

CHAPTER 3 – MISDEMEANORS

ARTICLE 1 – GENERAL MISDEMEANORS

- SECTION 3-101: OBSTRUCTING AN OFFICER
- SECTION 3-102: IMPERSONATING AN OFFICER
- SECTION 3-103: HINDERING OR RESISTING ARREST
- SECTION 3-104: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON
- SECTION 3-105: CONCEALED WEAPONS
- SECTION 3-106: DISCHARGE OF FIREARM
- SECTION 3-107: DISCHARGE OF DANGEROUS PROJECTILES
- SECTION 3-108: CRIMINAL TRESPASS
- SECTION 3-109: PUBLIC INDECENCY
- SECTION 3-110: INDECENT BEHAVIOR
- SECTION 3-111: PUBLIC NUDITY; AIDING AND ABETTING PUBLIC NUDITY
- SECTION 3-112: SEX OFFENDERS AND PREDATORS
- SECTION 3-113: WINDOW PEEPING
- SECTION 3-114: STALKING
- SECTION 3-115: FALSE REPORTING
- SECTION 3-116: CRIMINAL MISCHIEF
- SECTION 3-117: THEFT
- SECTION 3-118: THREATS; ASSAULT IN THE THIRD DEGREE
- SECTION 3-119: DISORDERLY CONDUCT
- SECTION 3-120: DISTURBING AN ASSEMBLY
- SECTION 3-121: DISTURBING THE PEACE
- SECTION 3-122: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS
- SECTION 3-123: MISREPRESENTATION BY MINOR; ALCOHOL
- SECTION 3-124: MINOR IN POSSESSION; ALCOHOL
- SECTION 3-125: MISREPRESENTATION BY MINOR; TOBACCO AND NICOTINE PRODUCTS
- SECTION 3-126: MINORS; VENDORS; TOBACCO AND NICOTINE PRODUCTS
- SECTION 3-127: LITTERING
- SECTION 3-128: POSTED ADVERTISEMENTS
- SECTION 3-129: APPLIANCE OUTDOORS
- SECTION 3-130: OBSTRUCTING WATER FLOW
- SECTION 3-131: INJURY TO PLANTS AND TREES
- SECTION 3-132: DEAD, DYING, OR DISEASED TREES
- SECTION 3-133: PARKS AND RECREATIONAL FACILITIES; INJURY TO PROPERTY; LITTERING
- SECTION 3-134: PARKS AND RECREATIONAL FACILITIES; HOURS
- SECTION 3-135: PROHIBITED FENCES

ARTICLE 2 – DOGS AND CATS

- SECTION 3-201: DEFINITIONS**
- SECTION 3-202: RABIES VACCINATION**
- SECTION 3-203: RABIES SUSPECTED; IMPOUNDMENT**
- SECTION 3-204: LICENSING; RABIES CERTIFICATE; FEE**
- SECTION 3-205: WRONGFUL LICENSING**
- SECTION 3-206: COLLAR OR HARNESS; OWNER'S ID; LICENSE TAG**
- SECTION 3-207: RUNNING AT LARGE**
- SECTION 3-208: DOGS; NUMBER; KENNEL**
- SECTION 3-209: DAMAGE; LIABILITY OF OWNER**
- SECTION 3-210: DOGS; BARKING AND OFFENSIVE BEHAVIOR;
COMPLAINT**
- SECTION 3-211: FEMALE IN SEASON**
- SECTION 3-212: KILLING AND POISONING**
- SECTION 3-213: DANGEROUS DOGS AND CATS; DEFINITIONS**
- SECTION 3-214: DANGEROUS DOGS AND CATS; CONFINED; WARNING
SIGN**
- SECTION 3-215: DANGEROUS DOGS AND CATS; RESTRAINED**
- SECTION 3-216: DANGEROUS DOGS AND CATS; FAILURE TO COMPLY**
- SECTION 3-217: DANGEROUS DOGS AND CATS; VIOLATION; PRIOR
CONVICTION**
- SECTION 3-218: DANGEROUS DOGS AND CATS; ADDITIONAL
REGULATIONS**
- SECTION 3-219: FERAL CATS; UNLAWFUL; COLONY; CARETAKER**
- SECTION 3-220: INTERFERENCE WITH ANIMAL CONTROL**
- SECTION 3-221: IMPOUNDMENT**

