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## **CHAPTER 2 – MISDEMEANORS**

### **Article 1 – General Offenses**

#### **SECTION 2-101: RESISTING OFFICER**

It shall be unlawful for any person to resist any law enforcement officer who is in the lawful performance of duties. (Neb. Rev. Stat. §28-729)

#### **SECTION 2-102: DISORDERLY CONDUCT**

It shall be unlawful for any person to engage in conduct or behavior which disturb 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. (Neb. Rev. Stat. §17-129, 17-556)

#### **SECTION 2-103: DISTURBING THE PEACE**

It shall be unlawful for any person to disturb the peace and quiet of any person, family, neighborhood or public assembly; to make any loud, boisterous or unusual noise; or to quarrel, curse, swear or use obscene or indecent language within this village.

#### **SECTION 2-104: DISCHARGE OF FIREARMS**

It shall be unlawful for any person, except an officer of the law in the performance of his/her official duties, to fire or discharge any gun, pistol or other firearm within the Village; provided, nothing herein shall be construed to apply to any licensed shooting gallery or to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Board of Trustees. (Neb. Rev. Stat. §17-556)

#### **SECTION 2-105: DISCHARGE OF SLINGSHOTS, AIR GUNS, BB GUNS**

It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, bow and arrow, or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the Village. (Neb. Rev. Stat. §17-556)

#### **SECTION 2-106: LITTERING**

1. Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property, or in any waters, commits the offense of littering unless:

- A. 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

B. The litter is placed in a receptacle or container installed on such property for such purpose.

2. The word "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 waste or primary process of farming or manufacturing. "Waste material" as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.

3. 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.

(Neb. Rev. Stat. §17-123.01, 28-523)

### **SECTION 2-107: SHOOTING HIGHWAY SIGNS, MARKERS OR NOTICES**

It shall be unlawful for any person to willfully or maliciously shoot upon the public highway and injure, deface, damage or destroy any signs, monuments, road markers, traffic control or surveillance devices or other public notices lawfully placed upon said highways. (Neb. Rev. Stat. §39-619.01(1))

### **SECTION 2-108: REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS OR NOTICES**

It shall be unlawful for any person, other than those authorized to do so, to remove any sign, traffic control or traffic surveillance device placed along a public street, road or highway for traffic control, warning or informational purposes. Moreover, it shall be unlawful for any person to possess such a sign or device which has been removed in violation of this Section. (Neb. Rev. Stat. §60-6,130)

### **SECTION 2-109: OBSTRUCTION OF PUBLIC WAYS**

It shall be unlawful for any person to erect, maintain or suffer to remain on any street or public sidewalk a stand, wagon or other obstruction inconvenient to or inconsistent with public use of the same. (Neb. Rev. Stat. §17-555, §17-557,)

### **SECTION 2-110: OBSTRUCTION OF ENTRANCE OF FIRE STATION**

It shall be unlawful for any person, firm or corporation to place or allow to be placed any item whatsoever that may obstruct the entrance to any fire station, provided, signs shall be placed conspicuously to indicate the location of any fire station.

### **SECTION 2-111: DANGEROUS APPLIANCES IN YARD**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any oth-

er dangerous appliance to be in the open and accessible to children whether on private or public property unless he/she shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720, 28-1321)

### **SECTION 2-112: WINDOW PEEPING**

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

### **SECTION 2-113: MALICIOUS DESTRUCTION OF PROPERTY**

It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner, or destroy any real or personal property of any description belonging to another. (Neb. Rev. Stat. §28-572, 28-573)

### **SECTION 2-114: INJURY TO PLANTS AND TREES**

1. It shall be unlawful for any person to trespass upon any private grounds within the Village, or to break, cut, or injure any plant, flower, or grass growing thereon, or without the consent of the owner or occupant. (Neb. Rev. Stat. §28-588)

2. It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree or shrub standing or growing on any land belonging to another person or persons or on any public land in the corporate limits. 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 to do so, and the written permit of the Village 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. (Neb. Rev. Stat. §17-555, 18-806, 28-519)

### **SECTION 2-115: DISEASED, DYING OR DEAD TREES; ELM VARIETIES**

1. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the Village, including trees of the species and varieties of elm, *Zelkova*, and *Planera* that are in a diseased, dying, or dead condition or that may serve as a breeding place for the European elm bark beetle, *Scolytus multistriatus*, or other disease-carrying insects. Such dead and diseased trees shall be removed from the private property on which they are located upon notice by the Village. For the purpose of carrying out the provisions of this section, any person designated by the Village Board shall have the authority to enter on private property to inspect the trees thereon.

2. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service and such notice shall allow the said owner ten days to remove and burn the said tree or trees. In the event that the owner is a nonresident, notice shall be made by publication in a newspaper of general circulation, or by mail if the name and address is known. The person charged with the removal and burning may enter into an agreement with the Village that such work be accomplished by village personnel and the expense and interest shall be declared to be a lien upon such property from the time the same becomes due until paid.

3. If the owner fails, neglects, or refuses to enter into such an agreement, or to remove the trees, any person designated by the Village Board may enter upon the property and proceed to direct the removal and burning of the trees and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the Village after being properly billed, the costs shall be assessed against the property and certified by the village clerk to the county treasurer to be collected in the manner prescribed by law. 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. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. Failure to remove and burn the said trees shall be deemed to be a misdemeanor.

(Neb. Rev. Stat. §17-563.01, 18-1720, 28-1321)

## **Article 2 – Dogs and Cats**

### **SECTION 2-201: OWNER DEFINED**

Any person who shall harbor or permit any dog or cat to be present in or about his or her house, store, or enclosure, or to remain or to be fed for ten days or more shall be deemed to be the owner and possessor of such dog or cat, and shall be deemed to be liable for all license fees and requirements, and penalties herein prescribed. (Ord. No. 93-2, 7/16/93)

### **SECTION 2-202: LICENSE REQUIREMENT**

Any person who shall own, keep, or harbor a dog or cat over the age of six months within the Village shall, within 30 days after acquisition thereof, acquire an annual license for such dog or cat on or before April 1 of each year. All licenses shall be issued by the village clerk, upon the payment of a license fee for each neutered dog or cat, and for each non-neutered dog or cat. Such fees shall be set by resolution of the Village Board and shall be on file in the office of the village clerk for public inspection during office hours. Said license shall not be transferable, and no refund shall be allowed in case of death, sale, or other disposition of the licensed animal. The owner shall state at the time of application for such, license, upon forms provided for such purpose, the name and address of the owner, and the name, breed, color, and sex of each dog or cat owned and kept by such owner. A certificate showing that the dog or cat 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 shall be issued until a certificate is presented. (Ord. No. 93-2, 7/16/93)

### **SECTION 2-203: RABIES VACCINATION**

Every dog three months of age and older shall be vaccinated against rabies pursuant to Nebraska law. Puppies shall be vaccinated within 30 days after having reached three months of age. Unvaccinated dogs acquired or moved into the Village must be vaccinated within 30 days after purchase or arrival, unless under three months of age as specified above. The provisions of this article with respect to vaccination shall not apply to any dogs owned by a person temporarily residing within the Village for less than 30 days, any dog brought into the Village for show purposes, or any dog brought into the Village for hunting purposes for a period of less than 30 days; such dogs shall be kept under the strict supervision of the owner.

### **SECTION 2-204: LICENSE TAGS**

Upon the payment of the license fee, the village clerk shall issue to the owner a license certificate and a metallic tag for each dog or cat so licensed. The metallic tag shall be promptly attached to the collar or harness of the licensed animal, and shall entitle the owner to keep or harbor said licensed animal during the ensuing licensing year. (Ord. No. 93-2, 7/16/93)

## **SECTION 2-205: WRONGFUL LICENSING**

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag, or other Village identification, other than that issued by the village clerk for such dog or cat. (Ord. No. 93-2, 7/16/93)

## **SECTION 2-206: REMOVAL OF TAGS**

It shall be unlawful for any person to remove, or cause to be removed, the collar, harness, or metallic tag from any licensed animal without the consent of the owner, keeper, or possessor thereof. (Ord. No. 93-2, 7/16/93)

## **SECTION 2-207: RUNNING AT LARGE**

1. Any and all dogs and cats found running at large upon the streets and public grounds of the Village without a properly issued tag affixed to a collar or harness are hereby declared to be strays and are declared to be a public nuisance. Any such dogs or cats found to be running at large shall be captured and/or destroyed by the Village without notice.

