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CHAPTER 3 – MISDEMEANORS

Article 1 – General Misdemeanors

SECTION 3-101: OBSTRUCTING AN OFFICER

It shall be unlawful for any person to use or threaten to use violence, force, physical interference, or obstacle to intentionally obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a law enforcement officer acting under color of his or her official authority. (Neb. Rev. Stat. §28-906)

SECTION 3-102: RESISTING OR FAILING TO ASSIST OFFICER

It shall be unlawful for any person in this village to hinder, obstruct, or resist any law enforcement officer in making any arrest or performing any duty of his or her office or to refuse or neglect to assist any such officer when called upon by him or her in making any arrest or conveying a prisoner to jail. (Neb. Rev. Stat. §§28-903, 28-904)

SECTION 3-103: IMPERSONATING OFFICER

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

SECTION 3-104: FALSE REPORTING

It shall be unlawful for any person to:

A. Furnish material information he or she knows to be false to any 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 government-

tal department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

(Neb. Rev. Stat. §28-907)

SECTION 3-105: RESISTING ARREST WITHOUT THE USE OF A DEADLY OR DANGEROUS WEAPON

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

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

(Neb. Rev. Stat. §28-904)

SECTION 3-106: CONCEALED WEAPONS

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

SECTION 3-107: DISCHARGE OF FIREARM

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

SECTION 3-108: DISCHARGE OF SLINGSHOT, PAINTBALL GUN, BLOW GUN, AIR RIFLE OR SIMILAR INSTRUMENT

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

SECTION 3-109: STALKING

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

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

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

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

SECTION 3-110: CRIMINAL TRESPASS

It shall be unlawful for any person, knowing that he or she is not licensed or privileged to do so:

A. To enter or secretly remain in any building or occupied structure or any separately secured or occupied portion thereof; or

B. To enter or remain in any place as to which notice against trespass is given by (1) actual communication to the actor; or (2) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) fencing or other enclosure manifestly designed to exclude intruders.

(Neb. Rev. Stat. §§28-520, 28-521)

SECTION 3-111: PUBLIC INDECENCY

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

- A. An act of sexual penetration as defined by Neb. Rev. Stat. §28-318(5);
- B. An exposure of the genitals of the body done with intent to affront or alarm any person; or
- C. A lewd fondling or caressing of the body of any other person of the same or opposite sex.
(Neb. Rev. Stat. §28-806)

SECTION 3-112: INDECENT BEHAVIOR

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

SECTION 3-113: PUBLIC NUDITY

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

SECTION 3-114: AIDING AND ABETTING PUBLIC NUDITY

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

SECTION 3-115: 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 3-116: CRIMINAL MISCHIEF

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or

threat intentionally or maliciously, provided that the value of the property involved is under \$1,500.00. (Neb. Rev. Stat. §28-519)

SECTION 3-117: THEFT

It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be property having a value of less than \$500.00, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §§28-509 through 28-518)

SECTION 3-118: THREATS; ASSAULT IN THE THIRD DEGREE

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause bodily injury to another person or threaten another in a menacing manner. It shall further be unlawful for any person to commit the above act in a fight or scuffle entered into by mutual consent. (Neb. Rev. Stat. §28-310)

SECTION 3-119: DISORDERLY CONDUCT

Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct himself in such a way as to breach the peace shall be deemed to be guilty of an offense. (Neb. Rev. Stat. §17-556)

SECTION 3-120: DISTURBING AN ASSEMBLY

It shall be unlawful for any person or persons to disturb, interrupt, or interfere with any lawful assembly of people, whether religious or otherwise, by loud and unnecessary noise, threatening behavior, or indecent and shocking behavior. (Neb. Rev. Stat. §17-556)

SECTION 3-121: DISTURBING THE PEACE

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

SECTION 3-122: 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 village residents unless such activity has been approved in advance by the Village Board.

SECTION 3-123: LOUD MUSIC, RECORDINGS, RADIOS AND SIMILAR DEVICES; EXCEPTIONS

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

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

SECTION 3-124: MISREPRESENTATION BY MINOR

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

SECTION 3-125: MINOR IN POSSESSION

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

SECTION 3-126: TOBACCO USE BY MINORS

Any minor under the age of 18 who shall smoke cigarettes or cigars or use tobacco in any form whatever shall be guilty of a Class V misdemeanor. Any minor so charged with violation of this section may be free from prosecution when he or she shall have furnished evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars or tobacco. (Neb. Rev. Stat. §28-1418)

SECTION 3-127: TOBACCO VENDOR; SALE TO MINORS

It shall hereafter be unlawful for any person to sell cigars, cigarettes, cigarette material, or other tobacco in any form to any person under the age of 18 years.

