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CHAPTER II

MISDEMEANORS

ARTICLE I - MISDEMEANORS

SECTION 2-101: DRINKING AND POSSESSION OF ALCOHOLIC LIQUORS ON STREETS, IN PUBLIC PLACES OR ON PUBLIC PROPERTY

It shall be unlawful for any person to drink alcoholic liquor of any kind or to have in his/her possession or upon his/her person any bottle or receptacle containing alcoholic liquors which is open or has been opened, or the seal of which has been broken, or the contents of which have been partially removed or consumed, while on the streets or alleys, or upon property used or owned by the government of the United States, the State of Nebraska, or any governmental subdivision thereof, or in theaters, dance halls or in any other place open to or frequented by the public within said village, unless such premises are licensed for such purposes by the State of Nebraska or unless a special permit has been granted for the same by the Village Board.

Upon application for a special permit for the consumption of alcoholic liquor on public streets or other public places, the Village Board may permit such consumption on such terms and conditions as it may determine. For such permit to be issued, written application must be made to the village clerk and the same must be acted upon at a special or regular meeting of the Village Board. The terms and conditions for issuance of a special permit shall be set forth in the minutes of the meeting at which such application is considered.

SECTION 2-102: DISTURBING THE PEACE

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

Source: Neb. Rev. Stat. §28-801 through 28-803

SECTION 2-103: EXCESSIVE NOISE

It is hereby determined to be unlawful to operate industrial equipment, heavy machinery, jack hammers and other industrial equipment emitting loud noise or to race automobile engines within the Village between the hours of 8:00 P.M. and 7:00 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.

SECTION 2-104: DISORDERLY CONDUCT

It shall be unlawful for any person to engage in any riotous or disorderly conduct, or to fight, strike or assault another person in a threatening manner, or to do or engage in any other disorderly act within said village.

Source: Neb. Rev. Stat. §17-129, 17-556

SECTION 2-105: MALICIOUS MISCHIEF

It shall be deemed a misdemeanor for any person to willfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, structure or thing of value which is located upon any government property, cemetery or property of historic value. Any such offender shall be liable in an action for trespass in the name of the beneficial holder of said property for all damages which arise from the commission of such unlawful act.

Source: Neb. Rev. Stat. §12-519

SECTION 2-106: TRESPASSING

It shall be unlawful for any person to trespass upon any private grounds within the Village, or to break, cut or injure any tree, shrub, plant, flower or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same.

SECTION 2-107: WINDOW PEEPING

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

SECTION 2-108: NON-LICENSED GAMBLING OPERATIONS

It shall be unlawful for any person or organization to operate or permit to be operated in this village any lottery, game of chance or gambling device of any kind unless the same is licensed, regulated and operated pursuant to Nebraska law.

SECTION 2-109: GAMBLING

It shall be unlawful for any person to participate in any lottery or game of chance except bingo in this village unless authorized and licensed by state law.

Source: Neb. Rev. Stat. §28-944, 29-947

SECTION 2-110: STALKING

Any person who willfully and maliciously harasses another person with the intent to terrify, threaten or intimidate commits the offense of stalking. For purposes of this section, "harass" shall mean 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, and "course of conduct" shall mean a pattern of conduct composed of a series of acts of following, detaining, restraining the personal liberty of or stalking the person or repetitiously telephoning the person.

SECTION 2-111: PANDERING, PROSTITUTION, AND ILLICIT SEXUAL INTERCOURSE

It shall be unlawful for any person to engage in or commit any act of pandering, prostitution or illicit sexual intercourse within said village.

Source: Neb. Rev. Stat. §28-910

SECTION 2-112: HOUSE OF PROSTITUTION; DISORDERLY HOUSE

It shall be unlawful for any person to keep, operate or maintain or to be an inmate of or visit a house of prostitution or a disorderly house within this village. A house of prostitution shall be construed to mean a house or other place which is kept, used or operated as a place for hire. A disorderly house shall be construed to mean any place kept in such a manner as to disturb, annoy or scandalize the public generally or persons within the particular neighborhood, or any place used as a public resort by drunkards, prostitutes or other idle or vicious persons, or any place of public resort where illegal practices are habitually carried on to the corruption of public morals.