ARTICLE 3 – ANIMALS GENERALLY

- SECTION 3-301: ANIMALS PROHIBITED**
- SECTION 3-302: RUNNING AT LARGE**
- SECTION 3-303: FOWLS; NUISANCE; EXCEPTIONS; VIOLATION;
PENALTY**
- SECTION 3-304: FOWLS; PERMIT REQUIREMENTS**
- SECTION 3-305: FOWLS; KEEPING/HOUSING REQUIREMENTS**
- SECTION 3-306: FOWLS; REMOVAL OF WASTE AND DEAD ANIMALS**
- SECTION 3-307: KILLING AND INJURING**
- SECTION 3-308: RABIES SUSPECTED; CAPTURE IMPOSSIBLE**
- SECTION 3-309: WILD ANIMALS**

ARTICLE 4 – NUISANCES

- SECTION 3-401: PUBLIC NUISANCES PROHIBITED**
- SECTION 3-402: HEALTH AGENCY; JURISDICTION**
- SECTION 3-403: GENERALLY DEFINED**

SECTION 3-404: SPECIFICALLY DEFINED
SECTION 3-405: NOTICE PROCEDURE; ABATEMENT
SECTION 3-406: JURISDICTION
SECTION 3-407: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

ARTICLE 5 – DANGEROUS BUILDINGS

SECTION 3-501: DETERMINATION; DEFINITIONS
SECTION 3-502: BUILDING INSPECTOR
SECTION 3-503: STANDARDS
SECTION 3-504: UNLAWFUL MAINTENANCE
SECTION 3-505: NUISANCE; PROCEDURE
SECTION 3-506: FAILURE TO COMPLY
SECTION 3-507: DISPUTES
SECTION 3-508: APPEAL
SECTION 3-509: IMMEDIATE HAZARD

ARTICLE 6 – PENAL PROVISIONS

SECTION 3-601: VIOLATION; PENALTY
SECTION 3-602: ABATEMENT OF NUISANCE

CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle to intentionally obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a law enforcement officer acting under color of his or her official authority or a police animal assisting a peace officer acting pursuant to the peace officer's official authority. "Police animal" shall mean a horse or dog owned or controlled by the state or any county, city or village for the purpose of assisting a peace officer acting pursuant to his or her official authority. (Neb. Rev. Stat. §28-906)

SECTION 3-102: IMPERSONATING AN OFFICER

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

SECTION 3-103: HINDERING OR RESISTING ARREST

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

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

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

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

SECTION 3-105: CONCEALED WEAPONS

Except as otherwise provided in this section, any person who carries a weapon or weapons concealed on or about his or her person such as a revolver, pistol, Bowie

knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, or any other deadly weapon commits the offense of carrying a concealed weapon. This section shall not apply to a person who is the holder of a valid permit issued under the Concealed Handgun Permit Act if the concealed weapon which the offender is carrying is a handgun as defined in Neb. Rev. Stat. §§69-2429. (Neb. Rev. Stat. §§17-556, 28-1202)

SECTION 3-106: DISCHARGE OF FIREARM

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

SECTION 3-107: DISCHARGE OF DANGEROUS PROJECTILES

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

SECTION 3-108: CRIMINAL TRESPASS

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

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

B. A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she enters or remains in any place as to which notice against trespass is given by:

1. Actual communication to the actor; or
2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

3. Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-109: 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 3-110: INDECENT BEHAVIOR

It shall be unlawful for any person to sell or convey any indecent and obscene books, pictures, or films or to take part in any indecent, lascivious, or obscene show, play, theatrical exhibition, or other form of entertainment that is shocking to the public morals. Any person who commits a rude, indecent, or immoral act shall be deemed to be guilty of a misdemeanor.

SECTION 3-111: PUBLIC NUILITY; AIDING AND ABETTING PUBLIC NUILITY

A. *Public Nudity.* It shall be unlawful for any person to intentionally appear in a state of total or partial nudity in a public place, in any place open to the public, or while employed in providing any service, product, or entertainment in any business or commercial establishment, except that the above shall not apply to:

1. Any theater, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances and which receives less than 50% of its gross annual revenue from the sale of alcoholic liquors, beer, wine, and/or similar alcoholic spirits and in which any of the circumstances contained in this section were lawfully permitted or allowed as part of such art exhibit or performance; or
2. Any dressing/changing room or restroom facility open to the public; or
3. Any person under 12 years of age; or
4. Any individual exposing a breast in the process of breastfeeding an infant under two years of age.

B. *Aiding and Abetting Public Nudity.* It shall be unlawful for anyone to aid, abet, assist, or direct another person to intentionally appear in a state of total or partial nudity in a public place, in any place open to the public, or while employed in providing any service, product, or entertainment in any business or commercial establishment.