SECTION 3-128: CURFEW; HOURS; VIOLATION; PARENTAL LIABILITY; ENFORCEMENT

A. It shall be unlawful for any minor under the age of 18 years to ride in or operate any vehicle in or upon any street, alley, or other public place or to be or remain in or upon any of the streets, alleys, vacant lots, or property of another or in public places in the village between the hours of 10:00 p.m. of any day and 5:00 a.m. of the following day on the nights of Sunday through Thursday, and between the hours of 10:30 p.m. and 5:00 a.m. of the following day on the nights of Friday and Saturday unless accompanied by a parent, guardian, or other adult person having the care, custody, or control of said minor or the minor is engaged in lawful employment or is

on an emergency errand; provided, when an activity of the kind normally attended by minors under 18 years terminates after or less than one hour prior to 10:00 p.m., the curfew shall commence one hour after the termination of such activity. (Am. Ord. No. 2-201, 11/7/02)

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 subsection (A) herein. 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.

C. It shall be unlawful for the parent, guardian or other adult person having the care and custody of minors under the age of 16 years to allow or permit said minor persons to do any of the acts or things prohibited by subsections (A) and (B) of this section.

D. Every law enforcement officer 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.

E. Any violation of the foregoing provisions of this section 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 subsection (C) and the parents of said child shall be held liable. Any person violating the provisions of subsection (C) shall, upon conviction thereof, be fined in any sum not exceeding \$500.00 for each offense and shall be assessed the court costs of prosecution.

SECTION 3-129: APPLIANCE IN YARD

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

SECTION 3-130: LITTERING

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

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

C. "Litter" as used in this section means all rubbish, refuse, waste material, garbage, trash, debris, or other foreign substances, solid or liquid of every form, size, kind, and description but does not include the wastes or primary processes of farming or manufacturing.

(Neb. Rev. Stat. §§17-123.01, 28-523)

SECTION 3-131: POSTING NOTICES

No person in the village shall fasten any poster or other advertising device in any way upon public or private property in the village unless legally authorized to do so.

SECTION 3-132: POSTED ADVERTISEMENTS

It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted and the same remains of value.

SECTION 3-133: OBSTRUCTING WATER FLOW

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe or hydrant.

SECTION 3-134: INJURY TO PLANTS AND TREES

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

SECTION 3-135: RIOTING

It shall be unlawful for any persons to congregate together for the purpose of breaching the peace by rioting or to induce others to riot through words, actions, or conduct. Whoever shall congregate with others for the purpose of rioting or inducing others to riot shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §17-556)

SECTION 3-136: PARKS; INJURY TO PROPERTY; LITTERING

It shall be unlawful for any person to maliciously or willfully cut down, injure, or de-

stroy any tree, plant, or shrub; to injure or destroy any sodded or planted area; or to injure or destroy any building, structure, equipment, fence, bench, table, or any other property of the village parks and recreational areas. No person shall commit any waste on or litter the village parks or other public grounds. (Neb. Rev. Stat. §§17-563, 28-523)

Article 2 – Dogs

SECTION 3-201: DEFINITIONS

“Animal control authority” shall mean the Oakdale Village Board.

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

“Owner” shall mean any persons, 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.

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

- A. Has killed or inflicted injury on a human being on public or private property;
- B. Has killed a domestic animal without provocation; or
- C. Has been previously determined to be a potentially dangerous dog by an animal control authority or court of law and the owner has received notice of such determination; such dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- D. Notwithstanding the foregoing, a dog shall not be defined as a dangerous dog:
 1. If the threat, any injury that is not a severe injury, or the damage was sustained by a person who (a) at the time was committing a willful trespass as defined in statute statutes or any other tort upon the property of the owner of the dog; (b) at the time was tormenting, abusing, or assaulting the dog; (c) has in the past been observed or reported to have tormented or assaulted the dog; or (d) at the time was committing or attempting to commit a crime; or
 2. If the dog is a trained dog assisting a law enforcement officer engaged in law enforcement duties.

“Domestic animal” shall mean a cat, a dog, or livestock.

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

- A. Inflicts a non-severe injury on a human or injures a domestic animal on either public or private property or chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
- B. Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of human or domestic animals.

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

(Neb. Rev. Stat. §§54-606, 54-617, 71-4401)

SECTION 3-202: NUMBER ALLOWED

The number of dogs allowed in the village shall be as provided in Article 3 herein (Dogs and Cats).