Source: Neb. Rev. Stat. §28-907

SECTION 2-113: INDECENT EXPOSURE OF PERSON; PUBLIC URINATION; INDECENT BOOK, PICTURE, PLAY OR DESIGN

It shall be unlawful for any person within this village to make an indecent exposure of his or her person; to urinate in public view; to commit any indecent or lewd act; to sell or offer for sale or to dispense of in any manner any obscene, lewd or indecent book, picture or other publication or thing; to exhibit or perform any indecent, immoral, lewd or obscene play or other representation; or in any public place to write, draw, or make any profane, obscene, indecent or lewd work, sentence, figure or design.

SECTION 2-114: RESISTING OR FAILING TO ASSIST OFFICER

It shall be unlawful for any person in this village to hinder, obstruct or resist any police officer or policeman in making any arrest or performing any duty of his/her

office, or to refuse or neglect to assist any such officer when called upon by him/her in making of any arrest or the conveying of a prisoner to jail.

SECTION 2-115: IMPERSONATING OFFICER

It shall be unlawful for any person in said village, other than a regular policeman or other authorized officer or employee of the village, to wear a badge similar to or resembling the badges prescribed for or furnished to the police force or any other officer or employee of the village, or to willfully impersonate or endeavor to impersonate any such policeman, officer or employee or seek to exercise authority as such.

Source: Neb. Rev. Stat. §28-715.01

SECTION 2-116: LITTERING

No person shall throw or deposit or accumulate upon any street, publicway or lot or parcel of ground in the Village:

A. Any glass bottle, glass, nails, tacks, wire, cans or other substance likely to injure any person or animal or damage any vehicle upon the street, public way or other property;

B. Materials that may make the street, public way or property unsightly, such as rubbish, sewage, garbage, paper or any other material of such nature.

Any person who deposits, or permits to be deposited, upon any street, public way or other property any litter or destructive or injurious material shall immediately remove such or cause it to be removed so as to abate any nuisance occasioned thereby.

Any person who removes a wrecked or damaged vehicle from a street shall also remove any glass or other injurious substance deposited on the street from such vehicle.

If the owner fails to remove such litter, after five days notice by publication and by certified mail, the village sewer commissioner or the village police shall remove or cause the litter to be removed and shall assess the cost thereof against the property so benefited.

Source: Neb. Rev. Stat. §39-683 and 17-123.01 R. Supp. 1975

SECTION 2-117: DISCHARGE OF FIREARMS

It shall be unlawful for any person, except an officer of the law in the discharge of his/her official duties, to fire or discharge any gun, pistol or other firearm within the Village; provided nothing herein shall be construed to apply to any licensed shooting gallery or to officially sanctioned public celebrations if the persons so

discharging firearms have written permission from the chairman and Board of Trustees.

SECTION 2-118: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the Village.

SECTION 2-119: PROHIBITED FENCES

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

SECTION 2-120: APPLIANCES IN YARD

It shall be unlawful for any person to permit a refrigerator, icebox, freezer or any other dangerous appliance to be in the open and accessible to children, whether on private or public property, unless he/she shall first remove all doors and make the same reasonably safe.

SECTION 2-121: INJURY TO TREES

It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down or destroy any fruit, ornamental, shade or other tree standing or growing on any land belonging to another person or on any public land in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned or controlled by them, shall make an application to the Village Board to do so, and the written permit of the Village Board in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

Source: Neb. Rev. Stat. §28-565 through 28-567

SECTION 2-122: TRASH

It shall be unlawful for any person to willfully, maliciously or negligently place or throw upon the premise of another any filth, garbage, leaves, papers or other matter to the annoyance of the owner or occupant thereon.

Source: Neb. Rev. Stat. §28-591

SECTION 2-123: TOXIC INHALANTS PROHIBITED

It shall be unlawful for any person to breathe or inhale any substance for the

purpose of inducing a condition of intoxication, depression, exhilaration, or any other distorting or disturbing state which affects the auditory, visual or nervous processes. Any person who shall sell or offer for sale any container of a substance producing such an effect and having the property of releasing toxic vapors shall be guilty of a misdemeanor if he/she has cause to suspect that the product sold will be used in violation of this section.

