

## **CHAPTER 2 – MISDEMEANORS**

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## **CHAPTER 2 – MISDEMEANORS**

### **Article 1 – General Misdemeanors**

#### **SECTION 2-101: 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 2-102: 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 2-103: 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 2-104: 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 2-105: 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 2-106: 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 2-107: 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 2-108: FALSE REPORTING**

It shall be unlawful for any person to:

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

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

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

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

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

**SECTION 2-109: STALKING**

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

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

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

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

**SECTION 2-110: CRIMINAL TRESPASS**

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

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

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

1. Actual communication to the actor; or
2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
3. Fencing or other enclosure manifestly designed to exclude intruders except as otherwise provided in subsection (A).

(Neb. Rev. Stat. §§28-520, 28-521)

### **SECTION 2-111: PUBLIC INDECENCY**

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

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

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

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

(Neb. Rev. Stat. §28-806)

### **SECTION 2-112: 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 2-113: PUBLIC NUDITY; AIDING AND ABETTING PUBLIC NUDITY**

A. It shall be unlawful for any person to intentionally expose his or her genitals, pubic area, or buttocks while employed in providing any service, product, or entertainment in any business or commercial establishment.

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



**SECTION 2-114: 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.

(Neb. Rev. Stat. §29-4016)

B. It is unlawful for any sex offender or sexual predator to reside within 500 feet from a school or childcare facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or childcare facility.

C. This ordinance shall not apply to a 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. §29-4017) (Ord. No. 2007-7.1, 8/14/07)

**SECTION 2-115: 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 2-116: 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 2-117: 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 2-118: 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 2-119: 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 2-120: 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 2-121: 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 2-122: EXCESSIVE NOISE; RADIOS, MUSIC, ETC.; INDUSTRIAL; EXCEPTIONS**

A. 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.

B. It is hereby determined to be unlawful to operate industrial equipment, heavy machinery, jackhammers and other industrial equipment emitting loud noise or to race automobile engines within the Village between the hours of 12:00 midnight and 6:00 a.m. in such a manner as to disturb the comfort, repose, peace and quiet of residents of the Village, unless such activity has been approved in advance by the Village Board. (Neb. Rev. Stat. §17-556)

**SECTION 2-123: RADIO INTERFERENCE**

Any person operating or causing to be operated any motor, sign or other electrical apparatus that is connected with the electrical distribution system shall equip the apparatus with proper filtering attachments to eliminate radio and television reception interference; provided, this section shall not apply to the use of necessary medical equipment or apparatus where electrical interference cannot be reasonably and safely eliminated. Any person who so operates or causes to be operated any such electrical apparatus that interferes habitually with radio and television reception shall be deemed to be guilty of a misdemeanor and the apparatus is hereby declared a nuisance. (Neb. Rev. Stat. §18-1720)

**SECTION 2-124: ALCOHOL; MISREPRESENTATION BY MINOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §§53-180.01, 53-180.05)

**SECTION 2-125: ALCOHOL; MINOR IN POSSESSION**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the Village or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the Village or upon property owned by the Village, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence. 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 2-126: TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS; MINORS; VENDORS**

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

B. Any person 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 2-127: MISREPRESENTATION BY MINOR; TOBACCO AND ALTERNATIVE 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 2-128: CURFEW**

A. It shall be unlawful for any person under the age of 18 years to loiter, idle, wander, stroll, play or be in or upon the public streets, public places and public buildings, places of amusement and entertainment, vacant buildings or vacant lots or operate any bicycle or other vehicle in, upon, over or through the streets or other public places of the Village between the hours of 11:00 p.m. of any day until 6:00 a.m. of the following day, unless such person is accompanied by a parent, guardian or other adult person having the legal care and custody of said minor person or unless the minor

person is upon an emergency errand or legitimate business directed by his or her parents, guardian or legal custodian, except as hereinafter provided.

B. Nothing herein contained shall prohibit said minor persons from attending special school functions or adult-supervised entertainment conducted by any school, church or fraternal organization which continue beyond the curfew hours as set out in (A) above. In all such cases the hours herein prohibited shall be extended one hour after the closing of any special school, social, or entertainment activity for those minors attending said special activity.

C. It shall be unlawful for the parent, guardian or other adult person having the care and custody of minors under the age of 18 years to allow or permit said minor persons to do any of the acts or things prohibited by (A) or (B) of this section.

D. All law enforcement officers while on duty shall be authorized to detain any such minor willfully violating the provisions of this ordinance and upon apprehension of said minor shall forthwith notify by telephone or other appropriate means the parents or legal guardians or person in custody of said minor child.

## **SECTION 2-129: 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. §§17-123.01, 28-523)

## **SECTION 2-130: 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 2-131: APPLIANCE OUTDOORS**

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

### **SECTION 2-132: 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 2-133: INJURY TO PLANTS AND TREES**

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

### **SECTION 2-134: VILLAGE PARKS**

A. 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.

B. No person shall swim, bathe, wade or fish in any stream, lake or other body of water situated in the village park, except as may be provided by the Park Board.  
(Neb. Rev. Stat. §§17-563, 28-523)

### **SECTION 2-135: 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 any public property.

### **SECTION 2-136: HEDGES, VEGETATION OBSTRUCTING VIEW**

The growing or maintaining or permitting the growing of hedges, corn, or other vegeta-

tion so tall as to obstruct the view of any private building, business building, street intersection, or private drive is declared to be a nuisance and is hereby prohibited.



