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CHAPTER 4 – HEALTH AND SANITATION

Article 1 – General Provisions

SECTION 4-101: REGULATION

For the purpose of promoting the health and safety of the residents of the Village, the Village Board shall from time to time adopt rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. (Neb. Rev. Stat. §17-208)

SECTION 4-102: ENFORCEMENT OFFICIAL

The police chief shall be the health officer of the Village. It shall be his or her duty to notify the Village Board of health nuisances and every case of contagious, infectious, or malignant disease. (Neb. Rev. Stat. §17-208)

SECTION 4-103: STATE RULES

The publication *Rules and Regulations Relating to Public Health*, Nebraska Department of Health and Human Services, is hereby incorporated by reference when the same is applicable to the Village, in its present form and as it may hereafter be amended. (Neb. Rev. Stat. §18-132)

SECTION 4-104: COUNTY HEALTH BOARD

It shall be the duty of the Village Board to work closely with the County Health Board, if any, in protecting the health and welfare of the residents of the Village.

Article 2 – Solid Waste

SECTION 4-201: DEFINITIONS

The following definitions shall apply in interpretation and enforcement of this article.

"Garbage" means kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.

"Land disposal" includes, but is not limited to, incineration at a landfill.

"Nonrecyclable tire" means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire.

"Rubbish" or "trash" means discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the Village.

"Waste" means cinders, ashes, plaster, brick, stone, sawdust, or sand.

"Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

"Yard waste" means grass and leaves.

(Neb. Rev. Stat. §§13-2039, 13-2013.02, 13-2016.01) (Ord. No. 624, 6/14/04)

SECTION 4-202: MANDATORY COLLECTION

No person may permit garbage, rubbish, waste, or refuse to collect and all persons shall remove the same from their property within 24 hours after being notified to do so by the code enforcement officer, who shall represent the Village Board. Any person having garbage, rubbish, waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard garbage can with a tight cover or a durable plastic bag that is securely tied at its opening. All persons shall have their trash bags and/or contents of their garbage cans removed by the Village's contract hauler. (Neb. Rev. Stat. §19-2106)

SECTION 4-203: LIABILITY; PROOF OF PROPER DISPOSAL

A. The Village Board has separately established charges to be paid to it by each person whose premises are served by the village solid waste collection system. For purposes of such charges, a person's premises are deemed to be served by the village solid waste collection system and the owner and occupant of the premises shall be deemed served and therefore liable for the charges unless the owner or occupant proves to the Board that:

1. The premises are unoccupied; or
2. The solid waste generated at the premises during the applicable billing period was lawfully collected and hauled to a permitted facility or was otherwise disposed of in conformance with all applicable laws, regulations, and ordinances.

B. Proof of proper disposal during the applicable billing period may be provided by means of any of the following:

1. A billing receipt or other statement from a duly permitted solid waste hauling service for collection of solid waste at the premises during the applicable billing period;
2. A billing receipt or register tab from a duly permitted transfer station or disposal facility or landfill for solid waste received during the applicable billing period; or
3. Such other documentation of proper disposal as may be acceptable to the board.

(Neb. Rev. Stat. §13-2020) (Ord. No. 547, 5/10/99)

SECTION 4-204: HAZARDOUS WASTE OR WASTE REQUIRING SPECIAL HANDLING

A. No person shall put out any of the items specified below to be collected by the village solid waste collector for land disposal.

1. Yard waste from April 1 through November 30 of each year, unless such yard waste has been separated from its source and is put out for separate collection and delivery to the landfill for the purpose of soil conditioning or composting under the conditions otherwise specified.
2. Lead-acid batteries.
3. Waste oil.
4. Waste tires in any form except tires that are nonrecyclable. Tires are not considered disposed if they meet the requirements of Neb. Rev. Stat. §13-2039.
5. Discarded household appliances.
6. Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

B. Any such items shall be disposed of only as permitted under the Nebraska Integrated Solid Waste Management Act or any amendments thereof.
(Neb. Rev. Stat. §§81-1516, 13-2039) (Ord. No. 624, 6/14/04)

SECTION 4-205: WASTE MANAGEMENT

A. It shall be unlawful for any person to dispose of any waste (not including lawn clippings) generated from within the boundaries of the solid waste jurisdiction area of the Village at any location other than a solid waste management facility holding a current permit under Nebraska law. Properly depositing waste for curbside pickup by the Village or a hauler contracting with the Village shall be deemed to comply with this provision.