Source: Neb. Rev. Stat. §28-4,109; 28-4,110

SECTION 2-124: TOBACCO PURCHASE PROHIBITED

It shall be unlawful for any minor under the age of 18 years to smoke, purchase or attempt to acquire tobacco, cigarettes or cigars of any kind. Upon conviction, the penalty for said offense shall not exceed \$10.00.

Source: Neb. Rev. Stat. §28-1020

SECTION 2-125: TOBACCO SALE PROHIBITED

It shall be unlawful for any person to sell or attempt to sell to any person under the age of 18 any tobacco, cigarettes or cigars of any kind.

Source: Neb. Rev. Stat. §28-1021

SECTION 2-126: 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 2-127: POSTING

It shall be unlawful for any person to post, paste or paint any sign, advertisement or other writing of any nature upon a fence, pole, building or other property without the written permission of the owner of the said property.

SECTION 2-128: SOLICITING ALMS

It is hereby declared unlawful for any person to solicit upon the public streets or in any private residences alms, gifts or contributions for private benefit unless the person so soliciting shall have first secured a permit from the village clerk authorizing him/her to conduct such operations within the corporate limits.

SECTION 2-129: 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. Any

person so disturbing an assembly shall be deemed to be guilty of a misdemeanor and fined in accord with state statute.

Source: Neb. Rev. Stat. §28-801 through 28-803

SECTION 2-130: STREET GAMES

It shall be unlawful for any person to play catch, bat a ball, kick or throw a football, or to engage in any exercise or sport upon the village streets and sidewalks. Nothing herein shall be construed to prohibit or prevent the Village Board from ordering from time to time certain streets and public places blocked off for the purpose of providing a safe area to engage in such exercise and sport.

SECTION 2-131: REMOVING DIRT

It is hereby declared unlawful for any person to remove, disturb or take away from any street, alley or public grounds any dirt, earth, stones or other materials forming a part of such street, alley or public grounds without first having obtained written permission to do so from the Village Board.

SECTION 2-132: HITCHING RIDES

It shall be unlawful for any person to be found soliciting trucks, automobiles or other vehicles to stop or slow down for the purpose of asking for a ride or riding on the said vehicle.

SECTION 2-133: SEXUAL PREDATOR RESIDENCY RESTRICTIONS; DEFINITIONS

The following definitions shall apply to the sexual predator residency restrictions in Section 2-134:

1. "Child care facility" means a facility licensed pursuant to the Nebraska Child Care Licensing Act.

2. "Political subdivision" means a village, a city, a county, a school district, a public power district, or any other unit of local government;

3. "School" means a public, private, denominational, or parochial school which meets the requirements for accreditation or approval prescribed by Nebraska law;

4. "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 Nebraska Sex Offender Registration Act.

5. "Sexual predator" means an individual who is 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) (6/8/06, Ord. No. 502; 7/10/14, No. 538)

SECTION 2-134: SEXUAL PREDATOR RESIDENCY RESTRICTIONS; PENALTIES, EXCEPTIONS

1. It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility.

2. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.

3. Any person who violates this section shall be punished as provided generally in this chapter of the municipal code.

4. Exceptions: This regulation shall not apply to a sexual predator who (a) resides within a prison or correctional or treatment facility operated by the State or a political subdivision; (b) established residence prior to July 1, 2006, and has not moved from such residence; or (c) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residency at that location.

(Neb. Rev. Stat. §29-4017) (6/8/06, Ord. No. 502)

ARTICLE II - CURFEW

SECTION 2-201: CURFEW HOURS

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 of 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/her parents, guardian or legal custodian, except as hereinafter provided.

(Amended June 12, 2003, Ord. No. 2003-475)

SECTION 2-202: CURFEW HOURS EXTENDED

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 Section 2-201 above. In all such cases the hours herein prohibited shall be extended for those minors attending said special social functions or entertainment one hour after the closing of said special function.

SECTION 2-203: VIOLATION; PARENTAL LIABILITY

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 Section 2-201 or 2-202 of this article.