2. It shall be unlawful for the owner of any dog or cat to allow such dog or cat to run at large at any time within the corporate limits of the Village. Any licensed dog or cat found to be running at large within the Village shall be captured and impounded by the Village.

3. "Running at large" shall mean that the dog or cat is off the premises of the owner and not under the control of the owner or responsible person, either by leash, cord, chain, wire, rope, cage, or command, or other suitable means of restraint or control. (Ord. No. 93-2, 7/16/93)

## **SECTION 2-208: BARKING AND OFFENSIVE DOGS PROHIBITED**

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 or chases pedestrians, bicycles, motor vehicles, or riders of horses while they are on any public sidewalks, streets or alleys in the Village, provided, the provisions of this section shall not be construed to apply to any village dog shelter. Upon the written complaint of one or more affected persons filed with the village clerk 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 or sheriff shall investigate the complaints and, if in his/her opinion the situation warrants, shall notify the owner to silence and restrain such dog.

## **SECTION 2-209: DANGEROUS DOGS; DEFINITIONS**

"Animal Control Authority" shall mean an entity authorized by the Village Board 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 act or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals, and shall include any state or local law enforcement personnel or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

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

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

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

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

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

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

"Potentially dangerous dog" shall mean:

1. Any dog that, when unprovoked, inflicts a non-severe injury on a human or injures a domestic animal on public or private property, or chases or approaches a person upon streets, sidewalks or on any public ground in a menacing fashion or apparent attitude of attack, or

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

"Severe injury" 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 2-210: DANGEROUS DOGS ON OWNER'S PROPERTY; CONFINED**

1. 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.

2. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property.  
(Neb. Rev. Stat. §54-619)

#### **SECTION 2-211: DANGEROUS DOGS OFF OWNER'S PROPERTY; RESTRAINED**

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

#### **SECTION 2-212: DANGEROUS DOGS; FAILURE TO COMPLY**

Any dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this article, and said officer may enter upon private property in order to confiscate the animal. In lieu of confiscation, the animal control officer may immediately destroy the dangerous dog if it poses a threat of harm to said officer or any other person or property. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care and boarding of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the owner violated this article. (Neb. Rev. Stat. §54-620)

#### **SECTION 2-213: DANGEROUS DOGS; IMPOUNDMENT, DESTRUCTION**

In addition to any other penalty, the Animal Control Authority shall order the animal control officer to dispose of a dangerous dog in a humane manner. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the village clerk as public notification of such impoundment. Upon such request, the Animal Control Authority shall schedule the matter to be heard at a special or regular meeting of the Animal Control Authority, at which time

the owner must present clear and convincing evidence that the dog will not present a present nor future threat to the safety of the public or to public property. The Animal Control Authority shall not be bound by the Nebraska Rules of Evidence. Upon such proof to the satisfaction of the Animal Control Authority, the dog may be returned to the owner after the owner pays all costs of confinement, board, medical treatment, food and care for the dog. If the foregoing costs are not paid within 15 days of the hearing, the dog shall be destroyed.

#### **SECTION 2-214: RABIES SUSPECTED; IMPOUNDMENT**

Any dog or other animal suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person shall be seized by a police officer or animal control officer of the Village and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If, upon examination by a veterinarian, the dog or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon said owner paying the costs of said impoundment, or, in the case of a stray, shall be disposed of in whatever manner deemed best by the animal control office or sheriff. If the owner of the 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 2-215: RABID ANIMALS; CAPTURE IMPOSSIBLE**

The animal control officer shall have the authority to kill any domestic animals with the characteristics of rabies which make capture impossible because of the danger involved.

