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## CHAPTER 6 – POLICE REGULATIONS

### Article 1 – Dogs

#### SECTION 6-101: DEFINITIONS

“Animal control authority” shall mean an entity authorized to enforce the animal control laws of the Village.

“Code enforcement officer” shall mean any individual employed, appointed, or authorized by the animal control authority for the purpose of aiding in the enforcement of this article or any other article of this code 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; shall include the person appointed in Chapter 1, Section 1-312 to investigate and document ordinance violations.

“Owner” shall mean any person who shall harbor or permit any dog to remain for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed. Such person shall be deemed the owner and possessor of such dog and shall be deemed to be liable for all penalties herein prescribed.

(Neb. Rev. Stat. §§54-606, 71-4401)

#### SECTION 6-102: NUMBER OF DOGS ALLOWED; KENNELS

It shall be unlawful to own, keep, or harbor more than three dogs without obtaining a kennel license from the State of Nebraska. Kennel operators shall confine each dog to a kennel or fenced area upon the owner's premises at all times. Kennel license fees are in lieu of individual dog license fees and shall be in effect for one year from the date of issuance. The annual fee for a kennel license shall be set by resolution of the Village Board and kept on file in the office of the village clerk.

#### SECTION 6-103: RABIES VACCINATION

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

**SECTION 6-104: LICENSING; RABIES CERTIFICATE; 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 said dog acquire a license for each such dog annually by or before May 1 each year. The said tax shall be delinquent from and after May 10, provided that the possessor of any dog brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for the payment of the dog tax levied herein. Licenses shall be issued by the village clerk upon the payment of a license fee of ~~\$5.00~~ for each male and spayed female dog and ~~\$40.00~~ for each unspayed female dog.

B. The Village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.25. The clerk shall retain 3¢ from the said fee and remit the balance to the state treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The 3¢ collected shall be credited to the general fund along with the license fees.

C. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon a printed form provided for such purpose 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.

(Neb. Rev. Stat. §§54-603, 71-4412) (Am. by Ord. No. 439, 12/11/95)

**SECTION 6-105: LICENSE TAGS**

A. Upon the payment of the license fee, the village clerk shall issue to the dog owner a license certificate and a metallic tag for each dog so licensed. The metallic tag shall be properly attached to the collar or harness of each dog so licensed and shall entitle the owner to keep or harbor the said dog until April 30 following such licensing. All license fees and collections shall be immediately credited to the general fund. It shall be the duty of the village clerk to issue tags of a suitable design that are different in appearance each year.

B. 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 for each duplicate tag so issued. Such fee shall be as set by resolution of the Village Board and placed on file in the office of the village clerk.

(Neb. Rev. Stat. §§17-526, 54-603)

**SECTION 6-106: WRONGFUL LICENSING**

It shall be unlawful for the owner, keeper, or harborer of any dog to permit or allow

such dog to wear any license, metallic tag, or other village identification other than that issued by the village clerk; nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog with a license prescribed for a spayed female dog or a male dog. (Neb. Rev. Stat. §17-526)

#### **SECTION 6-107: RUNNING AT LARGE**

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the Village. It shall be the duty of the code enforcement officer to cause any dog found to be running at large within the Village to be taken up and impounded as provided in Section 6-120. "Running at large" shall mean a dog was found off the premises of the owner and not under control of the owner or a responsible person by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint. (Neb. Rev. Stat. §17-526)

#### **SECTION 6-108: 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 6-109: BARKING AND OTHER OFFENSIVE BEHAVIOR**

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. (Neb. Rev. Stat. §17-526) (Ord. No. 473, 11/12/96)

#### **SECTION 6-110: 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 6-111: 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 6-112: RABIES PROCLAMATION**

It shall be the duty of the Village Board, whenever in its opinion the danger to the public safety from rabid dogs or cats 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 6-113: 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 6-114: DANGEROUS DOGS; DEFINITIONS**

“Dangerous dog” shall mean any dog that:

- A. Has killed or inflicted injury on a human being on public or private property;
- B. Has killed a domestic animal without provocation while the dog was off the owner's property; or
- C. When unprovoked, 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.