(Amended June 12, 2003, Ord. No. 2003-475)

SECTION 2-204: ENFORCEMENT; POLICE AUTHORIZATION

Every member of the police force, 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 2-205: PENALTIES

Any violation of the foregoing provisions of this article shall constitute a misdemeanor and shall be punishable by a warning for the first offense and a fine of \$10.00 for the second offense. A third and any subsequent violation shall

constitute a violation of Section 2-203 and the parents of said child shall be held liable.

ARTICLE III - DOGS AND/OR CATS

SECTION 2-301: DEFINITIONS

"Animal Control Authority" shall mean the Village Board of Homer.

"Animal control officer" shall mean any individual employed, appointed or authorized by the Animal Control Authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensing, control, or seizure and impoundment of animals, and shall include any state or local law enforcement personnel or other employees whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

"Dangerous animal shall mean any animal that:

1. Has killed or inflicted injury on a human being on public or private property;
2. Has killed or injured a domestic animal without provocation while the animal was off the owner's property.

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

"Owner" shall mean any person, firm, corporation, organization, political subdivision or department possessing, harboring, keeping or having control or custody of an animal, or who shall feed, shelter or permit any dog, cat or other animal to be present in or about his/her house, store, establishment or property for a period of ten continuous days.

"Prohibited animal" shall include bears, wolves, hybrid wolf/dogs, lions, tigers, panthers, elephants, bison, poisonous snakes and spiders, alligators, crocodiles, anacondas, pythons, boa constrictors and piranhas.

"Potentially dangerous animal" shall include the following breeds of dogs: Doberman, Rottweiler, Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, Chow, Shepherd and Shar-pei.

SECTION 2-302: LICENSING

All dogs and cats more than six months of age and animals defined as potentially dangerous animals of any age kept, housed or harbored within the Village shall be registered within ten days after acquisition. Such animals shall be licensed annually on or before the 1st day of May of each year. The license fee shall be established from time to time by resolution of the Village Board. The license fee shall be delinquent if not paid on or before May 1st of each year. The owner or

harborer of any animal obtained or harbored subsequent to May 1st of each year shall have to pay the license fee within 10 days of obtaining or harboring the animal or animals and the tax shall not be apportioned for a partial year. Said license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the licensed animal. At the time the application is made, upon printed forms provided for such purpose, the owner shall state his/her name and address and the name, breed, color and sex of each animal owned and kept by him/her. A certificate that the animal has had a rabies shot, effective for the ensuing year of the license, shall be presented with the license application and no license or tag shall be issued until the certificate is shown. In addition, the requisite proof of insurance as required herein shall be provided by the owner of a potentially dangerous animal prior to the issuance of a license.

It shall be unlawful for any person to own, keep or harbor an unlicensed potentially dangerous animal as defined by this article of any age within the Village for more than 14 days after acquisition of said animal.

Upon the payment of the license fee, the village clerk or other designated person shall issue to the owner of the dog and/or cat a license certificate and a metallic tag for each dog so licensed. The metallic tag shall be properly attached to the collar or harness of each dog so licensed and shall entitle the owner to keep or harbor the said dog until the 30th day of April following such licensing. In the event that a license tag is lost, and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the village clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid. 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 that are different in appearance each year. (Am. May 1, 2003, Ord. No. 473)

SECTION 2-303: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper or harborer of any dog to permit or allow such dog to wear any license, metallic tag or other village identification than that issued by the village clerk for dogs, nor shall the owner, keeper or harborer wrongfully and knowingly license an unspayed female dog with a license prescribed for a male dog or spayed female dog.

SECTION 2-304: REMOVAL OF TAGS

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

SECTION 2-305: UNLICENSED DOGS

All dogs found running at large upon the streets and public grounds of the Village without a current license tag affixed as required in this article are hereby declared a public nuisance and shall be impounded pursuant to Section 2-307 hereafter.

SECTION 2-306: BARKING AND OFFENSIVE DOGS PROHIBITED

It shall be unlawful for any person to own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping shall annoy or disturb any neighborhood or person, or which habitually barks or chases pedestrians, vehicles or riders of horses while they are on any public sidewalks, streets or alleys in the Village. Upon the written complaint of any affected person filed with the village clerk that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the village police shall investigate the complaint and, if in his/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.