B. It shall be unlawful for any person or entity to remove solid waste from the solid waste jurisdiction area unless said person or entity has a permit from the Village to do so.

C. It shall be unlawful for any person or entity to bring solid waste into the solid waste jurisdiction area unless said person or entity has a permit from the Village to do so. Said permit may be issued by the village clerk upon satisfactory evidence that the person or entity has a site for disposal and has arranged to pay appropriate basic and excess fees for disposal of said waste. Transportation of waste through the Village on normal commercial highways and routes with no intention of disposing of solid waste within the Village shall not be deemed to violate this section.

D. It shall be unlawful to transport solid waste between sites within the Village for the purpose of disposing of said waste on a site other than the site where it was generated.
(Ord. No. 410, 7/11/94)

Article 3 – Nuisances

SECTION 4-301: 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 4-302: 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 4-303: 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. Failure of any owner, lessee, or occupant of any dwelling, building, vacant lot, or premises to control and actively exterminate insects, rodents, and other pests in and about the premises so infested.

F. 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 nor the dumping of non-putrefying waste in a place and manner approved by the code enforcement officer of the Village.

G. 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.

H. 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.

I. Any buildings or structures which have any or all of the defects defined in Chapter 9 Building Regulations, Article 5 Unsafe Buildings.

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

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

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

M. Any motor vehicle as follows: No person shall park, store, leave or permit the parking, storing or leaving of any motor vehicle that is abandoned, non-operating, wrecked, junked, or partially dismantled, whether attended or not, upon any public property within the village for a period of time longer than 48 hours or on any private property for a period of time longer than ten days. This subsection does not apply to (1) any

vehicle enclosed within a building on private property; (2) any vehicle held in connection with a business enterprise lawfully licensed by the village and properly operated in the appropriate business zone pursuant to the zoning laws of the village, provided that the business has a dated work estimate for such vehicle or an invoice signed by the owner authorizing its repair; (3) any vehicle on private property, concealed under an appropriate cover to screen it from view; or (4) a vehicle retained on private property by the owner for antique collection purposes, concealed under an appropriate cover to screen it from view. (Ord. Nos. 267, 9/10/75; 569, 12/11/00)

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

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

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

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

R. Water pollution as provided in Section 3-415.

S. Use of a building or premises in any part of the Village for any trade, industry, or other purpose that is detrimental to the public health, safety, and welfare.

T. Maintenance of weeds, grasses or worthless vegetation of 12 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*).

U. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. §§18-1720, 28-1321) (Am. Ord. Nos. 263, 6/3/75; 645, 7/11/05)

SECTION 4-304: NOTICE PROCEDURE; ABATEMENT

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

1. The code enforcement officer shall document the 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 which shall be made by the code enforcement officer and evidenced by his or her certificate of delivery. If notice by personal service is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Village or by conspicuously posting the notice on the lot or property upon which the nuisance is to be abated or removed. Such notice shall contain a copy of the photograph of the 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 code enforcement officer shall proceed pursuant to subsections (3) and (4) below or to subsections (B)(1) and (2) as set forth below.
3. Within ten days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the Village or fails to appeal the decision of the chairman and fails to comply with the order to 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 code enforce-

ment officer 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.

(Am. Ord. Nos. 263, 6/3/75; 645, 7/11/05)

SECTION 4-305: JURISDICTION

The chairman and village law enforcement are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, village law enforcement, and court shall extend to, and the territorial application of this chapter shall include, all territory adjacent to the limits of the Village within one mile thereof and all territory within the corporate limits. (Neb. Rev. Stat. §18-1720) (Am. 2/13/74)

SECTION 4-306: 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 4 – Penal Provisions

SECTION 4-401: 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 4-402: 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) (Am. Ord. No. 565, 6/12/00)