C. *Definitions.*

1. "Nudity" means the showing of the human male or female genitals, buttocks, or pubic area, with less than a fully opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region, or pubic hair region, or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.
2. "Public place" includes all outdoor places owned by or open to the general public and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms, or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

SECTION 3-112: SEX OFFENDERS AND PREDATORS

A. For purposes of this ordinance:

1. "Childcare facility" means a facility licensed pursuant to the Child Care Licensing Act;
2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
5. "Sex offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §§29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
6. "Sexual predator" means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §§29-4001.01 and who has victimized a person

18 years of age or younger.

B. It is unlawful for any sex offender or sexual predator who is subject to the Nebraska Sex Offender Registration Act or similar requirement of another State to reside within 500 feet from a school or childcare facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or childcare facility.

C. This ordinance shall not apply to a sex offender or sexual predator who (1) resides within a prison 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 childcare facility triggering the restriction was established after the initial date of the sex offender's or sexual predator's residence at that location.

Neb. Rev. Stat. §§29-4016, 29-4017)

SECTION 3-113: 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 3-114: 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 3-115: FALSE REPORTING

It shall be unlawful for any person to:

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

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

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

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

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

SECTION 3-116: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$5,000.00. (Neb. Rev. Stat. §28-519)

SECTION 3-117: THEFT

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

B. A person commits theft if he or she takes or exercises control over movable

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

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

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

1. Inflict bodily injury on anyone or commit any other criminal offense;
2. Accuse anyone of a criminal offense;
3. Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair his or her credit or business repute;
4. Take or withhold action as an official or cause an official to take or withhold action;
5. Bring about or continue to strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

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

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

G. A person commits theft if he or she obtains services, which he or she knows

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

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

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

SECTION 3-118: 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 3-119: 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 3-120: 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 3-121: DISTURBING THE PEACE

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

SECTION 3-122: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies

radio broadcasts or musical recordings in or upon any street, alley, or other public place in such a manner as to be audible to other persons more than 50 feet from the source. Persons operating such devices while participating in licensed or permitted activities, such as parades, shall not be deemed in violation of this section. (Neb. Rev. Stat. §17-556)

SECTION 3-123: MISREPRESENTATION BY MINOR; ALCOHOL

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 3-124: MINOR IN POSSESSION; ALCOHOL

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

SECTION 3-125: MISREPRESENTATION BY MINOR; TOBACCO AND NICOTINE PRODUCTS

Any person under the age of 21 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee by representing that he or she is of the age of 21 years or over is guilty of an offense. (Neb. Rev. Stat. §28-1427)

SECTION 3-126: MINORS; VENDORS; TOBACCO AND NICOTINE PRODUCTS

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

B. Any person who shall sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 21 years of age is guilty of an offense. (Neb. Rev. Stat. §§28-1418, 28-1419)

SECTION 3-127: LITTERING

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

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

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

1. "Litter" shall include all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing.

2. "Waste material" shall mean any material appearing in a place or in a context not associated with that material's function or origin.

(Neb. Rev. Stat. §§17-573, 28-523)

SECTION 3-128: 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 3-129: APPLIANCE OUTDOORS

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

SECTION 3-130: 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 3-131: 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 3-132: 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. Village officials may enter onto any private property for purpose of inspecting dead, dying or diseased trees.

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

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

(Neb. Rev. Stat. §§18-1720, 28-1321)

SECTION 3-133: PARKS AND RECREATIONAL FACILITIES; 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 3-134: PARKS AND RECREATIONAL FACILITIES; HOURS

It shall be unlawful for any person to be in the public parks and recreational facilities of the Village between the hours of 11:00 p.m. and 7:00 o'clock a.m. of the following day, Sunday through Saturday, inclusive, except upon the express written permission of an

elected and/or appointed official of the Village. The Village Board shall cause suitable signs to be erected and maintained in such number and at such conspicuous locations as deemed necessary to give adequate notice of the said regulations.

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. Buried fences to restrain dogs or other animals are excepted.

Article 2 – Dogs and Cats

SECTION 3-201: DEFINITIONS

“Code enforcement officer” shall mean the person appointed in Chapter 1, Section 1-411 to investigate and document ordinance violations.

“Domestic animal” shall mean a tame animal that is subject to the dominion and control of an owner and accustomed to living in or near human habitation without requiring extraordinary restraint or unreasonably disturbing such human habitation.