“Dangerous dog” shall also mean any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

- 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 state statutes or any other tort upon the property of the owner of the dog; (b) at the time was tormenting, abusing, or assaulting the dog; (c) has in the past been observed or reported to have tormented or assaulted the dog; 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.

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

(Neb. Rev. Stat. §54-617) (Ord. No. 346, 11/13/89)

#### **SECTION 6-115: DANGEROUS DOGS; CONFINED; WARNING SIGN**

While unattended on the owner's property, a dangerous dog shall be securely confined in a humane manner indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements. The owner of a dangerous dog shall post a warning sign on the property where the dog is kept that is clearly visible and that informs persons that a dangerous dog is on the property. Each warning sign shall be no less than 10 inches by 12 inches and shall contain the words “Warning” and “Dangerous Animal” in high-contrast lettering at least 3 inches high on a black background. (Neb. Rev. Stat. §54-619) (Ord. No. 346, 11/13/89)

#### **SECTION 6-116: DANGEROUS DOGS; RESTRAINED**

No owner of a dangerous dog shall permit the dog to go beyond the property of the owner unless the animal is restrained securely by a chain or leash. (Neb. Rev. Stat. §54-618) (Ord. No. 346, 11/13/89)

#### **SECTION 6-117: DANGEROUS DOGS; FAILURE TO COMPLY**

Any dangerous dog may be immediately confiscated by a code enforcement officer if the owner is in violation of this article. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by a code enforcement officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated

this article. In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. Rev. Stat. §54-620) (Ord. No. 346, 11/13/89)

### **SECTION 6-118: DANGEROUS DOGS; VIOLATION; PRIOR CONVICTION**

If a dangerous dog belonging to an owner with a prior conviction under this section attacks or bites a person or another domestic animal, the owner shall be guilty of a misdemeanor. In addition, the dangerous dog 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. (Neb. Rev. Stat. §54-624)

### **SECTION 6-119: DANGEROUS DOGS; ADDITIONAL REGULATIONS**

Nothing in this article shall be construed to restrict or prohibit the Village Board from establishing and enforcing laws or ordinances at least as stringent as the provisions of this article. (Neb. Rev. Stat. §54-624) (Ord. No. 346, 11/13/89)

### **SECTION 6-120: IMPOUNDMENT; ANIMAL SHELTER**

A. The Village shall provide an animal shelter wherein all animals of the dog kind shall be required to be impounded under the provisions of this article. The shelter shall be located in a convenient location and shall be sanitary and ventilated. The code enforcement officer shall capture and secure all dogs in violation of this article, conveying such dogs in a humane manner to the animal shelter. The dogs 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 less than five days after public notice has been given unless reclaimed earlier by the owner.

B. Notice of impoundment of all animals, including any significant marks or identifications, 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. Any dog may be reclaimed by its owner during the period of impoundment by payment for each day of impoundment and a general impoundment fee, both of which shall be as set by resolution by the Village Board and kept on file in the office of the village clerk. 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 required waiting period after public notice has been given, the code enforcement officer may dispose of the dog in accordance with the applicable rules and regulations pertaining to the same; provided that if, in the judgment of the code enforcement officer, a suitable home 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 herein. 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.

D. 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) herein.

(Neb. Rev. Stat. §§17-548, 71-4408) (Ord. Nos. 270, 4/13/77; 284, 12/9/81)

#### **SECTION 6-121: INTERFERENCE WITH ANIMAL CONTROL**

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

#### **SECTION 6-122: OFFICER'S COMPENSATION**

For destroying and burying dogs under the provisions of this article, the code enforcement officer shall be paid, in addition to his or her regular salary, a sum for each dog so destroyed and buried. Said fee shall be as set by resolution of the Village Board and kept on file at the office of the village clerk. (Neb. Rev. Stat. §17-526)



## Article 2 – Animals Generally

### SECTION 6-201: DEFINITIONS

The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

“Animal” shall mean any vertebrate member of the animal kingdom, excluding man.

