loads upon floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

D. Those damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants of the people of the village;

E. Those which have become dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein;

G. Those having inadequate facilities for egress in the case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication;

H. Those having parts thereof which are so attached that they may fall and injure persons or property;

I. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the village because of their condition;

J. Those having been inspected by the County Health Department or a professional engineer appointed by the village which are, after inspection, deemed to be in violation of any provision of the Health Department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;

K. Those existing in violation of any provision of this article, any provision of the Fire Code, any provision of the county health rules and regulations or other applicable provisions of village ordinances, including but not limited to the building code adopted by the village.

SECTION 3-407: DANGEROUS BUILDINGS; BUILDING INSPECTOR

A specially designated building inspector, his authorized representatives, or a professional engineer shall, at the direction of the Village Board:

A. Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the village for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the Village Board the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

SECTION 3-408: DANGEROUS BUILDINGS; STANDARDS

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired.

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where an unsafe or dangerous building or structure cannot be repaired so that it will no longer exist in violation of the terms or provisions of this article, it shall be demolished. In all cases where the unsafe or dangerous building is a fire hazard existing or erected in violation of the applicable fire codes and regulations, or any other provision of an ordinance of this village, or statute of the state, it shall be demolished.

SECTION 3-409: DANGEROUS BUILDINGS; UNLAWFUL MAINTENANCE

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the village or within its zoning jurisdiction.

SECTION 3-410: DANGEROUS BUILDINGS; NUISANCE; PROCEDURE

If the specially designated building inspector or his/her representatives or professional engineer finds that a building or structure is unsafe or dangerous and a nuisance, the Village Board shall:

A. Notify the owner, occupant, lessee, mortgagee, agent or other persons having an interest in the building or structure that it has been found to be an unsafe or dangerous building. The notice will indicate whether the owner must vacate, repair or demolish the building or structure.

B. Set forth in the notice a description of the building or structure deemed unsafe or dangerous, accompanied by a statement of the particulars which make the building or structure unsafe or dangerous and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable;

C. Direct a village employee to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall set forth that the building or structure is unsafe or dangerous for occupancy and use.

SECTION 3-411: DANGEROUS BUILDINGS; FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect, or refuse to comply with the notice by or on behalf of the village to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the village may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the Village Board, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes.

SECTION 3-412: DANGEROUS BUILDINGS; DISPUTES

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure disagrees with or disputes the information contained in the notice, such person shall notify the village clerk with a written statement that sets forth the reasons for the disagreement or dispute and the relief requested. This written request shall be made within 14 days of mailing of the notice provided by Section 3-403 herein. If written notice is received by the village clerk within 14 days of mailing or delivery of notice, a hearing shall be held before the Village Board, either at a special meeting or at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of such hearing.

B. The hearing before the Village Board shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his/her own expense, and not less than three business days before the hearing, the records of the village regarding the inspection and notice. The Village Board need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the council shall be final unless appealed. Failure of the person to attend the hearing shall relieve the council of any further procedures before action is taken as set forth in a notice.

SECTION 3-413: DANGEROUS BUILDINGS; APPEAL

Any person aggrieved by the decision of the Village Board may appeal the decision to the District Court. This appeal shall and must be taken within 30 days of the pronouncement of the council's decision.

SECTION 3-414: DANGEROUS BUILDINGS; IMMEDIATE HAZARD

In the event the building constitutes an immediate hazard to the life or safety of any persons and must be demolished to protect their health or safety, the specially appointed building inspector or professional engineer designated by the Village Board shall report such facts to the council. Upon receipt of such report the village, by and through the Village Board, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

SECTION 3-415: DANGEROUS BUILDINGS; PENALTY

Any person, firm or other legal entity maintaining a dangerous building within the corporate limits of the village or its zoning jurisdiction shall be guilty of violation of this ordinance and shall be fined in a sum not to exceed \$500.00. Each day's violation shall constitute a separate offense.