“Feral cat” shall mean any cat that is born in the wild or is the offspring of an owned or feral cat and is not socialized (domesticated); a formerly owned cat that has been abandoned and is no longer socialized or lives on the streets.

“Feral cat caretaker” shall mean any person who provides food, water or shelter to or otherwise cares for a feral cat.

“Feral cat colony” shall mean a group of cats that congregate, more or less, together as a unit. Although not every cat in the colony may be feral, any non-feral cats that congregate with a colony shall be deemed to be part of it.

“Feral cat colony caretaker” shall mean any person who keeps, harbors, maintains or feeds feral cat colonies.

“Owner” shall mean any person who shall keep, harbor or permit any dog or cat to be present for ten days or more in or about his or her house, store, or enclosure or to remain to be fed shall be deemed the owner and possessor of such dog or cat and shall be deemed to be liable for all penalties herein prescribed
(Neb. Rev. Stat. §§54-606, 71-4401)

SECTION 3-202: RABIES VACCINATION

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

SECTION 3-203: RABIES SUSPECTED; IMPOUNDMENT

Any dog or cat suspected of being afflicted with rabies or any dog or cat not vaccinated

in accordance with the provisions of this article which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of no fewer than ten days. If, upon examination by a veterinarian, the dog or cat has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog or cat, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog or cat has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog or cat shall be examined by a licensed veterinarian. If no signs of rabies are observed, the animal may be released from confinement. (Neb. Rev. Stat. §71-4406)

SECTION 3-204: LICENSING; RABIES CERTIFICATE; FEE

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

B. Application shall be made upon a form provided by the Village, upon which the owner shall state his or her name and address and the name, breed, color, and sex of each dog or cat owned and kept by him or her. A certificate certifying that the dog or cat has had a rabies and DHPP 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.

C. Licenses shall be issued by the village clerk upon the payment of a license for each dog or cat as set by resolution of the Village Board and kept on file in the office of the village clerk. Any dog or cat that has been determined to be a dangerous dog or cat by the Village Board shall not be licensed at the next annual license renewal period unless the owner thereof shall first present written proof of liability insurance of not less than \$300,000.00. 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. Licenses shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed dog or cat.

D. Upon 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 tag shall be properly attached to the collar or harness of each animal so licensed and shall entitle the owner to keep or harbor the said dog or cat until March 31 following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or 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 set by resolution of the Village Board for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the general fund. It shall be the duty of the village clerk to issue tags of a suitable design and that are different in appearance each year.

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

(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 or cat to permit or allow such animal to wear any license, metallic tag, or other village identification other than that issued by the village clerk. (Neb. Rev. Stat. §17-526)

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

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

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

(Neb. Rev. Stat. §§17-526, 54-605)

SECTION 3-207: RUNNING AT LARGE

It shall be unlawful for the owner of any dog or cat to allow it to run at large at any time within the corporate limits of the Village. Any dog or cat found running at large with or without a collar or harness is hereby declared a public nuisance and shall be taken up and impounded. "Running at large" shall mean a dog or cat was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526)

SECTION 3-208: DOGS; NUMBER; KENNEL

A. "Kennel" shall be defined as three or more dogs contained in an enclosure with sides of sufficient height to restrain the dogs so enclosed from escaping.

B. It shall be unlawful to own, keep, or harbor more than three dogs without obtaining a kennel license, which shall be issued to the owner or possessor of any kennel only upon the condition that the dogs be confined to the kennel premises and not allowed to run at large or otherwise be maintained outside of the kennel area. Kennel license fees are in lieu of individual dog license fees. The annual fee for a kennel license shall be set by resolution of the Village Board and kept on file in the office of the village clerk. Tags for individual dogs are not required but the owner or possessor shall have his or her kennel license readily available upon request.

C. Every place used as a kennel shall be kept in a clean and sanitary condition and no refuse or waste material shall be allowed to remain thereon for more than 24 hours. All animals shall be humanely treated and any animal having any disease shall be properly isolated and treated. All kennel operators shall be bound to all the rules and regulations set forth in this article.

SECTION 3-209: DAMAGE; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog or cat owned, kept, or harbored by him or her or under his or her charge or control to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog or cat, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Neb. Rev. Stat. §§18-1720, 54-601, 54-602)

SECTION 3-210: DOGS; BARKING AND OFFENSIVE BEHAVIOR; COMPLAINT

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Village. Upon the written complaint of two or more affected persons from different households, filed within any 30-day period 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 code enforcement officer shall investigate the complaint and, if in his or her opinion the situation warrants, shall notify the owner to silence and restrain such dog. (Neb. Rev. Stat. §17-526)

SECTION 3-211: 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 3-212: KILLING AND POISONING

It shall be unlawful to kill or to administer or cause to be administered poison of any sort to a dog or cat or in any manner to injure, maim, or destroy or in any manner attempt to injure, maim, or destroy any dog or cat that is the property of another person or to place any poisons or poisoned food where the same is accessible to such animal; provided, this section shall not apply to the code enforcement officer acting within his or her power and duty.

