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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 law enforcement officer acting under color of his or her official authority or a police animal assisting a peace officer acting pursuant to the peace officer's official authority. "Police animal" shall mean a horse or dog owned or controlled by the state or any county, city or village for the purpose of assisting a peace officer acting pursuant to his or her official authority. (Neb. Rev. Stat. §28-906)

SECTION 3-102: IMPERSONATING AN OFFICER

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

SECTION 3-103: HINDERING OR RESISTING ARREST

It shall be unlawful for any person in this village to hinder, obstruct, or resist any law enforcement officer in making any arrest or performing any duty of his or her office. (Neb. Rev. Stat. §28-904)

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 was 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. §§17-556, 28-1202)

SECTION 3-106: DISCHARGE OF FIREARM

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)

SECTION 3-107: DISCHARGE OF DANGEROUS PROJECTILES

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, BB gun or other like instrument capable of launching a dangerous projectile therefrom at any time or under any circumstances within the village. (Neb. Rev. Stat. §17-207)

SECTION 3-108: FALSE REPORTING

It shall be unlawful for any person to:

A. Furnish material information he or she knows to be false to any law enforcement officer or other official with the intent to instigate an investigation of an alleged criminal matter or impede the investigation of an actual criminal matter;

B. Furnish information he or she knows to be false, alleging the existence of (1) a need for the assistance of an emergency medical service or out-of-hospital emergency care provider or (2) an emergency in which human life or property are in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

C. Furnish any information or cause such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department;

D. Furnish any information he or she knows to be false concerning the location of any explosive in any building or other property to any person;

E. Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation. (Neb. Rev. Stat. §28-907)

SECTION 3-109: 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 3-110: CRIMINAL TRESPASS

A. A person commits first degree criminal trespass if he or she:

1. Enters or secretly remains in any building or occupied structure or any separately secured or occupied portion thereof, knowing that he or she is not licensed or privileged to do so; or
2. Enters or remains in or on a public power infrastructure facility knowing that he or she does not have the consent of a person who has the right to give consent to be in or on the facility. For purposes of this section, "public power infrastructure facility" shall mean a power plant, an electrical station or substation, or any other facility which is used by a public power supplier as defined in Neb. Rev. Stat. §70-2103 to support the generation, transmission, or distribution of electricity and which is surrounded by a fence or is otherwise enclosed.

B. A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she enters or remains 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 except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-111: 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 3-112: PUBLIC NUDITY; AIDING AND ABETTING PUBLIC NUDITY

A. No person shall appear in a state of nudity in a public place nor shall any licensee of a retail establishment licensed to sell alcoholic liquors or any manager, agent or other person allow any individual to appear in a public place in a state of nudity. This prohibition shall not apply to any child under ten years of age or any individual exposing a breast in the process of breastfeeding an infant under 2 years of age.

B. "Nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breasts including the nipple or any portion below the nipple with less than a full opaque covering.

C. "Public place" shall mean all outdoor places owned by or open to the general public and all buildings and enclosed places owned by or open to the general public, including places of entertainment, taverns, restaurants, clubs, theaters, dance halls, whether or not an admission is charged.

D. This prohibition is not intended to extend to any expression of opinion or the

performance of a play, ballet, or drama protected by the First Amendment to the Constitution of the United States or by Article I, §5 of the Constitution of the State of Nebraska.

E. It shall be unlawful for anyone to aid, abet, assist, or direct another person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

(Ord. No. 04-431, 6/14/04)

SECTION 3-113: SEXUAL PREDATORS

A. For purposes of this ordinance:

1. "Childcare facility" means a facility licensed pursuant to the Child Care Licensing Act;
2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
5. "Sex offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
6. "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.

B. It is unlawful for any sexual predator to reside within 500 feet from a school or childcare 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 childcare facility.

C. 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 childcare facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

Neb. Rev. Stat. §§29-4016, 29-4017) (Ord. No. 08-459, 4/14/08)

SECTION 3-114: 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 3-115: 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 any 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 \$5,000.00. (Neb. Rev. Stat. §28-519)

SECTION 3-116: THEFT

A. For purposes of this section the definitions found in Neb. Rev. Stat. §28-509 shall apply; and the offenses described in subsections (B) through (H) shall exist when the value of the thing involved is under \$500.00.

