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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: FALSE REPORTING

It shall be unlawful for any person to:

A. Furnish material information he or she knows to be false to any peace 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 3-105: 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 3-106: 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 3-107: 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 3-108: DISCHARGE OF SLINGSHOT, PAINTBALL GUN, BLOW GUN, AIR RIFLE OR SIMILAR INSTRUMENT

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle, 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 3-109: 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

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 3-111: 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

It shall be unlawful for any 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.

SECTION 3-113: AIDING AND ABETTING PUBLIC NUDITY

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.

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 \$1,500.00. (Neb. Rev. Stat. §28-519)

SECTION 3-116: 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 3-117: 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

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 3-119: 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: UNNECESSARY NOISES; PERMIT TO EXCEED NOISE RESTRICTIONS

A. 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 annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the village.

B. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article but shall not be deemed to be exclusive:

1. *Horns, Signaling Devices, Etc.*

- a. The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the village, except as a danger warning;
- b. The creation by means of any such signaling device of any unreasonably loud or harsh sound;
- c. The sounding of any such device for an unnecessary and an unreasonable period of time;

- d. The use of any signaling device except one operated by hand or electricity;
 - e. The use of any horn, whistle or other device operated by engine exhaust; and
 - f. The use of any such signaling device when traffic is for any reason being held up.
2. *Radios, Phonographs, Etc.*
- a. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of 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;
 - b. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 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 prima facie evidence of a violation of this section.
3. *Loud Speakers, Amplifiers for Advertising.* The using, operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
4. *Yelling, Shouting, Etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the 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.
5. *Animals, Birds, Etc.* The keeping of any animal or bird by which causes frequent or long continued noise which may disturb the comfort or repose of any persons in the vicinity.
6. *Steam Whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time

to begin or stop work or as warning of fire or danger, or upon request of proper village authorities.

7. *Exhausts*. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
8. *Defect in Vehicle or Load*. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
9. *Loading, Unloading, Opening Boxes*. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
10. *Construction or Repairing of Buildings*. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety and then only with a permit from the village engineer. Said permit may be initially granted or renewed for periods not to exceed three days or less while the emergency continues. If the village engineer should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that no loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.
11. *Schools, Courts, Churches, Hospitals*. The creating of any excessive noise on any street adjacent to any school, institution of learning, church, or court while same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital; provided, conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
12. *Hawkers, Peddlers*. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
13. *Drums*. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

14. *Transportation of Metal Rails, Pillars and Columns.* The transportation of rails, pillars or columns, of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loud as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
15. *Pile Drivers, Hammers, Etc.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, team shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
16. *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

C. Persons in the village wishing to exceed the noise restrictions herein for a particular occasion may make application to the village, providing information concerning the date, time and nature of the event, which shall be considered by the Village Board for approval of a special permit. The village shall set the consideration of the application on the agenda of a regular meeting or special meeting called for such purpose and shall make every effort to notify neighboring citizens of their right to be heard at the meeting.

(Neb. Rev. Stat. §§17-556, 28-1322) (Ord. No. 359, 5/7/07)

SECTION 3-121: MISREPRESENTATION BY MINOR

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)

SECTION 3-122: MINOR IN POSSESSION

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. (Neb. Rev. Stat. §53-180.02)

SECTION 3-123: TOBACCO USE BY MINORS

Any minor under the age of 19 who shall smoke cigarettes or cigars or use tobacco in

any form whatever shall be guilty of a Class V misdemeanor. Any minor so charged with violation of this section may be free from prosecution when he or she shall have furnished evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars or tobacco. (Neb. Rev. Stat. §28-1418)

SECTION 3-124: TOBACCO VENDOR; SALE TO MINORS

It shall hereafter be unlawful for any person to sell cigars, cigarettes, cigarette material, or other tobacco in any form to any person under the age of 19 years.

SECTION 3-125: THROWING OF MISSILES

No person shall throw any stone, snowball, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person in any public or private way or place or enclosed or unenclosed ground.

SECTION 3-126: 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. "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)

SECTION 3-127: INJURY OR REMOVAL OF PUBLIC AND PRIVATE PROPERTY

No person in the village shall willfully, maliciously, wantonly, negligently, or otherwise injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the village or to any person in the village.

SECTION 3-128: 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 3-129: 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 3-130: APPLIANCE 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 3-131: 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 3-132: 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 public works director 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 non-resident of the county in which the property lies, the village shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, 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)

SECTION 3-133: 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 3-134: 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 3-135: 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 3-136: 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.