#### **SECTION 2-216: RABID DOGS; PROCLAMATION**

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

#### **SECTION 2-217: KILLING AND POISONING**

It shall be unlawful to kill, administer or cause to be administered poison of any sort to any domestic animal within the Village, or in any manner to injure, maim, destroy,

or in any manner attempt to injure, maim or destroy any domestic animal within the Village, or to place any poison or poisoned food where the same is accessible to any domesticated animal; provided, this section shall not apply to the animal control officer or sheriff acting within his/her power and duty.

#### **SECTION 2-218: INTERFERENCE WITH ENFORCEMENT**

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/her by the provisions of this article, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of the animal shelter or any vehicle used for the collecting or conveying of dogs to the shelter.

#### **SECTION 2-219: DAMAGE BY DOG; LIABILITY OF OWNER**

It shall be unlawful for any person to allow a dog owned, kept or harbored by him/her, or under his/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 liable to the person so injured in an amount equal to the value of the damage so sustained.

#### **SECTION 2-220: IMPOUNDING**

1. It shall be the duty of the Village to capture, secure, and remove in a humane manner to the village animal shelter, a licensed kennel, or a veterinary clinic, any dog or cat found violating any of the provisions of this ordinance. The animal 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 animal shall be kept and maintained at the pound for a period of not less than five days after written notice has been given, unless reclaimed earlier by the owner.

2. Written notice of impoundment of all animals, including any significant marks or identifications of such animals, shall be given to the owner, keeper, or such animal by regular United States mail, or personal service, within two business days after impoundment, and by posting in three public places within the Village, within 24 hours after impoundment.

3. Any animal may be reclaimed by its owner during the period of impoundment by the payment of a impoundment fee and daily boarding fee as set by resolution of the Village Board, and on file in the office of the village clerk, and by compliance with all licensing and rabies vaccination requirements prior to release.

4. If any animal is not claimed at the end of the required waiting period after notice has been given, the Village may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same. If, in the judgment of the Village, a suitable home can be found for any such animal, such animal be turned over

to that person, and the new owner shall then be required to pay all fees and meet all licensing and rabies vaccination requirements. The Village shall acquire title to any unlicensed animal, as well as to any licensed animal impounded for a period longer than the required waiting period after notice. All animals shall be destroyed and disposed of in a humane manner.

#### **SECTION 2-221: ANIMAL SHELTER**

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

#### **SECTION 2-222: PENALTIES**

Any person violating any provisions of this article shall be guilty of a misdemeanor and upon conviction thereof, be fined the sum of \$100.00, and, as part of the judgment of conviction, be ordered to fully comply with the provisions of this ordinance.



## **Article 3 – Animals Generally**

### **SECTION 2-301: ANIMAL PERMITS**

1. Any person who shall own, keep, or harbor any of the following animals within the Village shall, within 30 days after acquisition thereof, acquire an annual license for such animal:

| <b><i>Number</i></b> | <b><i>Type</i></b>  | <b><i>Conditions</i></b>           |
|----------------------|---|------------------------------------|
| 2                    | Mature cows, horses or similar size animals                       | Per acre, for year-round occupancy |
| 4                    | Sheep, goats, calves, colts or similar size animals, except swine |                                    |
| 4                    | Swine, regardless of size   |                                    |
| 6                    | Chickens, ducks, geese or peacocks                                |                                    |

2. Said licenses shall be acquired on or before April 1 of each year. All licenses shall be issued by the village clerk upon the payment of a license fee for each animal. Such fees shall be set by resolution of the Village Board and shall be on file for public inspection at the office of the village clerk during office hours. Said licenses shall not be transferable, and no refund shall be allowed in case of death, sale, or other disposition of any licensed animal. The owner shall state at the time of application, upon forms provided for such purpose, his/her name and address and the type, number, color, and sex of each animal owned and kept by him/her. (Ord. No. 96-1)

### **SECTION 2-302: 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, fowl or other animal to be driven or run at large on any of the public ways and 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 2-303: ABANDONMENT, NEGLECT, AND CRUELTY; DEFINITIONS**

“Abandon” shall mean to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;

“Animal” shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature;

“Cruelly mistreat” shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal;

“Cruelly neglect” shall mean to fail to provide any animal in one's care, whether as

owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;

“Humane killing” shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering; and

“Law enforcement officer” shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any village or village, or any other public official authorized by a village or village to enforce state or local animal control laws, rules, regulations, or ordinances.