B. A person commits theft if he or she takes or exercises control over movable property of another with the intent to deprive him or her thereof. A person commits theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto. Except as provided for rental or lease of a motor vehicle in Neb. Rev. Stat. §28-511(4), it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within ten days after such notice to return such property.

C. A person commits theft if he or she obtains property of another by deception as defined in Neb. Rev. Stat. §28-512.

D. A person commits theft if he or she obtains property of another by threatening to:

1. Inflict bodily injury on anyone or commit any other criminal offense;
2. Accuse anyone of a criminal offense;
3. Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair his or her credit or business repute;
4. Take or withhold action as an official or cause an official to take or withhold action;

5. Bring about or continue to strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

E. It is an affirmative defense to prosecution based on subdivisions (D)(2) through (4) herein that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

F. A person who comes into control of property of another that he or she knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to a person entitled to have it.

G. A person commits theft if he or she obtains services, which he or she knows are available only for compensation, by deception or threat or by false token or other means to avoid payment for the service. Services include labor, professional service, telephone service, electric service, cable television service, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to presumption that the service was obtained by deception as to intention to pay. Further, a person commits theft if, having control over the disposition of services of others to which he or she is not entitled, he or she diverts such services to his or her own benefit or to the benefit of another not entitled thereto.

H. A person commits theft if he or she receives, retains or disposes of stolen movable property of another knowing that it has been stolen, or believing that it has been stolen, unless the property is received, retained, or disposed with intention to restore it to the owner.

(Neb. Rev. Stat. §§28-511 through 28-515, 28-517, 28-518)

SECTION 3-117: 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 3-118: DISORDERLY CONDUCT; NOISE

A. It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the village by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language in the streets or other public places or is otherwise indecent or disorderly conduct or lewd or lascivious behavior.

B. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the village limits. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section but said enumeration shall not be deemed to be exclusive, namely:

1. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place in the village, except as a danger warning; the creation of any unreasonably loud or harsh sound by means of any such signaling device; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is held up for any reason.
2. The using, operating or permitting to be played, used or operated any radio, musical instrument, or other machine or device for producing or reproducing sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such radio, instrument, machine or device between the hours of 10:30 p.m. and 6:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be a *prima facie* violation of this section.
3. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:30 p.m. and 6:00 a.m. or at any time or place so as to annoy or disturb the peace, quiet, comfort, or repose of persons in any office or in any dwelling, hotel or other type of residence or of any persons in the vicinity.
4. The use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by creation of noise.

(Neb. Rev. Stat. §17-556) (Am. Ord. No. 96-336, 10/14/96)

SECTION 3-119: 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 3-120: 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 3-121: CURFEW; LIABILITY; PENALTY

A. It shall be unlawful for any minor under the age of 18 years but older than 16 years to loiter, idle, wander, stroll, or play in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places or to ride in or operate any vehicle in or upon any street, alley or other public place between the hours of 12:00 a.m. and 6:00 a.m. unless accompanied by a parent, guardian, or other adult person having the care, custody or control of said minor or unless the minor is engaged in lawful employment or is on an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care, custody or control of said minor.

B. It shall be unlawful for any minor under the age of 16 years to loiter, idle, wander, stroll, or play in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places or to ride in any vehicle in or upon any street, alley or other public place between the hours of 10:30 p.m. and 6:00 a.m. unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor or unless the minor is engaged in lawful employment or is on an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care, custody or control of said minor. When an activity of the kind normally attended by minors under the age of 16 years terminates after or less than one hour prior to 10:30 p.m., the curfew shall commence one hour after the termination of such activity.

C. It shall be unlawful for the parent, guardian or other adult person having the legal care and custody of a minor under the age of 18 years but over the age of 16 years to knowingly permit or allow such minor to loiter, idle, wander, stroll, or play in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places or to ride in or operate any vehicle in or upon any street, alley, or other public place between the hours of 1:00 a.m. and 6:00 a.m. It shall be unlawful for the parent, guardian or other adult person having the legal care and custody of a minor under the age of 16 years to knowingly permit or allow such minor to

loiter, idle, wander, stroll, or play in or upon the public streets, avenues, highways, roads, alleys, parks, playgrounds public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places or to ride in or operate any vehicle in or upon any street, alley, or other public place between the hours of 10:30 p.m. and 6:00 p.m.