SECTION 3-213: DANGEROUS DOGS AND CATS; DEFINITIONS

A. "Dangerous dog or cat" shall mean any dog or cat that, according to the records of the Village Board:

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 or cat was off the owner's property; or
3. Has been previously determined to be a potentially dangerous dog or cat by the Village Board and the owner has received notice of such determination; such dog or cat again aggressively bites, attacks, or endangers the safety of humans or domestic animals. A dog or cat shall not be defined as a dangerous dog or cat 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; (d) at the time was committing or attempting to commit a crime; or if the dog is a trained dog assisting a law enforcement officer engaged in law enforcement duties.

B. "Potentially dangerous dog or cat" shall mean

1. Any dog or cat that, when unprovoked, (a) inflicts an injury on a human being that does not require medical treatment, (b) injures a domestic animal, or (c) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
2. Any specific dog or cat with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals; may include one or more breeds of dogs

having said aforementioned tendencies.

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

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

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

(Neb. Rev. Stat. §54-617)

SECTION 3-214: DANGEROUS DOGS AND CATS; CONFINED; WARNING SIGN

While unattended on the owner's property, a dangerous dog or cat 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 or cat from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog or cat from the elements and shall be at least 10 feet from any property line of the owner. The owner of a dangerous dog or cat shall post a warning sign on the property where the animal is kept that is clearly visible and that informs persons that a dangerous dog or cat 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 3-215: DANGEROUS DOGS AND CATS; RESTRAINED

No owner of a dangerous dog or cat shall permit the dog or cat 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 3-216: DANGEROUS DOGS AND CATS; FAILURE TO COMPLY

Any dangerous dog or cat may be immediately confiscated by the code enforcement officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog or cat confiscated by the code enforcement officer or for the destruction of any dangerous dog or cat 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 or cat in an expeditious and humane manner. (Neb. Rev. Stat. §54-620)

SECTION 3-217: DANGEROUS DOGS AND CATS; VIOLATION; PRIOR CONVICTION

If a dangerous dog or cat 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 or cat shall be immediately confiscated by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

SECTION 3-218: DANGEROUS DOGS AND CATS; 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 3-219: FERAL CATS; UNLAWFUL; COLONY; CARETAKER

A. It shall be unlawful for any person to keep, harbor or permit any feral cat to be present for ten days or more in or about his or her house, store or enclosure, or to remain to be fed within the corporate limits of the Village.

B. It shall be unlawful for any person to establish, keep or maintain a feral cat colony within the corporate limits of the Village.

C. It shall be unlawful for any person to establish or act as a caretaker of feral cats or feral cat colonies within the corporate limits of the Village.

SECTION 3-220: INTERFERENCE WITH ANIMAL CONTROL

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

SECTION 3-221: IMPOUNDMENT

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

Article 3 – Animals Generally

SECTION 3-301: ANIMALS PROHIBITED

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock. (Neb. Rev. Stat. §17-207)

SECTION 3-302: RUNNING AT LARGE

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animals to reach or pass into any public way. (Neb. Rev. Stat. §17-547)

SECTION 3-303: FOWLS; NUISANCE; EXCEPTIONS; VIOLATION; PENALTY

A. It shall be unlawful for any person, corporation, firm or other entity, in the capacity of owner, occupant, lessee, mortgagee or agent thereof to keep or maintain within or without the village limits any chickens, ducks, geese, turkeys, guinea fowl, pheasants, quail, pigeons, ostriches, or any other similar fowl within 300 feet of any residence, dwelling, business, house, or commercial structure located within said village except as permitted by Sections 3-304 (Permit) and 3-305 (Keeping/Housing).

B. The keeping of such fowl as described in subsection (A) above shall be considered to be a specific nuisance, in addition to those identified in Sections 3-301 (Animals Prohibited) and 3-309 (Wild Animals) herein.

C. In addition to the abatement procedure identified in subsection (B) above, the Village Board shall be authorized to maintain an action for abatement of such activity in the District Court of Saunders County, Nebraska, against the owner, occupant, lessee, mortgagee, or agent thereof, who is deemed to be in violation of subsection (A) of this section. Such action is authorized under the powers granted in Neb. Rev. Stat. §§17-107 and 18-1720.