SECTION 3-203: RABIES VACCINATION

Every dog shall be vaccinated against rabies pursuant to Nebraska law. Unvaccinated dogs acquired or moved into the village must be vaccinated within 30 days after purchase or arrival 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 3-204: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog over the age of four months within the village shall within 30 days after acquisition of the said dog acquire a license for each animal annually by or before May 1 each year. Application shall be made upon a printed form provided by the village, upon which the owner shall state his or her name and address and the name, breed, color, and sex of each dog owned and kept by him or her. A certificate stating that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

B. Upon payment of the license fee as set by resolution of the Village Board, the village clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so licensed. The village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ from the said fee and

remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund. The remittance to the state treasurer shall be made at least annually at the conclusion of the village's fiscal year, except that if the village collects \$50 or less of such fees during the fiscal year, it may remit the fees when the cumulative amount of fees collected reaches \$50.

C. The said dog tax shall be delinquent from and after May 10; provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within 10 days thereafter. It shall be the duty of the village clerk to issue tags of a suitable design that are different in appearance each year.

D. The metallic tag shall be properly attached to the collar or harness of every dog so licensed and shall entitle the owner to keep or harbor the said animal until April 30 of the following year. Said licenses shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

E. Every service animal shall be licensed but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed herein.
(Neb. Rev. Stat. §§17-526, 54-603) (Am. Ord. No. 2-302 2010, 5/10/10)

SECTION 3-205: RABIES PROCLAMATION

It shall be the duty of the Village Board, whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog or cat to muzzle the same or to confine it for a period of not less than 30 days or more than 90 days from the date of such proclamation or until such danger is past. The dog or cat may be harbored by any good and sufficient means in a house, garage, or yard on the premises wherein the owner may reside. Upon issuance of the proclamation, it shall be the duty of all persons owning, keeping, or harboring any dog or cat to confine the same as herein provided. (Neb. Rev. Stat. §17-526)

SECTION 3-206: 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 3-207: LOST TAG

In the event that a licensing tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the village clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the Village Board for each duplicate tag so issued. Such resolution shall be placed on file in the office of the village clerk for public inspection. (Neb. Rev. Stat. §§17-526, 54-603) (Am. Ord. No. 2-302 2010, 5/10/10)

SECTION 3-208: WRONGFUL LICENSING

It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag, or other village identification other than that issued by the village clerk. (Neb. Rev. Stat. §17-526)

SECTION 3-209: REMOVAL OF COLLAR OR HARNESS, LICENSE TAGS

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

SECTION 3-210: BARKING AND OFFENSIVE DOGS; COMPLAINT

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood or person or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the village. 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 animal control 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 3-211: RUNNING AT LARGE

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time. 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. "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, 54-607)

SECTION 3-212: FEMALE IN SEASON

It is hereby declared unlawful for the owner, keeper, or harbinger of a female dog to permit her to run at large within the village while in season. Any such female dog found running at large in violation of this section shall be declared to be a public nuisance and as such may be impounded or killed according to the provisions herein. (Neb. Rev. Stat. §17-526)

SECTION 3-213: FIGHTING DOGS

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

SECTION 3-214: DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; PIT BULLS AND SIMILAR BREEDS

A. *Spaying and Neutering; Microchip ID and License Required.* Any animal judicially determined to be dangerous or administratively determined to be potentially dangerous shall be spayed or neutered and implanted with microchip identification by a licensed veterinarian at the owner's expense no less than 30 days after such determination is entered with written proof of spaying or neutering and the microchip identification number being provided to the animal control authority within 72 hours of the procedure being completed. In addition, such dangerous or potentially dangerous animal shall be required to be licensed as a dangerous or potentially dangerous dog within 30 days of the determination.

B. *Classes Required.* The owner of any animal determined to be dangerous or potentially dangerous shall be required to attend, at the owner's expense, within 90 days after such determination is entered, a responsible pet ownership class approved by the animal control authority and, at the discretion and direction of the animal control authority, a dog behavior class provided or approved by the animal control authority.

C. *Warning Signs Required.* Any property wherein a dangerous or potentially dangerous animal is kept, harbored, or confined shall be posted with warning signs visible from all areas of public access. The warning signs must:

1. Be no less than 10 inches by 12 inches in size;
2. Contain the words "Warning; Dangerous Animal" in high contrast lettering on a black background in English; and
3. Have lettering no less than 3 inches high.

D. *Confinement.* No person owning, harboring or having the care of a potentially dangerous or dangerous animal shall permit such animal to go unconfined on the premises of such person. A dangerous animal is unconfined, as the term is used in this section, if such animal is not:

1. Confined indoors; or
2. Confined outdoors in an enclosed and locked pen or structure upon the premises of the person described above, provided that the existence of such a pen or structure is permitted by building permits or other regulations. Maintenance of a dangerous animal is not permitted in areas where such structures or pens are not authorized by building permits or other regulations. If permitted, such pen or structure shall be:

Size of Animal	Pen Sq. Ft.
Extra Large (over 26" at withers or over 75 lbs.)	48
Large (over 20" and up to 26" at withers or not over 75 lbs.)	40
Medium (over 12" and up to 20" at withers or not over 50 lbs.)	32
Small (12" or less at withers or not over 20 lbs.)	24

The pen must be constructed with chain link fencing for all four sides and the top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground no less than one foot or have a concrete pad for the bottom. The pen or structure shall be set back at least 10 feet from the nearest property line.