D. Any minor under the age of 16 years who shall violate or refuse to comply with the enforcement of any of the provisions of this section shall be dealt with in accordance with the Nebraska Juvenile Code; and any minor 16 years or older or any parent, guardian or other adult who shall violate or refuse to comply with the enforcement of any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof, shall be fined as provided in Section 3-601 herein.

SECTION 3-122: ALCOHOL; MINORS

A. It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, 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)

B. It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the village or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the village or upon property owned by the village, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence. It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle.
(Neb. Rev. Stat. §53-180.02)

SECTION 3-123: TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS; MINORS; VENDORS

A. Any minor under the age of 21 years who shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever shall be guilty of an offense. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

B. Any person under the age of 21 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee by representing that he or she is of the age of 21 years or over is guilty of an offense.

C. Any person who shall sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 21 years of age is guilty of an offense.

(Neb. Rev. Stat. §§28-1418, 28-1419, 28-1427)

SECTION 3-124: 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 watercraft commits the offense of littering.

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

1. "Litter" shall include all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state but does not include (a) wastes of primary processes of farming or manufacturing or (b) grass, leaves, and worthless vegetation, which may be used as a ground mulch or in a compost pile.
2. "Waste material" shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(Neb. Rev. Stat. §§17-123.01, 28-523)

SECTION 3-125: 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 3-126: APPLIANCE OUTDOORS

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 lids and doors so that the same are made safe from entrapment. (Neb. Rev. Stat. §18-1720)

SECTION 3-127: 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 3-128: INJURY TO PLANTS AND 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 or their fruit or any shrub, plant, flower, or grass on any public or private property. 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 3-129: DEAD, DYING OR DISEASED TREES

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on private property within the corporate limits of the village. For the purpose of carrying out the provisions of this section, the utilities superintendent shall have the authority to enter upon private property to inspect the trees thereon.

B. 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 bill the property owner. If the owner fails to reimburse the village after being properly billed, the village 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.

C. In the event the property owner is a nonresident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the 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) (Ord. No. 95-294, 2/13/95)

SECTION 3-130: PARKS; INJURY TO PROPERTY; LITTERING

It shall be unlawful for any person to maliciously or willfully cut down, injure, or destroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or to injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the village parks and recreational areas. No person shall commit any waste on or litter the village parks or other public grounds. (Neb. Rev. Stat. §§17-563, 28-523)

SECTION 3-131: UNLAWFUL PLACEMENT OF SNOW, DEBRIS, ETC. ON PUBLIC OR PRIVATE PROPERTY

It shall be unlawful to throw, blow, place, discard, or sweep any weeds, grass, leaves, snow, ice, dirt, paper, nails, pieces of glass, refuse, garbage, waste, rubbish or refuse matter of any kind onto any street, alley, park, or other public grounds or, without permission, upon the property of another person in the village.

SECTION 3-132: PROHIBITED FENCES

It shall be unlawful for any person to erect or cause to be erected and maintain any barbed wire or electric fence within the corporate limits where such fence abuts a public sidewalk, street, or alley.

SECTION 3-133: HEDGES, VEGETATION OBSTRUCTING VIEW

The growing or maintaining or permitting the growing of hedges, corn, or other vegetation so tall as to obstruct the view of any private building, business building, street intersection, or private drive is declared to be a nuisance and is hereby prohibited.

Article 2 – Dogs

SECTION 3-201: DEFINITIONS

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

“Animal control officer” shall mean any individual employed, appointed, or authorized by the animal control authority for the purpose of aiding in the enforcement of this article or any other law or ordinance relating to the licensing, control, 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 shall be vaccinated against rabies pursuant to the rules and regulations of the Nebraska Department of Health and Human Services. Unvaccinated dogs 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 owned by a person temporarily residing within this village for fewer than 30 days, any dog brought into this village for show purposes, or any dog brought into this village for hunting purposes for a period of fewer than 30 days; such dogs shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §§71-4402.03, 71-4403, 71-4405, 71-4412)

SECTION 3-203: LICENSING; RABIES CERTIFICATE; FEE

A. Any person who shall own, keep, or harbor a dog over the age of six months within the village shall within 30 days after acquisition of the said dog acquire a license for each animal annually by or before June 1 each year. The said tax shall be delinquent from and after June 1; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to June 1 shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter.