SECTION 2-307: DOGS AND CATS; RUNNING AT LARGE

"Running at large" shall mean any dog or cat found off the premises of the owner and not under the control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. It shall be unlawful for any person to suffer or permit any dog or cat to run at large within said village, and every dog or cat found running at large in violation hereof is declared to be a public nuisance and may be picked up and impounded as provided for in Section 2-321 of this article.

SECTION 2-308: DAMAGE BY DOG; LIABILITY OF OWNER

It shall be unlawful for any person to allow a dog owned, kept or harbored by him/her, or under his/her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner 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.

SECTION 2-309: 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.

SECTION 2-310: KILLING AND POISONING

It shall be unlawful to kill, administer or cause to be administered to a dog and/or

cat poison of any sort, or in any manner to injure, maim, destroy, or in any manner attempt to injure, maim or destroy any dog and/or cat that is the property of another person, or to place any poison or poisoned food where the same is accessible to a dog and/or cat.

SECTION 2-311: POTENTIALLY DANGEROUS ANIMALS AND DANGEROUS ANIMALS; RESTRICTIONS

It is hereby determined to be unlawful for any person or other legal entity to harbor, keep, maintain, kennel or possess a potentially dangerous animal as defined in this article within the confines of the Village or within its zoning jurisdiction unless the following conditions are met:

1. Said animal shall be securely confined in a humane manner indoors or kenneled in a structure or pen with a hard surface floor and a secure metal roof. Said structure shall be locked or suitably designed to prevent the entry of young children, to prevent the animal from escaping, and to protect the animal from the elements. Said structure shall be approved by the Village Board or its designee prior to housing the animal in said structure.
2. The owner shall provide proof of insurance (such as homeowner's/ renter's, surety bond, or umbrella policy) for an amount of not less than \$100,000.00 liability insuring the owner for any personal injuries inflicted by said animal.

SECTION 2-312: DANGEROUS ANIMAL; OFF OWNER'S PROPERTY, RESTRAINED

No owner of a dangerous animal shall permit the animal to go beyond the property of the owner unless the animal is restrained securely by a chain or leash and is wearing a muzzle.

SECTION 2-313: DANGEROUS ANIMAL; PROHIBITED

It is hereby determined unlawful for any person or other legal entity to harbor, keep, maintain, kennel or possess a prohibited animal as defined in Section 2-301 within the confines of the Village or within its zoning jurisdiction.

SECTION 2-314: DANGEROUS ANIMAL; EXCEPTION

An animal, other than those determined "dangerous" as set forth herein, shall not be defined as a dangerous animal if any threat or any damage was sustained by a person who, at the time, was committing a willful trespass or any other tort upon the property owner of the animal; who was tormenting, abusing or assaulting the animal; who has, in the past, been observed or reported to have tormented, abused or assaulted the animal; or who was committing or attempting

to commit a crime.

SECTION 2-315: DANGEROUS ANIMAL; FAILURE TO COMPLY

Any dangerous animal may be immediately confiscated by an animal control officer and said officer may enter upon private property in order to confiscate the animal. In lieu of confiscation, the animal control officer may immediately destroy the dangerous animal if it poses a threat of harm to said officer or any other person or property. The owner shall be responsible for the costs incurred by the Animal Control Authority for the care and boarding of a dangerous animal confiscated by an animal control officer or for the destruction of any dangerous animal.

SECTION 2-316: DANGEROUS ANIMAL; IMPOUNDMENT, DESTRUCTION

In addition to any other penalty, the Animal Control Authority may order the animal control officer to dispose of dangerous animals 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 Animal Control Authority, at which time the owner must present clear and convincing evidence that the animal will be removed from the village limits upon release to the owner. If the owner refuses to agree to permanent removal of the animal from the village limits and zoning jurisdiction, the Village may dispose of such animal in any manner it determines best. If the owner agrees in writing to removal of the animal it may be returned to the owner after he/she pays all costs associated with the capture and confinement of the animal. If the foregoing costs are not paid within 15 days of the hearing, the animal shall be destroyed.