D. Furthermore, any owner, occupant, lessee, mortgagee, or agent thereof who shall violate or refuse to comply with the provisions of subsection (A) of this section or the enforcement thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the specific penalty structure as set out below in subsection (E). A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

E. The penalty structure for violations shall be a fine for the first offense and increased amounts for the second and third offenses. For the third offense, court costs shall also be assessed along with the fine as well as loss of permit and removal of

animals. Such fines shall be as set by resolution by the Village Board and kept on file in the office of the village clerk. The fine amounts may be paid by waiver at the office of the village clerk, 314 East Third Street, P.O. Box 147, Valparaiso, NE 68065. Phone 402-784-2233.

F. Any violation of the provisions of Sections 3-304 (Permit) and 3-305 (Keeping/Housing) shall subject the violating party to the penalties identified above in Sections (B), (C), (D) and (E). In addition, the Village may revoke any permit granted under this section.

SECTION 3-304: FOWLS; PERMIT REQUIREMENTS

Notwithstanding the above provisions of this ordinance, the raising of chickens (hens only, no roosters) for the purpose of this section, may be permitted, subject to compliance with the following conditions:

A. *Permit Fee.* Any person desiring to keep chickens, as defined in the paragraph above, in the Village or its zoning jurisdiction shall obtain a permit from the village prior to acquiring the chickens. Application shall be made to the Village Clerk and the fee for the permit shall be \$25.00 per year or as determined by the Board of Trustees resolution. The application shall be in writing on a form to be furnished by the Village Clerk for that purpose.

B. *Permit Terms & Expiration.* Permits expire and become invalid one year after date of issuance. A person who wishes to continue keeping fowl shall have obtained a new permit on or before the expiration date of the previous permit. No permit shall be assignable or transferrable either as to permittee, location, or species of animal.

C. *Application.* The application shall be made pursuant to the procedures and requirements that are applicable at the time the person applies for the new permit, which shall include:

1. Name and residence of the applicant;
2. Location of premises where chickens are to be kept;
3. Statement of the method in which offal, manure and waste material accumulating from such chickens will be sanitarily disposed of;
4. An attached diagram or plat of premises, showing dimensions of premises, location and dimensions of the enclosure, and the distance from the residence building, and property lot line, on the same lot and on the adjacent property.

D. *Investigation.* Prior to the issuance of any permit for keeping chickens the Village clerk shall have the proper investigation completed by the Village personnel of the facts set forth in the application for the permit and determine whether said promises confirm to the requirements of this chapter and other ordinances of the village with respect to zoning and building regulations, sanitation and location of enclosures and

shelters. No permit shall be issued by the village clerk after initial approval by the Village Board until proper facilities shall be provided for the care and protection of the chickens to be cared for on the premises and the location of the premises is deemed to be proper and suitable for keeping such chickens and the applications has been approved as to proper zoning.

E. *Inspection.* A person who has been issued a permit shall submit the premises so licensed for inspection upon request by any law enforcement officer or code enforcement officer of the Village.

SECTION 3-305: FOWLS; KEEPING/HOUSING REQUIREMENTS

A. A person who keeps or houses fowl on his or her property shall comply with all of the following requirements:

1. No more than four chickens may be kept on any one zoning lot.
2. The principal use of the property shall be a single-family dwelling.
3. No person shall keep chickens on a vacant or uninhabited tract of land.
4. No person shall keep any rooster.
5. No person shall slaughter any fowl within the view of the general public.
6. The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Chickens shall be secured within a covered enclosure during non-daylight hours. Such covered enclosure or coop shall contain at least 4 square feet of floor area per fowl and the fenced enclosure shall provide at least 10 square feet of open area per fowl. No coop shall exceed 120 square feet of floor area or exceed 12 feet in height.
7. A person shall not keep chickens in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of the lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.
8. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of any adjacent property.
9. All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure

or fenced enclosure shall not be located closer than 40 feet to any residential structure.

- a. A covered enclosure for chickens shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator- and bird-proof wire of less than 1 inch openings.
- b. The materials used in making a covered enclosure shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal or similar materials is prohibited. Covered enclosures shall be well maintained.
- c. Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting or solid roofing.

B. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access to or coming into contact with them.

C. Odors for all chickens, manure or other related substances shall not be perceptible beyond the boundaries of the permitted tract of land.