SECTION 3-137: DEBRIS ; PUBLIC GROUNDS

It shall be unlawful and declared a nuisance to throw or sweep into the street, alleys parks or other public grounds any grass, tree limbs, vegetation, dirt, paper, nails, pieces of glass, or garbage, refuse or rubbish of any kind. (Ord. no. 435, 11/28/2017)

Article 2 – Dogs (to include Potbellied Pigs)

SECTION 3-201: DEFINITIONS

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

“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)

Chapter 3 Article 2 will include domesticated potbellied pigs to fall under the same guidelines as a dog.

SECTION 3-202: RABIES VACCINATION

Every dog shall be vaccinated against rabies pursuant to Nebraska law. 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 dog owned by a person temporarily residing within the village, any dog brought into the village for show or hunting purposes, or any service dog assisting disabled persons in going from place to place within the village; all such dogs shall be kept under the strict supervision of the owner and shall be allowed in the village for no more than 30 days. (Neb. Rev. Stat. §71-4402)

SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog over the age of four months within the village shall within 30 days after acquisition of the said dog acquire a license for each animal annually by or before January 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 owned and kept by him or her. A certificate stating 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.

B. Upon payment of the license fee, as set by resolution of the Village Board and placed on file in the village office, the village clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. The tag shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn. The village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ 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 3¢ collected shall be credited to the general fund along with the license fees.

C. 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 January 1 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.

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.
(Neb. Rev. Stat. §§17-526, 54-603)

SECTION 3-204: 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 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 for the period of the licensing year. (Neb. Rev. Stat. §17-526)

SECTION 3-206: REMOVAL OF COLLAR OR HARNESS, LICENSE TAGS

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

SECTION 3-207: RUNNING AT LARGE; LICENSE REQUIRED

Any dog found running at large upon the streets and public grounds of the village with or without a collar or harness and license tag is hereby declared a public nuisance and shall be impounded in the village dog shelter as provided herein. "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 3-208: 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 3-209: BARKING AND OFFENSIVE DOGS; 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. Any dog owned by the person named in the complaint is an annoyance or disturbance or otherwise violates the provisions of this section, the Furnas County Sheriff's Department shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. A written complaint shall be submitted to the Village Clerk to be kept on file within 72 hours of the incident. The provisions of this section shall not be construed to apply to the village animal shelter. (Neb. Rev. Stat. §17-526)

SECTION 3-210: 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 3-211: 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 3-212: RABIES PROCLAMATION

It shall be the duty of the Village Board, whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog 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. Any un-muzzled dog running at large during the time of the proclamation shall be seized and impounded. Any dog noticeably infected with rabies and displaying vicious propensities shall be killed by the Furnas County Sheriff's Department without notice to the owner. (Neb. Rev. Stat. §17-526)

SECTION 3-213: 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 at least 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 3-214: 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; 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.

“Potentially dangerous dog” shall mean any dog that, when unprovoked;

A. Inflicts a non-severe injury on a human or injures a domestic animal on either public or private property or chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or

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

“Severe injury” 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 3-215: 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 3-216: 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 3-217: DANGEROUS DOGS; FAILURE TO COMPLY

Any dangerous dog may be immediately confiscated by the Furnas County Sheriff's Department 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 Sheriff's Department 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 3-218: 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 3-219: 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

A. It shall be the duty of the Furnas County Sheriff's Department to capture, secure, and remove in a humane manner to the village animal shelter any dog violating any of the provisions of this article. Every dog 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 not less than 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; provided, if the owner of the dog is known, the clerk may also attempt to personally notify the owner of the 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. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 48 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 Furnas County Sheriff's Department 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 Sheriff's Department, 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 Furnas County Sheriff's Department unless a suitable home can be found for such dog as provided in subsection (C) above.

(Neb. Rev. Stat. §17-548) (Am. Ord. No. 387, 5/7/12)

SECTION 3-221: INTERFERENCE WITH ANIMAL CONTROL

It shall be unlawful for any person to hinder, delay, or interfere with the Furnas County Sheriff's Department while performing any duty enjoined upon it 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.