E. Muzzle, Leash and Harness Required. It shall be unlawful for any person owning, harboring or having the care of a dangerous or potentially dangerous animal to permit such animal to go beyond the property of such person unless the animal is under the control of a person 19 years of age or older and restrained securely by a harness and leash no longer than 6 feet and properly muzzled to reasonably prevent the animal from biting.

F. Proof of Insurance. Any animal that has been determined to be a dangerous animal or a potentially dangerous animal, and any pit bull as defined in subsection (G) below that is required to be licensed under this chapter cannot be licensed unless the person having custody, ownership, or control of such dog or other animal first presents written proof of public liability insurance of not less than \$100,000.00 to the animal control authority. Such insurance shall be maintained in effect for the period such dangerous or potentially dangerous animal is so designated, provided that insurance for a pit bull as defined in subsection (G) below shall be maintained in effect for the life of the pit bull.

G. Pit Bulls and Similar Breeds; Leash and Muzzle Required.

1. It shall be unlawful for any person owning, harboring, or having the care of a pit bull to permit such animal to be outdoors unless confined in a securely fenced yard or unless the animal is under the control of a person 19 years of age or older, restrained securely by harness and a leash no

longer than 6 feet and properly muzzled to reasonably prevent the animal from biting.

2. For purposes of this section, "pit bull" shall be defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Dogo Argentino, Presa Canario, Cane Corso, American Bulldog, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The American Kennel Club and the United Kennel Club standards for any of the above breeds are on file in the office of the animal control authority.
3. A pit bull which is a participant in an organized dog event approved by the authority shall not be required to be leashed and muzzled while outdoors and being shown or otherwise actively competing in such event.

H. *Pit Bulls and Similar Breeds; Breed Ambassador.*

1. An owner of a pit bull as defined in subsection (G) may obtain a designation of "breed ambassador" for such pit bull from the animal control authority by:
 - a. Completing an application form;
 - b. Payment of a fee as set by the Village Board by resolution and filed in the village office;
 - c. Providing proof of (i) sterilization, (ii) micro-chipping, including micro-chip number, (iii) insurance in compliance with subsection (F), (iv) vaccination and license in compliance with Sections 3-203 and 3-204, and (v) successful completion of a responsible pet ownership class approved by the animal control authority and an American Kennel Club Canine Good Citizenship test administered by the animal control authority; any expense associated with compliance of (c) shall be borne by the owner; and
 - d. Demonstrating no history of violations of this article by the owner involving such pit bull.
2. Such designation shall be in effect for one year and may be renewed annually upon meeting each of the foregoing requirements, except that the responsible pet ownership class shall be required only once in any five-year period; and provided, conviction of the owner of such a pit bull for a

violation this article involving such pit bull shall result in termination of the designation effective upon the date of conviction.

3. The owner of a pit bull which has been designated a "breed ambassador" shall ensure, when such pit bull is not confined in a securely fenced yard, that such pit bull (a) wears a vest provided by the animal control authority, at the owner's expense, with the words "breed ambassador" and the breed ambassador number assigned to such pit bull by the animal control authority affixed on the vest and (b) is under the control of a person 19 years of age or older and is restrained by a leash no longer than 6 feet and by a harness and a collar joined with a connector attached to the leash in such a way as to provide a redundant restraint system, but such owner shall not be required to comply with the muzzle requirement of subsection (G) for such pit bull.

SECTION 3-215: DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; FAILURE TO COMPLY; IMPOUNDMENT

A. Any dangerous or potentially dangerous animal found in violation of Section 3-214 is declared to be a public nuisance and may be immediately confiscated by an animal control officer and impounded as provided in Section 3-217, until it is released to the owner or until it is disposed of as provided in this article.

B. Any dangerous or potentially dangerous animal may be immediately confiscated and impounded by an animal control officer as provided in Section 3-217, until it is released to the owner or until it is disposed of as provided in this article, if the owner is in violation of this article and said officer may enter upon private property in order to confiscate the animal.

C. Any person owning, harboring or having the care of a dangerous or potentially dangerous animal found in violation of this article shall be responsible for the reasonable costs incurred by the animal control authority for the care of any dangerous or potentially dangerous dog confiscated by the animal control authority.

SECTION 3-216: DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS; VIOLATION; PENALTIES; PRIOR CONVICTION

A. Any person owning, harboring or having the care of a dangerous or potentially dangerous animal found in violation of this article shall be fined as follows: (a) for the first violation, a penalty in the sum of \$100.00; (b) for the second violation within 24 months of the first violation, a penalty in the sum of \$250.00; and (c) for the third violation within 24 months of the first violation and each subsequent violation thereafter, a penalty in the sum of \$500.00.