## Article 2 – Dogs

### SECTION 2-201: DEFINITIONS

“Animal control authority” shall mean the Village Board of Panama.

“Code enforcement officer” shall mean the person appointed in Chapter 1, Section 1-411 to investigate and document ordinance violations, who shall aid in the enforcement of this article or any other law or ordinance relating to the licensing, control, or seizure and impoundment of animals.

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

(Neb. Rev. Stat. §§54-606, 71-4401)

### SECTION 2-202: RABIES VACCINATION

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

### SECTION 2-203: RABIES SUSPECTED; IMPOUNDMENT

Any dog suspected of being afflicted with rabies or any dog not vaccinated in accordance with the provisions of this article which has bitten any person and caused an abrasion of the skin shall be seized and impounded under the supervision of the Board of Health for a period of no fewer than ten days. If, upon examination by a veterinarian, the dog has no clinical signs of rabies at the end of such impoundment, it may be released to the owner or, in the case of an unlicensed dog, it shall be disposed of in accordance with the provisions herein. If the owner of the said dog has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the dog shall be examined by a licensed veterinarian. If no signs of rabies are observed, the dog may be released from confinement. (Neb. Rev. Stat. §71-4406)

### SECTION 2-204: KENNELS

A. "Kennel" is defined for this article as any lot or parcel of land or place where more than three dogs or more than three cats over the age of six months are confined,

treated, boarded, housed, or cared for and shall include any lot or parcel of land or place where a person, corporation, or other entity engages in, conducts, manages, or maintains a veterinary business, regardless of the number of animals treated, kept, confined, or boarded.

B. It is unlawful for any person, corporation, partnership, or other entity to maintain, keep, conduct, or operate any kennel within the zoning limits of the Village without first obtaining a license therefor and any such unlicensed kennel shall be declared a nuisance.

C. Any person or legal entity seeking a kennel license shall make written application to the Village Board.

1. Such application shall state in detail the type, number, and gender of animals to be held in such kennel, describe the kennel facility in detail, and provide such other information as may be required by the Village Board.
2. Such application shall also have attached thereto the consent of all property owners or occupants of lands or lots adjoining the land upon which the proposed kennel is to be located.
3. In the event that the Village Board determines that such kennel would not constitute a nuisance, it shall issue such license on such terms and conditions as it deems appropriate. Such license shall be on an annual basis and may be revoked after notice and hearing for violation of any term or condition of the issuance of the license. The annual license fee shall be as set by resolution of the Village Board and kept on file in the office of the village clerk for public inspection. The license shall not be issued until such fee is paid.

D. 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.

#### **SECTION 2-205: COLLAR OR HARNESS; OWNER'S ID**

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

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

possessor thereof.  
(Neb. Rev. Stat. §§17-526, 54-605)

#### **SECTION 2-206: RUNNING AT LARGE**

It shall be unlawful for any person to allow a dog to run at large at any time within the corporate limits of the Village. It shall be the duty of the animal control authority to cause any dog found to be running at large within the Village to be taken up and impounded as provided in Section 2-217. "Running at large" shall mean a dog was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526)

#### **SECTION 2-207: DAMAGE; LIABILITY OF OWNER**

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

#### **SECTION 2-208: 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. The provisions of this section shall not be construed to apply to the village animal shelter. (Neb. Rev. Stat. §17-526)

#### **SECTION 2-209: INTENT TO INJURE OR KILL**

It shall be unlawful to kill, administer or cause to be administered to a dog poison of any sort or in any manner to injure, maim, destroy, or in any manner attempt to injure, maim or destroy any dog that is the property of another person, or to place any poison or poisoned food where the same is accessible to a dog.

#### **SECTION 2-210: FEMALE IN SEASON**

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the Village while in season. Any such female dog found

running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

### **SECTION 2-211: FIGHTING DOGS**

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

### **SECTION 2-212: DANGEROUS DOGS; DEFINITIONS**

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

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

B. "Potentially dangerous dog" shall mean

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

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

1. If the injury, damage, or threat, 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) was tormenting, abusing, or assaulting the dog; (c) has in the past been observed or reported to have tormented, abused, or assaulted the dog; or (d) at the time was committing or attempting to commit a crime; or

2. If the dog is a police animal assisting a law enforcement officer in the performance of his or her official enforcement duties;

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

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

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

(Neb. Rev. Stat. §54-617)

### **SECTION 2-213: DANGEROUS DOGS; CONFINED; WARNING SIGN**

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements and shall be at least 10 feet from any property line of the owner. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. Each warning sign shall be no less than 10 inches by 12 inches and shall contain the words "Warning" and "Dangerous Animal" in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619)