SECTION 3-416: JURISDICTION

The chairman and village marshal are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, village marshal, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the village within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

SECTION 3-417: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

In cases of appeal from an action of the Village Board condemning real property as a nuisance or as dangerous under the police powers of the village, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

Article 5 – Sexual Predators

SECTION 3-501: DEFINITIONS

For purposes of this ordinance:

“Child care facility” means a facility licensed pursuant to the Child Care Licensing Act;

“Reside” means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;

“Residence” means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;

“School” means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;

“Sex offender” means an individual who has been convicted of a crime listed in Nebr. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

“Sexual predator” means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.
(Neb. Rev. Stat. §29-4016)

SECTION 3-502: RESIDENCY RESTRICTIONS

It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility. (Neb. Rev. Stat. §29-4017)

SECTION 3-503: EXCEPTIONS

This ordinance shall not apply to a sexual predator who (A) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)

Article 6 – Penal Provisions

SECTION 3-601: VIOLATION; PENALTY

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

SECTION 3-602: ABATEMENT OF NUISANCE

Whenever a nuisance exists as defined in this chapter, the village may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. 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. (Neb. Rev. Stat. §18-1720, 18-1722)

SECTION 3-603: ABATEMENT SERVICES AND NOTICE PROCEDURE

A. Nuisance Officer: The Village may appoint an individual or organization to identify and enforce abatement of nuisances within the Village. Said individual or organization shall be identified as the "nuisance officer."

B. Identifying Nuisances:

C.

1. The Village may identify suspected nuisances in which case the village clerk shall, upon direction of the Village Board of Trustees, notify the nuisance officer of the suspected location, person or persons in violation of any provision of this chapter, and provide the address of such alleged nuisance.

2. The Village may request that the nuisance officer audit the Village for nuisances in the Village as defined by the Village Code. The nuisance officer shall then view the property or area for any violations of the nuisances of the Village. The nuisance officer shall not go upon private property for said audit unless granted permission by the resident/owner of suspected property.

D. Confirming, Documenting and Presenting Nuisances: The nuisance officer shall identify and confirm that in their opinion a nuisance exists as defined by federal, state or village law.

E.

1. Upon confirming that a nuisance appears to exist, the nuisance officer shall document said nuisance with photographs and other evidence pertinent to the situation. The nuisance officer will also obtain the legal description of the property and identify the current owners and, if possible, the occupants of the property upon which the nuisance exists.
2. The nuisance officer shall then present this information to the Village Board prior to or at a regular or special meeting for its confirmation that a nuisance exists as stated in this ordinance.

SECTION 3-604: ENFORCEMENT PROCEDURES

The nuisance, health and/or sanitation violation is brought to the Village Board by the Village nuisance officer, or the Board of Health or upon the Village Board's own action. The Village Board then may declare by resolution a nuisance, health and/or sanitation violation. The nuisance, health, and/or sanitation ordinances may be enforced by: (a) village administrative procedures; (b) penal prosecutions through the courts; (c) civil procedures in the courts; and/or (d) any other method authorized by Nebraska law. Any of these procedures, or any combination of these procedures, may be used to enforce and abate the nuisance, health and/or sanitation ordinances of the Village.

A. Administrative Procedure: The Village may proceed with abatement of the nuisance, sanitation, and/or health violation with or without court involvement after the following procedure is followed:

B.

1. After a nuisance is declared, the village clerk shall notify the nuisance officer to serve notice upon the violator(s).
2. The nuisance officer shall prepare and serve notice, which shall describe the found nuisance and state the required date on which abatement and removal of the nuisance shall be accomplished. The notice shall also provide information as to how the interested parties may request a hearing before the Village Board.
3. The notice shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, said notice shall be given by a single publication in a newspaper of general circulation in the Village or county of the Village, and by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The date of service is determined by the later of certified mail receipt, personal service or publication date.