B. In addition to the penalty provided in subsection (A), the court may order such other disposition as the court deems reasonable and proper, including an order

to the destroy the dangerous or potentially dangerous animal in an expeditious and humane manner. If the court orders the animal to be destroyed, it shall be immediately impounded by an animal control officer at the expense of the owner until the time to perfect an appeal has expired or until the owner consents to destruction of the animal.

C. If a dangerous or potentially dangerous animal belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the animal shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

SECTION 3-217: IMPOUNDMENT

A. It shall be the duty of the animal control 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. Every dog so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded dog shall be kept and maintained at the pound for a period of not fewer than three days for licensed dogs and five days for unlicensed dogs after public notice has been given, unless reclaimed earlier by the owner. Notice of impoundment of all animals, including any significant marks or identification, shall be posted at the office of the village clerk within 24 hours after impoundment as public notification of such impoundment; provided, if the owner of the dog is known, the clerk may also attempt to personally notify the owner of the impoundment.

B. Any dog may be reclaimed by its owner during the period of impoundment by payment of the costs of impoundment. The owner shall then be required to comply with the licensing and rabies vaccination requirements within 72 hours after release.

C. If the dog is not claimed at the end of the required waiting period after public notice has been given, the village may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided, if a suitable home, in the judgment of village personnel, can be found for any such dog within the village, the said dog shall be turned over to that person and the new owner shall then be required to pay all fees and meet all licensing and vaccinating requirements provided in this article.

D. The village shall acquire legal title to any unlicensed dog impounded in the shelter for a period longer than the required waiting period after giving notice. All dogs shall be destroyed and buried in the summary and humane manner as prescribed by the Board of Health unless a suitable home can be found for such dog as provided in subsection (C) above.

(Neb. Rev. Stat. §§17-548, 71-4408)

SECTION 3-218: INTERFERENCE WITH ANIMAL CONTROL

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 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)

SECTION 3-219: DAMAGE; LIABILITY OF OWNER

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

SECTION 3-220: VIOLATION; PENALTY

Unless more specifically described and provided for in this article,

A. Any person or owner of a dog who violates 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 shall constitute a separate offense and may be prosecuted as such.

B. The owner of any dog allowed to run at large or of an unlicensed dog shall be warned of such violation by the village. He or she will be cited the section violated, the nature of the violation, and the corrective action required. Corrective action must be taken within 24 hours after being warned and failure to comply shall result in the dog's impoundment and the owner shall be guilty of a misdemeanor. Upon conviction thereof, the owner shall be fined pursuant to subsection (A).

Article 3 – Dogs and Cats

(Ord. No. 2-325, 3/14/11)

SECTION 3-301: DEFINITION

“Authority” shall mean the animal control authority, defined in Section 3-201 as the Oakdale Village Board.

SECTION 3-302: EXCEPTIONS

Notwithstanding any other provision herein, the provisions of this article shall not be deemed to apply to, or in any way to interfere with, the ordinary conduct and operation of veterinary clinics, biological laboratories, or pet shows when conducted within the village.

SECTION 3-303: NUMBER RESTRICTED

A. It shall be unlawful to own, keep, or harbor at any time more than three dogs and/or five cats over the age of four months per residential or dwelling unit in the village; provided, however, this section shall not apply to kennels and catteries or holders of pet animal avocation permits.

B. The number of animals authorized in Section 3-305 (Pet Animal Avocation Permit) shall not be in addition to the total number of animals specified under this section.

SECTION 3-304: BREEDER’S PERMIT

A. A breeder’s permit shall be obtained by:

1. Any person who intentionally or accidentally causes or allows the breeding of a cat or dog; and
2. Any person who offers for sale, sells, trades, receives other compensation, or gives away one or more dogs or cats from a litter of dogs or cats produced by a female owned by him or her, except a litter of dogs or cats taken to the authority.

B. Such person shall:

1. Furnish the authority with information on the birth of each litter of dogs or cats as may be required by the authority, to register that litter of dogs or cats with the authority, and to be assigned a litter number for each litter;
2. Register with the authority the name, address, and telephone number of

each buyer or new owner of any dog or cat sold or transferred within five days after the date of such sale or transfer;

3. Transmit to the new owner or buyer the litter number of the animal acquired and the breeder's permit number in order that the new owner has assurance and proof that the animal was legally bred;
4. Immunize all cats and dogs offered for sale, trade, or other compensation or for free giveaway (except an animal taken to the authority) against common disease; in the case of dogs, against distemper and parvo, and in the case of cats, against distemper and panleukopenia;
5. Not offer a dog or cat under the age of eight weeks for sale, trade, and other compensation or for free giveaway (except a dog or cat or litters of them taken to the authority); and
6. In all advertisements for a litter of dogs or cats, provide the litter number assigned by the authority in the text of such advertisement.