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

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

“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

No person in charge, custody or control thereof shall permit any animal or fowl to go loose or run at large in any of the public ways or upon the property of another in the village, or to be tethered or staked out in such a manner as to allow said animal to reach to or pass into any public way or upon the property of another, except in enclosed places on private property owned or leased by the owner of such animal or fowl. (Neb. Rev. Stat. §17-547)

SECTION 3-303: IMPOUNDING

A. Any person finding any animal or fowl upon his or her property to his or her injury or annoyance 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 keep possession of the animal or fowl and, as soon as possible, notify the Furnas County Sheriff’s Department of such custody, giving a description of the animal or fowl and the name of the owner, if known. The Sheriff’s Department shall take possession of the animal or fowl as soon as possible after receiving notice.

B. If the Sheriff’s Department has obtained, or can with reasonable dispatch, obtain the name of the owner or custodian of the animal or fowl, it will be returned to the residence address. If there is no one at the address, a notice will be left where the owner or custodian may reclaim the property. The Sheriff’s Department will then proceed to the nearest animal hospital or shelter which will accept the animal or fowl and leave it in their care. The officer will then secure, or cause to be secured, and serve, or have served, a warrant of arrest on the owner or custodian for permitting the animal or fowl to go at large.

C. The owner or custodian who redeems animal or fowl from an animal hospital or shelter will pay a board bill on a per diem basis in an amount previously agreed to between the village and the owner of the hospital or shelter. The owner or custodian shall pay restitution damages caused when said animal is at large in an

amount equal to the fair market value of the property damage.

D. If the Sheriff's Department picks up an animal or fowl and is unable to find the owner or custodian, it shall be left at the nearest animal hospital or shelter.

E. The Sheriff's Department is authorized to capture and impound any animal or fowl found at large in accordance with the procedure authorized by this chapter. In the event capture cannot be effected promptly, the officer is authorized to destroy the animal or fowl.

F. Any animal or fowl not redeemed within seven days will be disposed of in such manner as previously agreed upon between the village and owner of the animal hospital or shelter. The owner of the hospital 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.

G. Should the Sheriff's Department upon call or upon the officer's own initiative pick up a large animal such as a horse, cow or mule or any other animal not acceptable by any animal hospital or shelter, he or she is authorized to call a trucking firm or company, which will 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 an animal hospital or shelter.

SECTION 3-304: ENCLOSURES

A. All pens, enclosures and shelter structures where animals or fowls are kept shall be maintained 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. 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.

B. It shall be unlawful for any person(s) to keep any cattle, hogs, horses, goats, rabbits, or other animals, chickens, ducks, geese, turkeys, or other fowls, in any pen, shed or yard within the village from which any offensive odor shall be emitted. The maintaining of any of the aforementioned animals or fowls in such conditions as described above shall of itself constitute a nuisance.

SECTION 3-305: NUMBER ON PREMISES

A. For every animal or fowl kept within the village there shall be allowed within the pen or enclosure not less than the area set forth in the following table for each such animal for fowl kept, to-wit:

Animal Type	Minimum Area per Each Animal (Square Feet)
Horse or mule	800
Cow or calf over two months old	100
Hog or pig over three months old	100
Sheep or goat	400
12 Fowls or fraction thereof	800
Pair of rabbits	100

B. Confinement and space limitations for other animals, fowls or rodents kept for pets, commercial or laboratory use shall be approved by the Board of Health; provided, not more than two horses or mules, one cow and one calf over two months old, one hog or pig over three months old, or two sheep or goats shall be permitted to be kept on any premises the total area of which is 7,500 square feet or less; and not more than 50 rabbits or 36 fowls shall be permitted to be kept on any premises the total area of which is 7,500 square feet or less. The provisions of this section shall not apply to fowls or rabbits when kept within enclosures which are more than 200 feet from any building or structure used for residential purposes.

SECTION 3-306: RESIDENTIAL DISTANCE

There shall be provided sufficient and suitable shelter for all animals or fowls kept under the provisions of this article and such shelter structure shall comply in all respects with any building and zoning regulations of the village; provided, no enclosure, pen or shelter structure for any animal or fowl shall be nearer than 100 feet to any building or structure used for residence purposes whether located on the same lot or plat of ground or on adjoining property.