### **SECTION 2-214: DANGEROUS DOGS; RESTRAINED**

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

### **SECTION 2-215: DANGEROUS DOGS; FAILURE TO COMPLY**

Any dangerous dog may be immediately confiscated by a 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 confiscated by the code enforcement officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this article. In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. Rev. Stat. §54-620)

**SECTION 2-216: 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 thereon, shall be posted at the office of the village clerk as public notification of such impoundment. Upon such notice, the animal control authority shall schedule the matter to be heard at a special or regular meeting of the 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 he or she pays the fee for each animal so redeemed, the cost of any notice in the newspaper, and a charge per day for each and every day the dog remains impounded, along with evidence of current rabies vaccination or post a bond, refundable upon proof of current rabies vaccination being presented within 30 days. If the foregoing costs are not paid within 15 days of the hearing, the dog shall be destroyed. All of said costs herein shall be as set by resolution by the Village Board and kept on file in the office of the village clerk.

**SECTION 2-217: IMPOUNDMENT**

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

**SECTION 2-218: INTERFERENCE WITH ANIMAL CONTROL**

It shall be unlawful for any person to hinder, delay, or interfere with any 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 to the shelter. (Neb. Rev. Stat. §28-906)

## **Article 3 – Animals Generally**

### **SECTION 2-301: LIVESTOCK AND POULTRY; DISTANCE FROM DWELLINGS**

A. No mule, cow, sheep, goat, swine, or livestock other than horses and chickens, as set forth below, shall be allowed to be kept or harbored on private property within the Village.

B. Not more than six hen chickens may be kept in enclosed places on private property where such enclosures are not within 150 feet of any dwelling other than the owners dwelling. Rooster chickens and all other kinds of fowl including ducks and turkeys are prohibited within the Village.

C. Not more than two horses may be maintained on private property within the Village so long as such horses are contained in fenced areas which are not closer than 150 feet to any neighbors' adjacent dwellings.

### **SECTION 2-302: ENCLOSURES**

All pens, cages, sheds, yards or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

### **SECTION 2-303: STOCKYARDS**

It shall be unlawful for any person to erect, keep or maintain any stockyard for the purpose of keeping or feeding meat cattle, sheep or swine therein within the Village except on issuance of a permit by the Village Board. It shall also be unlawful for any person to keep or feed any meat cattle, sheep or swine in any such stockyard except upon issuance of a permit. "Stockyard" is defined to be a pen, shed or other enclosure in which are kept or fed ten head or more of meat cattle, swine or sheep.

### **SECTION 2-304: RUNNING AT LARGE**

A. Except as permitted in writing by the Village Board, 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 livestock to be driven or allowed to run at large on any of the public ways and property or upon the property of another.

B. It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits.  
(Neb. Rev. Stat. §17-547)

**SECTION 2-305: STRAY, HOMELESS, ABANDONED, OR UNWANTED ANIMALS**

To comply with the Commercial Dog and Cat Operator Inspection Act (Neb. Rev. Stat. §§54-625 to 54-643), if any person has captured or taken in a dog or cat that he or she deems to be a stray, homeless, abandoned, or unwanted animal and has it contained in a building, fenced area, or by another means so that it cannot escape, it shall be reported to the Lancaster County Sheriff's Office for the purpose of impounding the animal at a licensed humane society. (Ord. No. 2009-10.1; 10/06/09)

**SECTION 2-306: WILD ANIMALS**

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

**SECTION 2-307: RABIES SUSPECTED; CAPTURE IMPOSSIBLE**

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



## Article 4 – Nuisances

### SECTION 2-401: 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 2-402: GENERALLY DEFINED

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

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

### SECTION 2-403: SPECIFICALLY DEFINED

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

- A. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter or the whole or any part of any dead animal, fish or fowl.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.
- C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.
- D. Animal manure in any quantity which is not securely protected from flies and

the elements or which is kept or handled in violation of any ordinance of the Village.

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

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

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

H. Any buildings or structures which have any or all of the defects defined at Section 2-501 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 6, Section 6-214.

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

L. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.

M. Any 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, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the lawful operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner. If a vehicle is kept within a privacy fence, said fence must have prior approval of the Village Board with respect to height requirements, material specifications, and setbacks and must be constructed so as to prevent viewing of the items within the fence by the passing public.

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

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

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

Q. Maintenance of weeds, grasses or worthless vegetation of 8 inches or more in height. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

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

## **SECTION 2-404: 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.

#### **SECTION 2-405: JURISDICTION**

The chairman and village law enforcement are directed to enforce this Municipal 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 2-406: 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 2-501: DETERMINATION; 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:

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

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

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

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

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

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

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

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

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

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

K. Those existing in violation of any provision of this article, any provision of the

Fire Code, any provision of the county health rules and regulations or other applicable provisions of village ordinances, including but not limited to the building code adopted by the Village.

(Neb. Rev. Stat. §18-1720)

### **SECTION 2-502: BUILDING INSPECTOR**

A specially designated building inspector as provided in Chapter 8, Section 8-101, 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 2-503: 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 2-504: 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 2-505: 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 2-506: 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 2-507: DISPUTES**

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

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

### **SECTION 2-508: 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 2-509: 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 2-601: 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 2-602: 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)