B. The owner shall state upon the application form his or her name and address and the name, breed, color, and sex of each dog owned and kept. 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. Licenses shall be issued by the village clerk upon the payment of

a license fee for each male dog and spayed female dog and for each unspayed female dog. Such fees shall be as set by resolution by the Village Board and kept on file in the office of the village clerk. The village shall, in addition to the license tax imposed, collect from the licensee a state fee for each dog. The clerk shall retain an amount 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 money collected shall be credited to the general fund along with the license fees.

C. The village clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. 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 so licensed and shall entitle the owner to keep or harbor the said animal until May 31 following such licensing. Said licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. (Neb. Rev. Stat. §§16-206, 17-526, 54-603)

SECTION 3-204: LOST LICENSE TAG; FEE

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 as set by resolution of the Village Board and placed on file in the office of the village clerk. (Neb. Rev. Stat. §§17-526, 54-603)

SECTION 3-205: WRONGFUL 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 village identification other than that issued by the village clerk; nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog with a license prescribed for a male or spayed female dog. (Neb. Rev. Stat. §17-526)

SECTION 3-206: COLLAR OR HARNESS; OWNER'S ID; LICENSE TAG

A. It shall be the duty of the owner of every dog to securely place upon the neck of such dog a good and sufficient collar or harness with a metallic plate attached which shall be plainly inscribed with the name of such owner. The village license tag shall also be attached. Any dog found running at large upon the streets and public grounds of the village without a collar or harness is hereby declared a public nuisance. Such dogs found running at large shall be killed or impounded in the village animal shelter by the animal control officer.

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

(Neb. Rev. Stat. §§17-526, 54-605)

SECTION 3-207: NUMBER OF DOGS ALLOWED; KENNEL

It shall be unlawful and a public nuisance for any person to own, keep, harbor or maintain more than three dogs at any place in the village. A dog shall mean any male or female dog of the age of six months or more. An exception to this section shall be allowed for any dog kennel that is licensed by the State of Nebraska pursuant to a conditional use permit that may be granted by the Village Board in any district as determined appropriate by the board, subject to any terms and conditions imposed by such conditional use permit. (Ord. Nos. 04-435, 8/26/04; 07-456, 12/10/07; 08-463, 9/8/08)

SECTION 3-208: RUNNING AT LARGE

It shall be unlawful for the owner of any dog or cat to allow such dog 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 found to be running at large within the village to be taken up and impounded as provided in Section 3-220. "Running at large" shall mean a dog 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)

SECTION 3-209: DAMAGE; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog 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, 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 3-210: KILLING AND POISONING

It shall be unlawful to kill, to administer, or cause to be administered poison of any sort to a dog or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person or to place any poison or poisoned food where the same is accessible to a dog; provided, this section shall not apply to village police acting within their power and duty.

SECTION 3-211: BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT

It shall be unlawful for any person to own, keep, or harbor any dog 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 alleys in the village. Upon the written complaint of any affected person that any dog 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. 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 to permit her to run at large within the village 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. (Neb. Rev. Stat. §17-526)

SECTION 3-213: FIGHTING

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 SUSPECTED; IMPOUNDMENT

Any dog suspected of being afflicted with rabies or any dog 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 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. If no signs of rabies are observed, the dog may be released from confinement. (Neb. Rev. Stat. §71-4406)

SECTION 3-215: DANGEROUS DOGS; DEFINITIONS

The following definitions shall apply to the dangerous dogs regulations:

A. "Dangerous dog" shall mean any dog that, according to the records of an animal control authority:

1. Has killed a human being;
2. Has inflicted injury on a human being that requires medical treatment;

3. Has killed a domestic animal without provocation; or
4. Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice from an animal control authority or an animal control officer of such determination, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

B. "Potentially dangerous dog" shall mean

1. Any dog that, when unprovoked, (a) inflicts an injury on a human being that does not require medical treatment, (b) injures a domestic animal, or (c) 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.