SECTION 2-317: RABIES VACCINATION

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

SECTION 2-318: RABIES SUSPECTED; IMPOUNDMENT

Any dog and/or cat or other animal suspected of being afflicted with rabies or any

dog and/or cat not vaccinated in accordance with the provisions set forth above which has bitten any person or has caused an abrasion of the skin of any person shall be seized by a police officer or animal control officer of this village and shall be impounded under the supervision of a licensed veterinarian or public health authority for not less than ten days. If, upon examination by a veterinarian, the dog and/or cat or other animal has no clinical signs of rabies at the end of such impoundment, it shall be released to the owner upon payment of the costs of said impoundment by said owner or, in the case of a stray, shall be disposed of in whatever manner deemed best by the village police officer.

SECTION 2-319: RABID ANIMALS; CAPTURE IMPOSSIBLE

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

SECTION 2-320: RABID DOGS AND/OR CATS; PROCLAMATION

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

SECTION 2-321: INTERFERENCE WITH ANIMAL CONTROL OFFICER

It shall be unlawful for any person to hinder, delay or interfere with any animal control officer who is performing any duty enjoined upon him/her by the provisions of this article, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of the village animal shelter, any ambulance wagon or other vehicle used for the collecting or conveying of dogs and/or cats to the shelter.

SECTION 2-322: IMPOUNDING

It shall be the duty of the animal control officer to capture, secure and remove in a humane manner to the designated village animal shelter any dog and/or cat violating any of the provisions of this article. The dogs and/or cats so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog and/or cat shall be kept and maintained at the pound for a period of not less than five days after the public notice has been given, unless reclaimed earlier by the owner. Notice

of impoundment of all animals, including any significant marks or identification, and if licensed, the name and address of the owner and the tag number, shall be posted at the office of the village clerk within 24 hours after impoundment as public notification of such impoundment. All licensed dogs shall be kept separate from unlicensed dogs.

Any dog and/or cat may be reclaimed by its owner during the period of impoundment by payment of \$30.00 as a general impoundment fee, and all impounding and maintenance costs. For each subsequent reclamation in the same calendar year, the general impoundment fee shall be \$60.00. The owner shall then be required to comply with the rabies vaccination requirements before release. If the dog and/or cat is not claimed at the end of the required waiting period after public notice has been given, the animal control officer shall dispose of the dog and/or cat in accordance with the applicable rules and regulations pertaining to the same; provided, if in the judgment of the animal control officer a suitable home can be found for any such dog and/or cat within the Village, the said dog and/or cat shall be turned over to that person. The new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this article. The Village shall acquire legal title to any unlicensed dog and/or cat impounded in the animal shelter for a period longer than the required waiting period after giving notice. All dogs and/or cats shall be destroyed and buried in a humane manner, unless a suitable home can be found for such dog and/or cat.

SECTION 2-323: ANIMAL SHELTER

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

Source: Neb. Rev. Stat. §17-548

SECTION 2-324: OFFICER'S COMPENSATION

For destroying and burying dogs under the provisions of this article, the official appointed to destroy said dogs shall be paid, in addition to his/her regular salary, the sum of \$5.00 for each dog so destroyed and buried.

SECTION 2-325: PENALTIES

In addition to any other penalty provided by this article, any person or owner of a dog and/or cat who shall violate any provisions of this article shall be fined not less than \$10.00 nor more than that sum permitted by Nebraska law for violation of a municipal ordinance. Each day's violation of this article shall constitute a separate offense and may be prosecuted as such.

(This article amended November 4, 2004, Ord. No. 484)

ARTICLE IV - KENNELS

SECTION 2-401: KENNELS; DEFINED

"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 6 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.

SECTION 2-402: UNLICENSED KENNELS; NUISANCE

It is hereby declared that it is unlawful and shall be a nuisance 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.

SECTION 2-403: KENNEL LICENSE

Any person or legal entity seeking a kennel license shall make written application to the Village Board. 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. 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. 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 \$100.00 and the license shall not be issued until such fee is paid.

SECTION 2-404: KENNEL REGULATIONS

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.

ARTICLE V - ANIMALS AND FOWL

SECTION 2-501: ANIMALS; RUNNING AT LARGE

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 animal to be driven or run at large on any of the public ways and property, or upon the property of another.

SECTION 2-502: FOWL; RUNNING AT LARGE

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, except in enclosed places on private property.

SECTION 2-503: CRUELTY TO ANIMALS

No person shall cruelly or unnecessarily beat, overwork or insufficiently shelter or feed any animal within the Village.