D. Noise from any fowl shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.

E. The permittee shall not allow his or her fowls to roam off the permitted tract of land. No dog or cat or other domesticated animal which kills or attacks any chickens off the permitted tract of land will, for that reason alone, be considered a dangerous or aggressive animal or the Village's responsibility to enforce its animal control provisions.

SECTION 3-306: FOWLS; REMOVAL OF WASTE AND DEAD ANIMALS

A. The owner of any fowls shall keep all pens, enclosures, and shelter structures wherein such chickens are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner shall not allow any chickens to accumulate or remain in pens, enclosures and shelter areas upon which such chickens reside or are confined in any manner which is conducive to the breeding or attraction of flies, mosquitoes or other noxious insects or in any manner which endangers the public health or safety, or which creates an unhealthy environment. The maintenance or permitting of any of the foregoing conditions on any such lot or parcel of ground is hereby declared to be a public

nuisance. The owner of any chickens shall in a sanitary manner remove or dispose of all manure and waste materials accumulating from such chickens at least once every seven days.

B. If any fowl dies in the possession of any person in this village, it shall be the duty of such person to cause the same to be at once buried or otherwise disposed of. In the case the owner or person having charge of any such chicken shall neglect or refuse to remove such dead chicken within 24 hours after its death, village employees shall cause the same to be removed at the expense of such owner or person having charge of the chicken in an amount not less than \$100 or as decided by the Village Board's resolution.

SECTION 3-307: KILLING AND INJURING

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

SECTION 3-308: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

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

SECTION 3-309: WILD ANIMALS

No wild animals may be kept within the corporate limits except such animals kept for exhibition purposes by circuses and educational institutions. (Neb. Rev. Stat. §§17-123, 17-207)

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, 28-1321)

SECTION 3-402: HEALTH AGENCY; JURISDICTION

For the purpose of promoting the health and safety of the residents of the Village, the Saunders County Health Department, or an agency with which the Saunders County Board of Supervisors has entered into a contract to promote the health and safety of the residents of the County, shall have jurisdiction within the Village.

SECTION 3-403: GENERALLY DEFINED

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

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

(Neb. Rev. Stat. §18-1720)

SECTION 3-404: 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. A dead animal shall be immediately removed and buried by its owner; and if the owner cannot be found within two hours after discovery of the same, then such animal shall

be removed by and at the expense of the Village. Dead animals shall not be buried within the corporate limits of the Village nor within one mile thereof nor in or above the course of ground water that is used for drinking purposes by village inhabitants.

B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.

C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.

D. Animal manure in any quantity which is not securely protected from flies and the elements or which is kept or handled in violation of any ordinance of the Village.

E. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Village nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

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

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

H. Any buildings or structures which have any or all of the defects defined at Section 3-501 hereafter.

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

J. Stagnant water permitted or maintained on any lot or piece of ground; water pollution as provided in Chapter 7, Section 7-215.

K. Air pollution, which includes discharge into the open air of dust, fumes, gases,

mist, odors, smoke, or any combination thereof. The standards for air pollution established or adopted by the State shall be presumptive evidence as to when the air is deemed to be polluted.

L. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof shall be allowed if kept in enclosed buildings or garages or where otherwise authorized by the Village's Zoning Regulations.

M. Any motor vehicle as follows: (1) It shall be unlawful for any person in charge or control of any property within the Village, whether as owner, tenant, occupant, lessee, or otherwise, to allow any non-operating, wrecked, junked, or partially dismantled vehicle to remain on such property longer than 30 days. It shall be unlawful for any person in charge or control of any property within the Village, whether as owner, tenant, occupant, lessee, or otherwise, to allow any vehicle which has been unregistered for more than 30 days to remain on such property. (2) This subsection shall not apply to a vehicle in an enclosed building or privacy fence, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the lawful operation of such business enterprise, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit for the restoration or repair of no more than two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes, as follows:

1. Application for a hobbyist permit shall be filed in writing with the village clerk on a form provided by the Village and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number of each vehicle to be restored or repaired. The said vehicles shall be owned by the applicant, who shall present proof of ownership.
2. The permit shall cover the vehicle(s) only and does not authorize the storage of miscellaneous vehicle parts or junk contained in, on or near the vehicle(s).
3. The permit fee shall be assessed for each vehicle and shall be as set by the Village Board by resolution and kept on file in the office of the village clerk. All such permits shall expire on the 180th day following the date of issuance thereof. Such permit shall be renewable one time only upon payment of the per-vehicle fee.