SECTION 3-307: DOGS, POTBELLIED PIGS; NUMBER ALLOWED

No residential or commercial property within the village limits shall keep, harbor or maintain more than a combined total of three dogs and or potbellied pigs over four months of age. (Ord. No. 361, 6/4/07)

SECTION 3-308: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

Animals suspected of having rabies or those that have bitten a person shall be isolated for a period of at least ten days or until a clinical diagnosis of rabies has been made. Animals bitten or suspected having been bitten by a rabid animal shall either be destroyed or be kept segregated under veterinary control for the incubation period of the disease or until released from segregation by veterinary authority. (Neb. Rev. Stat. §71-4406)

Article 4 – Nuisances

SECTION 3-401: 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) (Ord. No. 327, 12/18/00)

SECTION 3-402: 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) (Ord. No. 325, 12/18/00)

SECTION 3-403: 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 are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance.

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 in any residential designated area of the village.

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

K. 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.

L (1) Any vehicle which is not properly registered, or (2) is inoperable, wrecked, junked, or partially dismantled and remaining longer than 30 days on private property. This does not apply to (a) a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of repairing and or selling of motor vehicles, or (b) a motor vehicle, motor vehicle body or motor vehicle chassis or parts therefrom that are kept in a completely enclosed building or (c) screened from public view by a solid fence, provided that such fence, building or screened-off area does not otherwise violate any provisions of this code,

and so long as the premises, residential or commercial, which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition. VEHICLE means the same as defined by Neb. RS 60-136: a motor vehicle, all-terrain vehicle, minibike, trailer, or semitrailer. PROPERLY REGISTERED means as required by Nebraska Statutes;

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

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

P. 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*).

Q. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §18-1720) (Ord. Nos. 326, 12/18/00; 347, 12/15/03)

SECTION 3-404: NOTICE PROCEDURE; ABATEMENT

A. Whenever the chief of police, or code enforcement officer, or an agent of the Village, appointed by the chairman, determines that any weeds or grasses in excess of 8 inches are growing on property within the village, or other nuisance, as defined herein, is found on any property the following abatement procedure shall be followed:

1. The code enforcement officer shall document the weeds or nuisance by photographing the same. Once the weeds or nuisance has been documented, the village clerk shall give notice to mow, abate, and remove such weeds or nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service or certified mail with return receipt requested. If mailed, such notice shall be conspicuously marked as to its importance. Personal service shall be made by the Furnas County Sheriff's Department, or an agent of the Village, appointed by the chairman. Such notice shall contain a copy of the photograph of the weeds or nuisance, a copy of this ordinance, instructions on abatement of the weeds or nuisance, time in which such abatement shall take place, and possible penalties for failure to abate. If notice by personal service or certified mail is unsuccessful, said notice shall be given 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 documentation of posting.

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 mow, abate, or remove the weeds or 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 Committee 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 mow or abate and remove the weeds or nuisance, the village shall again photograph the weeds or nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the Code Enforcement Committee may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to 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 weeds to be mowed or 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 3-405: FIRE HAZARD

Between November 15 and May 1 of the following year, if weeds or other worthless vegetation exists near a lumber yard, oil tank(s), wooden building(s) or any other flammable material, upon any lot or parcel of land within the village limits, the fire chief or other designated fire authority shall, by personal service, notify the owner or occupant having control of such real estate. Said notice shall state that the owner or occupant shall, within 24 hours after said notice is served, not only cut and remove the weeds and worthless vegetation from such real estate but also shall scrape the surface of the ground within 15 feet of such structure and denude the ground within such area of any flammable material. Upon the failure of such owner or occupant to comply with said notice, the fire chief or other designated fire authority shall refer said failure to the Village Board. The board shall proceed as provided in Section 3-404 to enforce the provisions and costs therein.

SECTION 3-406: 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, the chief of police shall document such offense as set forth above and request that a complaint against such owner, agent or occupant be filed for maintenance of a nuisance with the County Court.

SECTION 3-407: FAILURE TO CORRECT

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

SECTION 3-408: JURISDICTION

The chairman and Furnas County Sheriff's Department are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, Sheriff's Department, 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) (Ord. No. 328, 12/18/00)

SECTION 3-409: 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 AND 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) (Ord. No. 324, 12/18/00)

SECTION 3-502: 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 3-503: 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) (Ord. No. 323, 12/18/00)

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 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.

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) (Ord. No. 320, 12/18/00)

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) (Ord. No. 322, 12/18/00)

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. (Ord. No. 321, 12/18/00)

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 – Sexual Predators

(Ord. No. 353, 6/5/06)

SECTION 3-601: 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 3-602: 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 3-603: 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 7 – Penal Provisions

SECTION 3-701: 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 3-702: 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)