C. 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 law enforcement officer engaged in law enforcement duties.

D. "Domestic animal" shall mean a cat, a dog, or livestock.

E. "Owner" shall mean any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

F. "Severe injury" shall mean any physical injury that results in disfiguring lacerations requiring multiple sutures, cosmetic surgery, or one or more broken bones or that creates a potential danger to the life or health of the victim.

(Neb. Rev. Stat. §54-617)

SECTION 3-216: 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 at a depth of at least one foot. 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 3-217: 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 3-218: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by the 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 the 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 3-219: 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 3-220: IMPOUNDMENT

It shall be the duty of the animal control officer to capture, secure, and remove in a humane manner to the village animal shelter any dog violating any of the provisions of this article. Notice of impoundment of any dog, including any significant marks or identification, shall be posted at the office of the village clerk as public notification of such impoundment; provided, if the owner of the dog is known, the clerk may also attempt to personally notify him or her of the impoundment. The owner may reclaim his or her dog by contacting the village clerk for information. (Neb. Rev. Stat. §17-548)

SECTION 3-221: 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

SECTION 3-301: DEFINITIONS

For the purposes of this article, the following definitions will prevail:

A. “Animal” shall mean any and all types of animals both domesticated and wild, male and female, singular and plural.

B. “Fowl” shall mean any and all poultry, domesticated and wild, male and female, singular and plural.

C. “At large” shall mean off the premises of the owner or custodian of the animal or fowl and not under the immediate control of the owner or custodian.

SECTION 3-302: RUNNING AT LARGE

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.

SECTION 3-303: PROPERTY OWNER MAY IMPOUND

Any person finding any animal or fowl upon his or her property may take up the same and remove it to any private or other animal shelter that will take possession of it. If no such shelter is available, he or she may hold the animal or fowl and notify the village police of this custody as soon as possible, giving a description of the animal or fowl and the name of the owner if known. The village police, as soon as possible after receiving notice, will dispatch an officer to appear at the premises and take possession of the animal or fowl.

SECTION 3-304: RETURN TO OWNER

If the police has or with reasonable dispatch can obtain the name of the owner or custodian of the animal or fowl, an officer will return it to the residence address. If there is no one at the address, he or she will leave a notice where the owner or custodian may reclaim the property and will then proceed to the nearest animal hospital or shelter which will accept the animal or fowl and leave it there.

SECTION 3-305: OWNER TO PAY BOARD

The owner or custodian who redeems an animal or fowl from a veterinary clinic or shelter will pay a board bill on a per diem basis in an amount previously agreed to between the village and the veterinary clinic or shelter.

SECTION 3-306: OFFICER MAY IMPOUND

Any village police officer or other person designated by the village for such purpose is authorized to capture and impound any animal or fowl found at large, the impounding to be in accordance with the procedures authorized by this article. In the event capture cannot be effected promptly, the officer or person is authorized to destroy the animal or fowl.

SECTION 3-307: DISPOSITION OF UNREDEEMED ANIMALS

Any animal or fowl not redeemed within 72 hours will be disposed of in such manner as previously agreed upon between the village and the veterinary clinic or shelter. The owner of the clinic or shelter is made an agent of the village for this purpose and his or her actions in this regard are declared to be for a governmental purpose.

SECTION 3-308: DISPOSITION OF LARGE ANIMALS

Should any village police officer or designated person upon call or upon his or her own initiative pick up a large animal such as a horse, cow or mule or any other animal not acceptable by any veterinary clinic or shelter, the officer or designated person is authorized to call a trucking firm or company, which shall convey the animal outside the corporate limits to a farm previously arranged by the village to handle such cases. The disposition of the animal in this case shall be handled in the same manner as though it were in a veterinary clinic or shelter.

SECTION 3-309: SANITARY REGULATIONS

All pens, enclosures and shelter structures wherein animals or fowls are kept under this article shall be kept in a sanitary condition and the bedding, offal, manure and waste materials accumulating from such animals or fowls shall be removed or disposed of in a sanitary manner at least once within every seven days; and all such pens, enclosures and shelter structures shall at all times be kept clean or disinfected so as to prevent the breeding of flies and other bacteria-carrying insects and the emission of offensive odors. It shall be the duty of the Board of Health to enforce the provisions of this article.