Source: Neb. Rev. Stat. §28-552, 28-553

SECTION 2-504: 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 2-505: WHERE PROHIBITED IN VILLAGE

it shall be unlawful to keep, have, maintain, process or slaughter within the boundaries of Residential "A", Residential "B", or Business "B" district, as outlined by the Zoning Chapter, any horses, cattle, goats, sheep, swine, rabbits, chickens, ducks, turkeys, geese or similar animals or fowl.

SECTION 2-506: 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 2-507: ABANDONMENT, NEGLECT AND CRUELTY; DEFINITIONS

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

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

"Cruelly mistreat" shall mean to knowingly and intentionally kill, main, disfigure, torture, beat, mutilate, burn scald or otherwise set upon any animal.

"Cruelly neglect" shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water or other care as is reasonably necessary for the animal's health.

"Humane killing" shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering.

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

SECTION 2-508: ABANDONMENT, NEGLECT AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY

A. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

B. Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.

C. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

SECTION 2-509: PITTING; DEFINITIONS

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

"Cockfighting" shall mean the pitting of a fowl against another fowl.

"Dogfighting" shall mean the pitting of a dog against another dog.

"Pitting" shall mean bringing animals together in combat.

SECTION 2-510: PITTING; PROHIBITED

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting or pitting an animal against another. Nor shall any person knowingly receive money for the admission of another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him/her.

SECTION 2-511: PITTING; SPECTATORS PROHIBITED

No person shall knowingly and willingly be present at and witness as a spectator to dogfighting, cockfighting, bearbaiting or the pitting of an animal against another as prohibited in Section 2-510.

ARTICLE VI - NUISANCE REGULATIONS

SECTION 2-601: NUISANCE; 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:

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

SECTION 2-602: NUISANCES; SPECIFICALLY DEFINED

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

1. 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.
2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats or which are foul or malodorous.
3. Filthy, littered or trash-covered cellars, houseyards, barnyards, stable yards, factory yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises; and all such sites having grass or worthless vegetation in excess of 12 inches in height, or 8 inches in the event that the City has previously acted within the same calendar year to remove such grass in excess of 12 inches on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner or occupier of the property. (Am. 12/10/09, Ord. No. 521)

4. 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.

5. 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.

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

7. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber 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.

8. Any unsightly building, billboard or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are a fire hazard or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.

9. All places used and maintained as junk yards or dumping grounds, or for the wrecking and disassembly of automobiles, trucks, tractors or machinery of any kind, or 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 for the storing or leaving of any equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to depreciate property values in the vicinity thereof.

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

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11. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building or enclosure, in which animals or fowls 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 or noxious odors are permitted to emanate therefrom to the annoyance of the inhabitants of the Village, or are maintained and kept in such a manner as to be injurious to the public health.

12. All other things specifically designated as nuisances elsewhere in this Code.

SECTION 2-603: ABATEMENT

Whenever the Board of Trustees, by resolution, determines that any nuisance as defined in Sections 2-601 and 2-602 is being maintained, the village clerk shall cause written notice to abate to be served upon the owner of the property on which such nuisance is located, and further, upon the occupant thereof, by registered mail or by personal service. Such notice shall state that the Village Board has determined that a nuisance is being maintained on the property and must be removed or remedied within 15 days of receipt of notice. Such notice shall describe the property involved and shall define the nuisance that must be abated.

SECTION 2-604: FAILURE TO CORRECT

In the event that the owner or occupant of said premises fails to correct and eliminate said nuisance pursuant to the notice to correct delivered by the village clerk, he/she shall be guilty of a misdemeanor and fined in a sum not to exceed \$500.00. Each day's violation after the expiration of the 15 days' notice shall be a separate offense.

SECTION 2-605: COST OF REMOVAL

If the owner or occupant of the lot or piece of ground fails to comply with the order to abate and remove the nuisance within 15 days from receipt of the notice to abate, the Village may have such work done and the cost and expense of such work shall be paid by the owner of the property. If unpaid for two months after such work is done, the Village may either 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 recover in a civil action the costs and expenses of the work.