C. Any such person is required to obtain an annual breeder's permit from the authority and pay a permit fee. Such permit must be obtained prior to the disposition of any dogs or cats. A late fee shall be charged if obtained after disposition. No permit shall be required when the female and dogs or cats are taken to the authority. Both of said fees shall be as set by the Village Board by resolution and filed in the village office.

D. Should the breeder chose to have the female animal spayed within three months of the birth of the litter and supply proof to the authority, the permit fee shall be reimbursed.

E. Such breeder's permit is in addition to any other permits required by this chapter.

SECTION 3-305: PET ANIMAL AVOCATION PERMIT

A. *Permit Required.* A permit is required for any person who shall own, keep, harbor, or maintain four or more dogs but no more than five dogs total and/or six or more cats but no more than eight total dogs and cats four months of age or older on the lot on which he or she resides or on a contiguous lot, which lot or lots are not zoned for business.

B. *Application for Permit; Issuance; Fee.* Any person desiring a pet animal avocation permit shall file an application with the authority for issuance of the permit. The authority shall inspect for and consider the applicant's compliance with this chapter in determining whether to issue the permit. An initial inspection fee shall be paid at the time of application. In addition, a permit fee shall be paid by the applicant annually

on the anniversary of the issuance date of the permit. Both of said fees shall be as set by the Village Board by resolution and filed in the village office.

C. *License Required.* All animals owned, kept, possessed, or harbored under a pet animal avocation permit must be licensed as required by Section 3-204. Proof of individual license for each pet animal must be provided at the time of inspection.

D. *Vaccination Required.* All animals owned, kept, possessed, or harbored under a pet animal avocation permit must be vaccinated against rabies as required by Section 3-203. Proof of individual rabies vaccination for each pet animal must be provided at the time of inspection.

E. *Duration; Renewal of Permit; Revocation.* Such permit shall allow the applicant to pursue the avocation for a period of one year unless said permit is revoked. Being found guilty in a court of law of any violation of this chapter or found in violation of this chapter administratively or by resolution by the Village Board may constitute sufficient cause for revocation of such permit. Failure to permit inspection pursuant to subsection (F) of this section shall be grounds for immediate revocation of this permit. Such permit shall be renewed annually.

F. *Maintenance and Inspection of Premises and Animals.* An avocational premises shall be maintained in a clean and safe condition at all times. Sanitary methods shall be used to prevent or abate any offensive odors. The authority shall have the right to inspect such premises and the animals therein at reasonable hours to ascertain that the premises are kept in the aforementioned conditions and meet the following operational standards and such other standards as promulgated by the authority:

1. Each animal shall at suitable intervals and at least once every 24 hours receive a quantity of wholesome foodstuff suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal.
2. Each animal shall have available at all times an adequate supply of clean, fresh, potable water. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping.
3. Indoor housing shall provide for adequate ventilation, lighting, temperature control, and construction so as to provide for the safety and comfort of the animals.
4. Each animal shall receive care and medical treatment for injuries, parasites, and disease sufficient to maintain the animal in good health and to minimize suffering.

5. Animals maintained pursuant to an avocational permit shall be predominantly maintained indoors. Premises where an avocational permit includes dogs shall provide a fenced enclosure sufficient to contain any dogs while outside.
6. All areas of the premises inspected for an avocational permit shall be made open and available for inspection by the authority.

Article 4 – Animals Generally

SECTION 3-401: RUNNING AT LARGE

A. 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 run at large on any of the public ways and property or upon the property of another or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way.

B. It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large on any of the public ways and property or upon the property of another.

(Neb. Rev. Stat. §17-547)

SECTION 3-402: ANIMALS PROHIBITED WITHIN 100 FEET OF RESIDENCE

No person, whether as owner, bailee, keeper, or custodian, shall keep or maintain any horse, mule, cow, sheep, goat, swine, rabbit, or any other quadruped animal within 100 feet of any part of any building used by another as a residence or place of dwelling.

SECTION 3-403: FOWLS PROHIBITED WITHIN 50 FEET OF RESIDENCE

No person, whether as owner, bailee, keeper, or custodian, shall keep or maintain any chickens, ducks, turkeys, geese, or any similar fowl within 50 feet of any part of any building used by another as a residence or place of dwelling.