SECTION 3-310: WILD ANIMALS

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

SECTION 3-311: 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

SECTION 3-401: CODE ENFORCEMENT OFFICER

“Code enforcement officer” shall mean the person appointed by the Village Board to identify nuisances and assist the village attorney in prosecution of the same.

SECTION 3-402: PUBLIC NUISANCES PROHIBITED

It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the village to keep such real estate free of public nuisances. (Neb. Rev. Stat. §§17-207, 18-1720, 28-1321)

SECTION 3-403: NUISANCES GENERALLY DEFINED

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

- 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 3-404: NUISANCES 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, house yards, 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 is 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, appliances, 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 defects defined at Section 3-501 hereafter.

I. All places used or maintained (1) as junkyards or dumping grounds; (2) for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind; (3) 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 (4) for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons.

J. Stagnant water permitted or maintained on any lot or piece of ground; water pollution as provided in Chapter 7, Section 7-216.

K. Air pollution, which includes discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof. The standards for air pollution established or adopted by the state shall be presumptive evidence as to when the air is deemed to be polluted.

L. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling,

or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

M. Any vehicle as follows: (1) It shall be unlawful for any person in charge or control of any property within the village, 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 village, 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. (2) This subsection 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. If a vehicle is kept within a privacy fence, said fence must have prior approval of the Village Board with respect to height requirements, material specifications, and setbacks and must be constructed so as to prevent viewing of the items within the fence by the passing public. (Am. Ord. No. 95-303, 8/14/95)

N. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

O. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

P. 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.

Q. Maintenance of weeds, grasses or worthless vegetation of 8 inches or more in height. 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.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

R. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §18-1720) (Ord. Nos. 01-400, 7/09/01; 01-404, 9/11/01; 18-527, 7/9/18)

SECTION 3-405: NOTICE PROCEDURE; ABATEMENT

A. Whenever the code enforcement officer determines that any nuisance, as defined herein, is found on any property the following abatement procedure shall be followed:

1. The code enforcement officer shall document the nuisance by photographing the same. Once the nuisance has been documented, the village clerk shall give notice to abate such nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service made by the code enforcement officer, evidenced by his or her certificate of delivery, or delivery by regular first class mail, evidenced by the village clerk's affidavit of mailing. Such notice shall contain a copy of the photograph of the nuisance, a copy of this ordinance, instructions on abatement of the nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.
2. Within five business days after receipt of such notice, the owner, agent, or occupant of the lot or piece of ground may request a hearing with the village to appeal the order to abate 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 chairman as hearing officer. The chairman shall render a decision on the appeal within five business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the chairman may be appealed to the District Court. If no appeal is taken within ten days of the chairman's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the chairman's decision and no appeal is taken, the code enforcement officer shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.
3. Within ten 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 appeal the decision of the chairman and fails to comply with the order to abate the nuisance, the village shall again photograph the nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the code enforcement officer may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or the clerk's affidavit of mailing, and the photographs taken after the time to abate has elapsed to the prosecuting attorney for the village and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

B. In the alternative, the village may cause the nuisance to be corrected or removed. 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 3-406: JURISDICTION

The chairman and village law enforcement are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, village law enforcement, 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 3-407: 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 – Dangerous Buildings

SECTION 3-501: DETERMINATION; DEFINITIONS

Any buildings or structures, including billboards, 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.

(Neb. Rev. Stat. §18-1720)

SECTION 3-502: BUILDING INSPECTOR

A specially designated building inspector as provided in Chapter 1, Section 1-414, 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 3-503: 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.

(Neb. Rev. Stat. §§17-136, 18-2107)

SECTION 3-504: UNLAWFUL MAINTENANCE

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the village or within its zoning jurisdiction. (Neb. Rev. Stat. §28-1321)

SECTION 3-505: NUISANCE; PROCEDURE

If the specially designated building inspector or his 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 60 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; and

D. File a copy of such determination or resolution in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.

(Neb. Rev. Stat. §18-1722.01)

SECTION 3-506: 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. (Neb. Rev. Stat. §18-1722)

SECTION 3-507: 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 as provided 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 or 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 board shall be final unless appealed. Failure of the person to attend the hearing shall relieve the board of any further procedures before action is taken as set forth in a notice.

SECTION 3-508: 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 board's decision.

SECTION 3-509: 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 board. Upon receipt of such report the village, by and through the 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.

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)