(Neb. Rev. Stat. §28-1008)

#### **SECTION 2-304: ABANDONMENT, NEGLECT AND CRUELTY**

1. It shall be unlawful for any person intentionally, knowingly, or recklessly to abandon or cruelly neglect an animal. A person who cruelly mistreats an animal shall be guilty of a felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of such animal. (Neb. Rev. Stat. §28-1009)

2. No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. (Neb. Rev. Stat. §28-1001, 28-1002)

#### **SECTION 2-305: ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY**

Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound it. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (Neb. Rev. Stat. §28-1012)

#### **SECTION 2-306: PITTING; DEFINITIONS**

“Bearbaiting” shall mean the pitting of any animal against a bear.

“Cockfighting” shall mean the pitting of a fowl against another fowl.

“Dog fighting” shall mean the pitting of a dog against another dog.

“Pitting” shall mean bringing animals together in combat.

(Neb. Rev. Stat. §28-1005)

### **SECTION 2-307: PITTING; PROHIBITED**

No person shall knowingly promote, engage in, or be employed at dog fighting, cockfighting, bearbaiting, or pitting an animal against another; nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose; nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting; nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her. (Neb. Rev. Stat. §28-1005)

### **SECTION 2-308: PITTING; SPECTATORS PROHIBITED**

No person shall knowingly and willingly be present at and witness as a spectator dog fighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in Section 2-307. (Neb. Rev. Stat. §28-1005)



## **Article 4 – Nuisances**

### **SECTION 3-401: WEEDS AND GRASSES, JUNK, LITTER; DEFINITIONS**

1. The terms "weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 12 inches in height. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

2. The term "litter" shall include, but not be limited to:

- A. Trash, rubbish, refuse, garbage, paper, rags and ashes;
- B. Wood, plaster, cement, brick or stone building rubble;
- C. Offal and dead animals;
- D. 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;
- E. Any motor vehicle without a current license and not housed in a storage or other building.
- F. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.

### **SECTION 3-402: WEEDS OR GRASSES; PUBLIC NUISANCE**

It is hereby declared to be a public nuisance to permit grasses to grow in excess of 12 inches or to permit weeds of any height to be grown on any property within the corporate limits of the Village.

### **SECTION 3-403: LITTER; PUBLIC NUISANCE**

It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits of the Village.

### **SECTION 3-404: NOTICE OF NONCOMPLIANCE**

Whenever the Village Board determines that any grass in excess of 12 inches or weeds of any height are growing on property within the Village, or litter is found on any property, the designated code enforcement officer shall cause written notice to be served upon the owner of the property on which grass, weeds or litter is located, and further upon the occupant thereof, by registered mail or by personal service. Such notice shall describe the nature of the nuisance and state the action that must be taken to remove or remedy the problem. Such notice shall state that such nuisance must be abated or removed within ten business days of receipt of notice.

### **SECTION 3-405: FAILURE TO CORRECT; FINE**

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct, he/she shall be guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's violation after the expiration of the ten business days' notice shall be a separate offense.

### **SECTION 3-406: COST ASSESSED TO PROPERTY**

In addition to filing a complaint for violation of this article, the Village may cause the work to be done to abate the nuisance and assess the cost of the same against the property. In this event, however, the Village shall comply with the notice and hearing requirements set forth in Sections 3-412, 3-413 and 3-414 set forth hereafter.

### **SECTION 3-407: DANGEROUS BUILDINGS; DEFINITIONS**

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

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

munication;

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

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

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

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

### **SECTION 3-408: DANGEROUS BUILDINGS; STANDARDS**

The following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated, or demolished:

1. 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.