4. The accused violator (owner/agent/occupant) may request in writing a hearing before the Village Board within five (5) days after the notice of violation is served or published. The requesting party shall also confirm in writing, as part of the request for hearing, their mailing address. For tree nuisance violations only, the person requesting a hearing is granted thirty (30) days after service to submit a written request for hearing.
5. If no request for a hearing is received in the required time period, the Village Board may cause a hearing to be held. This option to have a hearing without a request is at the sole discretion of the Village Board and shall be called for only in exceptional cases. The Village Board may otherwise forthwith abate the nuisance without hearing if none is requested.
6. If a hearing is requested, the village clerk shall fix the date of said hearing to be no later than thirty (30) days from receipt of the request for the hearing. Notice of said hearing and with the date and time shall be served upon the agent, owner, and of the nuisance property by regular mail.
7. The hearing shall be a "show cause" hearing in which the agent, owner, or occupant of the nuisance property shall provide evidence why the alleged condition should not be found to be a public nuisance and remedied. This hearing shall be heard before a quorum of the Village Board. The chairman of the Village Board may conduct the hearing or may appoint another person as the hearing officer to conduct the hearing (said hearing officer may be the village attorney or such other person as may be appointed by the chairman). At the hearing, the hearing officer shall mark and receive evidence which was presented when the finding of a nuisance was made, relevant evidence of the nuisance since that time, and evidence that the notices were properly given. The objecting party shall then provide their evidence. The formal rules of evidence shall not apply at said hearing, but all evidence must be relevant to the particular nuisance being addressed. Evidence may be submitted in writing by affidavit.
8. No later than fourteen (14) days after the hearing and consideration of the evidence, the Village Board may by majority vote rescind the resolution of violation. If the resolution of violation is not rescinded, it shall stand. Furthermore, if the objector or its designated agent fails to appear at the hearing or does not provide evidence, the nuisance shall stand as declared. If the resolution is not rescinded, the Village Board may, but is not required to, extend the date that owner, occupant, lessee, or mortgagee shall abate and remedy the said public nuisance, but in no case shall this time exceed sixty (60) days. The findings of the Village Board shall be made no later than fourteen (14) days after the hearing and notice of its finding shall be served upon the objecting party by regular U.S. Mail within five (5) days of the finding.

9. If the nuisance officer determines the nuisance is not remedied and abated within the time period designated, the Village shall cause the abatement of the nuisance.

10. If an interested party properly appeals to an appropriate court the findings and orders of the Village, the Village's actions shall be stayed during and until such time that the legal proceedings are completed or dismissed. In cases of appeal from an action of the Village condemning real property as a nuisance or as dangerous under the police powers of the Village, the owners of the adjoining property may intervene in the action at any time before trial.

C. Penal Court Enforcement Procedure: If the declared nuisance, health, and/or sanitation is not abated within fifteen (15) days after the notice is served upon the owner and/or occupant, and the village clerk has not received a request for hearing, the nuisance officer may cause issuance of a citation for the code violation.

D.

1. The citation shall be prosecuted to the appropriate court by the village attorney or other designated prosecutor for the Village.

2. A person or persons found guilty of these violations shall be guilty of a misdemeanor and fined up to \$500.00 per each offense.

3. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

E. Civil Court Procedure: The Village Board may instruct the village attorney to file a civil action for the abatement of a nuisance. Said civil suit may commence after fifteen (15) days' notice has been served (3-604.3) and may be filed and prosecuted at the same time any other enforcement procedure has commenced, terminated or in progress.

SECTION 3-605: EXPENSES

A. When the Village has affected the abatement of the nuisance, health and/or sanitation violation through either village employees or through contract with a third party and has incurred expenses and costs thereof, the actual cost thereof shall be charged to the owner, agent, or occupant in possession, charge or control of such property. The billing shall be calculated at the actual cost of abating the nuisance plus a \$25.00 administrative fee.

B. This billing shall be submitted to the last known address of the owner of the nuisance property as found in the county treasurer's office by regular U.S. Mail.

C. If said costs are not paid within two months after the work is done and one month after the expenses and costs are submitted to the owner and/or occupant, the Village may levy and assess the expenses and costs upon the real estate benefited by the actions in the same manner as other special assessments are levied and assessed, and the Village may collect said assessments in the same procedure as other special assessments are collected. The Village may also recover said expenses and costs of abating the nuisance, health and/or sanitation violation(s) in a civil action in the courts of the appropriate county in Nebraska or recover such costs in any other manner allowed by village ordinance or Nebraska law.