Source: Neb. Rev. Stat. §17-563.01, 18-1719

SECTION 2-606: JURISDICTION

The chairman and village police are directed to enforce this municipal code against all nuisances. The jurisdiction of the chairman, village police 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.

SECTION 2-607: UNSAFE BUILDINGS; SPECIAL ASSESSMENTS

If any owner of any building or structure fails, neglects or refuses to comply with

notice by or on behalf of the Village to repair, rehabilitate, or demolish and remove a building or structure which is unsafe and a public nuisance, 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. The Village Board may (1) levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or (2) collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

Source: Neb. Rev. Stat. §18-1720, 18-1722, 18-1722.01, 77-1725

SECTION 2-608: AIR POLLUTION; PROHIBITED

It shall be unlawful for any person, firm or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the Village in the judgment of the Board of Health. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose or safety, or causes severe annoyance or discomfort or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State of Nebraska shall be presumptive evidence as to when the air is deemed to be polluted under this section. It is hereby unlawful for any such person, firm or corporation to permit or cause the escape of the aforesaid nuisances and the escape of the said dust, fumes, gases, mists, odors and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by the Board of Health to the violator. Such abatement may be in addition to the penalty for air pollution in the Village.

Source: Neb. Rev. Stat. §18-1720, 28-1321

SECTION 2-609: WATER POLLUTION; PROHIBITED

It shall be unlawful for any person, firm or corporation to obstruct or impede without legal authority any river or collection of water, or to corrupt and render unwholesome or impure any watercourse, stream or other water. The standards for water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this section. Such a corruption of the water in or about the Village shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The said abatement may be in addition to the penalty for water pollution.

Source: Neb. Rev. Stat. §18-1720, 28-1321

SECTION 2-610: RODENTS AND INSECTS; EXTERMINATION

It shall be the duty of the owner, lessee or occupant of any dwelling or building to be responsible for the active and continued extermination of any insects, rodents or other pests therein or on the premise. In the event that the owner, lessee or occupant of any said dwelling or building neglects, fails or otherwise refuses to control and actively exterminate the insects, rodents and other pests in and about his/her premise, the Board of Health shall issue notice for him/her to do so. If the said owner, lessee or occupant has not made a good faith effort to exterminate the said pests within five days, the premise shall be deemed to be a nuisance and a health hazard.

SECTION 2-611: RODENTS AND INSECTS; OCCUPANT

It shall be the responsibility of the occupant in a single dwelling unit, whether or not the dwelling unit is located in a multiple unit structure, to exterminate the rodents and insects infesting the premise when it is found by the Board of Health that only the occupant's dwelling is so infested.

SECTION 2-612: RODENTS AND INSECTS; OWNER

The owner of a multiple dwelling unit shall have the duty to exterminate therein for rodents and insects when infestation exists in two or more units, when infestation exists in shared or public areas of a multiple unit structure, or when the infestation is due to failure by the owner to maintain the dwelling in an insect- and rodent-proof condition. The owner of a single dwelling unit shall have the duty to exterminate therein notwithstanding the occupancy of a renter or lessee when the infestation of insects or rodents is due to the said owner's failure to construct or maintain the premise in such a manner as to make it reasonably resistant to the entrance and habitability of such pests.

SECTION 2-613: RODENTS AND INSECTS; ROOMING HOUSES

The provisions of Section 2-610 through 2-613 shall apply to rooming houses and hotels or motels as well as apartment units.

SECTION 2-614: WEEDS AND EXCESS GROWTH; ABATEMENT

A. The owner or occupant of any lot or piece of ground within the Village shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation. It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation on any lot or piece of ground within the village or on the adjoining streets or alleys.

B. Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

C. Whenever village maintenance personnel determine that such nuisance exists, the village clerk shall serve written notice to abate. Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail 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 ground upon which the nuisance is to be abated and removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the Village or fails to comply with the order to abate and remove the nuisance, the Village may have such work done. 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.

(Ord. No. 516, 6/12/08)

ARTICLE VII - PENAL PROVISION

SECTION 2-701: VIOLATION; PENALTY

Any person, firm, association or corporation violating any of the provisions of Chapter II hereof for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor, and be fined in an amount of not more than \$500.00. Each days' maintenance of a misdemeanor shall constitute a separate offense.