SECTION 3-404: ENCLOSURES

All pens, cages, sheds, yards, or any other areas or enclosures 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 3-405: UNUSUAL ANIMALS PROHIBITED

A. It shall be unlawful for any person or persons to own, keep, or harbor any unusual animal within the corporate limits of the village, except that this section shall not be construed to prohibit a public zoo, circus, humane society, or carnival from displaying unusual animals as exhibits or to prohibit any wildlife rescue organizations with appropriate permits from the Nebraska Game and Parks Commission from rehabilitating or sheltering unusual animals.

B. It shall be unlawful for any person or persons to sell, give away, transfer or import into the village any unusual animal as defined in this section, excluding a pub-

lic zoo from doing business with another public zoo.

C. In the event the Village Board or any law enforcement officer determines an unusual animal is being owned, kept or harbored by any person in violation of this section, such person may be prosecuted for such violation and shall be ordered to remove said unusual animal from the village or destroy it. Such order shall be contained in a written notice to remove or destroy said unusual animal within ten days and shall be delivered in person or by certified mail, return receipt requested. If the owner or person keeping or harboring of such unusual animal shall have failed to remove or destroy such unusual animal after the expiration of ten days from the receipt of said notice and no appeal is taken, the village shall have such unusual animal destroyed.

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

1. "Unusual animal" shall mean any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the village or federal requirements, and also:
 - a. Class *Mammalia*; order *Carnivora*, family *Felidae* (such as lions, tigers, jaguars, leopards, bobcats and cougars), except commonly accepted domestic cats and hybrids involving the same; family *Canidae* (such as wolves, coyotes, and fox), except domesticated dogs and hybrids involving the same; family *Mustelidae* (such as weasels, martins, fishers, skunks, wolverines, mink and badgers), except ferrets; family *Procyonidae* (such as raccoons); family *Ursidae* (such as bears); order *Primata* (such as monkeys and chimpanzees); and order *Chiroptera* (such as bats).
 - b. Poisonous reptiles, cobras, and their allies (*Elapidae*, *Hydrophiidae*); vipers and their allies (*Crotalidae*, *Viperidae*); boomslangs and Kirkland's tree snakes; Gila monsters (*Helodermatidae*); sunbeam snakes (*Xenopeltidae*); dwarf boas (*Tropidophiidae*); pythons (*Pythonidae* or *Pythoninae*); splitjaw snakes (*Bolyeriidae*); old world sand boas (*Erycinae*); and boas (*Boidae*).
2. "Domesticated" shall mean a tame animal that is subject to the dominion and control of an owner or person keeping or harboring said animal and accustomed to living in or near human habitation without requiring extraordinary restraint for the protection of humans or unreasonably disturbing such human habitation.

SECTION 3-406: RABIES SUSPECTED; CAPTURE IMPOSSIBLE

The animal control authority as defined in Article 2 herein shall have the authority to kill any animal showing vicious tendencies or characteristics of rabies which make

capture impossible because of the danger involved. (Neb. Rev. Stat. §71-4406)

Article 5 – Nuisances

SECTION 3-501: 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)

SECTION 3-502: GENERALLY DEFINED

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

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

SECTION 3-503: SPECIFICALLY DEFINED

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

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

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

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

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

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

H. Any buildings or structures which have any or all of the defects defined at Section 3-601 hereafter are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance.

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

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

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

L. Any motor vehicle without a current license and not housed in a storage or other building, except as provided herein:

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 unlaw-

ful 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. This section 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, a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, or a vehicle on the premises of a person who has obtained a hobbyist permit which is then in effect for the restoration of said vehicle, as provided in subsection (2) below.

2. A hobbyist permit for the restoration or repair of up to two non-operating, wrecked, junked, or partially dismantled vehicles on any premises used for residential purposes may be granted to the resident of such premises as follows:
 - a. Application for a hobbyist permit shall be filed in writing with the village clerk on a form provided by the village and shall contain the name and address of the applicant and the make, model, year, and vehicle identification number on each vehicle to be restored or repaired. The vehicle(s) to be restored or repaired shall be owned by the applicant.
 - b. The fee for such hobbyist permit shall be as set by the Village Board by resolution and placed on file in the office of the village clerk. All such permits shall expire one year following the date of issuance thereof.

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

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

O. 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.

P. Maintenance of weeds, grasses or worthless vegetation of 8 inches or more in height. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle

(*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus* sp.), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