2. 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.

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

### **SECTION 3-409: DANGEROUS BUILDINGS; PUBLIC NUISANCE**

All unsafe or dangerous buildings or structures within the terms of this article are hereby declared to be nuisances and shall be repaired, vacated, or demolished as provided herein.

### **SECTION 3-410: BUILDING INSPECTOR**

The building inspector, his/her authorized representatives, a general building contractor, county health official, or professional engineer shall, at the direction of the Village Board:

1. 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;
2. 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;
3. Report to the Village Board the results of the inspection;
4. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

### **SECTION 3-411: DANGEROUS BUILDINGS; PROCEDURE**

If the building inspector or his/her representatives, a general building contractor, the county health official or a professional engineer designated by the Village Board finds that a building or structure is unsafe or dangerous and a nuisance, the Board shall:

1. 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.
2. 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.
3. Direct the building inspector, or other designated official, to place a sign on the building or structure found to be unsafe or dangerous on its exterior near the main entrance which shall state that the building or structure is unsafe or dangerous for occupancy and use.

### **SECTION 3-412: FAILURE TO COMPLY**

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the property, 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, or shall fail to comply with the notice to abate grasses, weeds or litter, 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. In addition, the Village may bring a civil action against the offending party to recover the cost of the work.

### **SECTION 3-413: DISPUTES**

1. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure determined dangerous, disagrees with or disputes the information contained in the notice to abate, 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 10 days of mailing of the notice. If written notice is received by the village clerk within 10 days, a hearing shall be held before the Village Board at a regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of the regular monthly meeting and shall place the name of the person on the agenda of such meeting.

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

### **SECTION 3-414: APPEAL**

Any person aggrieved by the decision of the Village Board may appeal the decision to the District Court of Holt County. This appeal shall and must be taken within 30 days of the pronouncement of the Board's decision. The record and evidence made before the Village Board shall become the record for purposes of appeal. All appeals shall be made on the record and not a trial de novo.

### **SECTION 3-415: 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 building inspec-

tor or a professional engineer designated by the Village Board shall report such facts to the Board, who shall follow the procedures set forth in state statutes. The Village, by and through the Village Board, may immediately contract for the immediate demolition of the unsafe or dangerous building without requiring bids. The cost of such emergency vacation and demolition of unsafe or dangerous buildings or structures shall be levied, equalized, and assessed, as are other special assessments.

## **Article 5 – Sex Offenders**

(This article adopted by Ord. No. 06-102, 11/9/06)

### **SECTION 2-501: FINDINGS AND INTENT**

1. The Nebraska Legislature has found that certain sex offenders present a high risk to commit repeat offenses and has enabled municipalities to restrict such persons' place of residency as provided in the Sexual Predator Residency Restriction Act.

2. Sex offenders who prey on children and who are high risks to repeat such acts present an extreme threat to public safety. The cost of sex offender victimization to these children and to society at large, while incalculable, is exorbitant

3. It is the intent of this article to serve the Village's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Village by creating certain areas around locations where children regularly congregate in concentrated numbers where certain sexual predators cannot reside.

### **SECTION 2-502: DEFINITIONS**

For purposes of this article:

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

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

“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;

“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 who is required to register under the Sex Offender Registration Act, who has been classified under the Sex Offender Registration Act, who has been classified as Level 3 because of a high risk of recidivism as determined by the Nebraska State Patrol under Nebr. Rev. Stat. §29.4013, and who has victimized a person eighteen years of age or younger.

### **SECTION 2-503: 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.

### **SECTION 2-504: EXCEPTIONS**

This article shall not apply to a sexual predator who:

1. Resides within a person or correctional or treatment facility operated by the state or a political subdivision;
2. Established a residence before July 1, 2006, and has not moved from that residence; or
3. 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.

## **Article 6 – Penal Provisions**

### **SECTION 2-601: VIOLATION; PENALTY**

1. Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

2. Whenever a nuisance exists as defined in this chapter, the Village may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

3. 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. §17-505, 18-1720, 18-1722)