If a vehicle is kept within a privacy fence, said fence must have prior approval of the Village Board with respect to height requirements, material specifications, and setbacks and must be constructed so as to prevent viewing of the items within the fence by the

passing public.

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

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

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

Q. The keeping of bees within the corporate limits of the Village 200 feet or less from any dwelling other than that of the owner of the bees.

R. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height.

S. The abandonment of personal property on public property. For purposes of this subsection, "public property" shall mean any public right of way, street, highway, alley, park, or other state-, county-, or village-owned property. For purposes of this subsection, "abandon" shall mean to leave on public property for more than 24 hours, except when the leaving of said personal property on said portion of public property at that location is legally permitted. For purposes of this subsection, "personal property" shall not include any motor vehicle for which a registration from the State of Nebraska is required to operate said motor vehicle on those portions of public property which constitute a street, highway, or alley.

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

SECTION 3-405: NOTICE PROCEDURE; ABATEMENT

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

1. The code enforcement officer shall document the nuisance by photographing the same. Once the nuisance has been documented, the village clerk shall give notice to abate such nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service which shall be made by the code enforcement officer and

evidenced by his or her certificate of delivery. If notice by personal service is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Village or by conspicuously posting the notice on the lot or property upon which the nuisance is to be abated or removed. Such notice shall contain a copy of the photograph of the nuisance, a copy of this ordinance, instructions on abatement of the nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.

2. Within five business days after receipt of such notice, the owner, agent, or occupant of the lot or piece of ground may request a hearing with the Village to appeal the order to abate the nuisance by filing a written appeal with the office of the village clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the chairman as hearing officer. The chairman shall render a decision on the appeal within five business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the chairman may be appealed to the District Court. If no appeal is taken within ten days of the chairman's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the chairman's decision and no appeal is taken, the code enforcement officer shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.
3. Within ten days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the Village or fails to appeal the decision of the chairman and fails to comply with the order to abate the nuisance, the Village shall again photograph the nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the code enforcement officer may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or the certificate of publication, and the photographs taken after the time to abate has elapsed to the prosecuting attorney for the Village and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

B. In the alternative, the Village may cause the nuisance to be corrected or removed. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the Village may either:

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or

2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(Neb. Rev. Stat. §18-1720)

SECTION 3-406: JURISDICTION

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

SECTION 3-407: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL

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

Article 5 – Dangerous Buildings

SECTION 3-501: DETERMINATION; DEFINITIONS

Any buildings or structures, including billboards, sheds, fences and other manmade structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:

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

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

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

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §18-1720)

SECTION 3-502: BUILDING INSPECTOR

In the case of a suspected dangerous building, the Village Board shall appoint a building inspector, who shall be the village official having the authority to carry out the duties as stated below. The village engineer or another person experienced in building construction practices may be appointed as building inspector for nuisance buildings. He or she 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 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.

B. 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. It shall be unlawful to repair or reconstruct any building now existing or located within the Village where from any cause the building becomes out of repair to the extent of one-third of its value, exclusive of foundation. It shall not be repaired or rebuilt but shall be taken down and removed within 30 days after notice to do so from the chairman and Village Board. It shall be unlawful for any person, company or corporation to repair or rebuild any such building or structure or for any owner thereof to fail to remove any such damaged building or structure within the 30-day period provided above without written consent of the board.

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

(Neb. Rev. Stat. §§17-136, 18-2107)

SECTION 3-504: UNLAWFUL MAINTENANCE

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

SECTION 3-505: NUISANCE; PROCEDURE

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

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

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

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

(Neb. Rev. Stat. §18-1722.01)

SECTION 3-506: FAILURE TO COMPLY

In case any owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure shall fail, neglect or refuse to comply with the notice by or on behalf of the Village to repair, rehabilitate or demolish and remove a building or structure which is unsafe or dangerous and a public nuisance, and fails to request a hearing on such determination, the Village may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted

to the Village Board, which is authorized to levy the cost as a special assessment against the property. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments under Nebraska statutes. (Neb. Rev. Stat. §18-1722)

SECTION 3-507: DISPUTES

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

B. The hearing before the Village Board shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and the board's 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 the notice.

SECTION 3-508: APPEAL

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

SECTION 3-509: IMMEDIATE HAZARD

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

Article 6 – Penal Provisions

SECTION 3-601: VIOLATION; PENALTY

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

SECTION 3-602: ABATEMENT OF NUISANCE

Whenever a nuisance exists as defined in this chapter, the Village may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §§18-1720, 18-1722)