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

SECTION 3-504: NOTICE PROCEDURE; ABATEMENT

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

1. The code enforcement officer shall document the weeds or nuisance by photographing the same. Once the weeds or nuisance has been documented, the village clerk shall give notice to mow, abate, and remove such weeds or nuisance to each owner or owner's duly authorized agent and to the occupant of the premises, if any, by personal service or certified mail with return receipt requested. If mailed, such notice shall be conspicuously marked as to its importance. Personal service shall be made by an officer of the Sheriff's Department. Such notice shall contain a copy of the photograph of the weeds or nuisance, a copy of this ordinance, instructions on abatement of the weeds or nuisance, time in which such abatement shall take place, and possible penalties for failure to abate.
2. Within five business days after receipt of such notice, the owner, agent, or occupant of the lot or piece of ground may request a hearing with the village to appeal the order to mow, abate, or remove the weeds or nuisance by filing a written appeal with the office of the village clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the chairman as hearing officer. The chairman shall render a decision on the appeal within five business days after the conclusion of the hearing. The hearing shall be conducted informally and the formal rules of evidence shall not apply but either party may appear with an attorney and may request that the hearing be recorded for appeal purposes. Any decision rendered by the chairman may be appealed to the District Court. If no appeal is taken within ten days of the chairman's decision, the owner, agent, or occupant shall promptly comply with the notice to abate. If abatement is not completed within 20 days of the chairman's decision and no appeal is taken, the Sheriff's Department shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.

3. Within ten days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the village or fails to appeal the decision of the chairman and fails to comply with the order to mow or abate and remove the weeds or nuisance, the village shall again photograph the weeds or nuisance to document that abatement has not occurred.
4. If abatement has not occurred within the time prescribed, the Sheriff's Department may deliver the original photographs, a copy of the delivered notice to abate, the certificate of delivery or acknowledged return receipt of the notice, and the photographs taken subsequent to the time to abate has elapsed to the prosecuting attorney for the village and request that charges be filed against the owner or occupant of the premises for maintenance of a nuisance.

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

1. Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed, or
2. Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

SECTION 3-505: SECOND OFFENSE

In the event that an owner or agent of any property within the village shall have received a notice to correct or abate a nuisance within the past 12 months and is again charged with maintaining a nuisance as defined herein, the village chairman or code enforcement officer shall document such offense as set forth above and request that a complaint against such owner, agent or occupant be filed for maintenance of a nuisance with the County Court.

SECTION 3-506: FAILURE TO CORRECT

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

SECTION 3-507: JURISDICTION

The chairman and Village Board are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, Village Board, and court shall extend to,

and the territorial application of this chapter shall include, all territory adjacent to the limits of the village within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720)

SECTION 3-508: 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 6 – Dangerous Buildings

SECTION 3-601: DETERMINATION AND DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

neer;

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

SECTION 3-602: BUILDING INSPECTOR

A specially designated building inspector, his/her authorized representatives or a professional engineer shall, at the direction of the Village Board:

A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in a dangerous or unsafe manner;

B. Inspect any building or structure within the jurisdictional area of the village for the purpose of determining whether any conditions exist which render such place a dangerous or unsafe building or structure within the terms of this article;

C. Report to the Village Board the results of the inspection;

D. Appear at all hearings and testify as to the condition of the unsafe or dangerous building or structure.

SECTION 3-603: STANDARDS

In the event that it is determined that any building or structure is unsafe or dangerous the following standards shall be followed in substance in determining whether the structure or building should be repaired, vacated or demolished:

A. If the unsafe or dangerous building or structure can reasonably be repaired so that it will no longer exist in violation of any of the terms or provisions of this article, it shall be ordered to be repaired;

B. If the unsafe or dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated;

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

SECTION 3-604: UNLAWFUL MAINTENANCE

It is hereby determined unlawful to maintain a dangerous building within the corporate limits of the village or within its zoning jurisdiction.

SECTION 3-605: NUISANCE; PROCEDURE

If the specially designated building inspector or his/her 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.

SECTION 3-606: 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.

SECTION 3-607: 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/her own expense, and not less than three business days before the hearing, the records of the village regarding the inspection and notice. The Village Board need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the board shall be final unless appealed. Failure of the person to attend the hearing shall relieve the board of any further procedures before action is taken as set forth in a notice.

SECTION 3-608: APPEAL

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

SECTION 3-609: 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 7 – Sexual Predators

(Ord. No. _____, 7/11/06)

SECTION 3-701: DEFINITIONS

For purposes of this ordinance:

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

“Reside” means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;

“Residence” means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;

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

“Sex offender” means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and

“Sexual predator” means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.
(Neb. Rev. Stat. §29-4016)

SECTION 3-702: RESIDENCY RESTRICTIONS

It is unlawful for any sexual predator to reside within 500 feet from a school or child care facility. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility. (Neb. Rev. Stat. §29-4017)

SECTION 3-703: EXCEPTIONS

This ordinance shall not apply to a sexual predator who (A) resides within a prison or correctional or treatment facility operated by the state or a political subdivision; (B) established a residence before July 1, 2006, and has not moved from that residence; or (C) established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location. (Neb. Rev. Stat. §29-4017)

Article 8 – Penal Provisions

SECTION 3-801: VIOLATION; PENALTY

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

SECTION 3-802: 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)