“Keep” or “harbor” shall mean to have charge, custody, or control of any animal or fowl, or permitting the same to habitually remain or be lodged or fed within the house, store, yard, enclosure, or place of the owner or occupant of the premises.

“Pet animal” shall mean dogs, cats, birds, domestic rodents, nonvenomous lizards that will not grow more than 3 feet in length at maturity, nonvenomous snakes that will not grow to more than 6 feet in length at maturity, turtles, nonlethal aquarium fish and amphibians. “Pet animal” shall also include any domesticated animal that a person owns or that is sold or offered for sale generally for the purpose of being kept indoors as a household pet, except unusual animals. “Pet animal” does not include any animal forbidden to be sold, owned, or possessed by federal or state law.

“Running at large” shall mean any animal that is not under the actual control of its owner. An animal shall be deemed to be at large unless on a leash, at heel beside a competent person and obedient to that person's commands, or confined within a receptacle, enclosed vehicle, enclosure or shelter, or within the real property limits of the owner or keeper.

“Unusual animal” shall mean any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the Village, State of Nebraska, or federal requirements, and also:

A. Class *Mammalia*, order *Carnivora*, family *Felidae* (such as lions, tigers, jaguars, leopards, and cougars) except commonly accepted domesticated cats and hybrids involving the same; family *Canidae* (such as weasels, martens, fishers, skunks, wolverines, mink, and badgers) except ferrets; family *Procyonidae* (such as raccoon); family *Ursidae* (such as bears); order *Primata* (such as monkeys and chimpanzees); and order *Chiroptera* (such as bats).

B. Cobras and their allies (*Elapidae*, *Hydrophilidae*); vipers and their allies (*Crotiladae*, *Viperidae*; constrictors and their allies (*Boidae*, *Boinae*) boomslangs and Kirtland's tree snakes; and Gila monsters (*Helodermatidae*).

(Ord. No. 580, 2/11/02)

**SECTION 6-202: PERMIT REQUIRED; EXCEPTIONS**

A. No person shall keep or maintain any animal within the corporate limits of the Village except upon obtaining a permit from the village clerk. Such permit shall specify the place or places where any such animal may be kept. Permits shall be obtained by written application to the clerk in any readable format. Permits shall be issued upon motion of the Village Board and shall consist of a summary of said motion on village letterhead.

B. It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine, or other livestock, to include chickens, geese, turkeys and other fowl, within 100 feet of any dwelling unit.

C. This section shall not apply to the keeping or maintaining of dogs, cats, house birds, gerbils, hamsters, guinea pigs or pet fish. Further, this section shall not apply to commercial sale, hunting blind operators, commercial meat slaughtering or packing plant operators, commercial hatcheries, and animal hospitals or clinics operated by licensed veterinarians. Nothing herein shall prevent the Village or a private individual from operating a bird zoo.

(Neb. Rev. Stat. §17-547) (Am. Ord. Nos. 474, 11/12/96; 580, 2/11/02)

**SECTION 6-203: LIVESTOCK; 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, including poultry, chickens, turkeys, geese, or any other fowl, 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, except in enclosures on the private property owned or leased by the person keeping or harboring such animal or fowl.

B. The violation of subsection (A) herein is hereby declared to be a public nuisance and the same is hereby prohibited. In the event that an unusual or nondomesticated or wild animal found running at large is creating a hazard of life or property, such animal shall be destroyed if it cannot be confined or captured.

(Neb. Rev. Stat. §17-547) (Am. Ord. No. 474, 11/12/96)

**SECTION 6-204: 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 Nebraska Game and Parks Commission from rehabilitating or sheltering any unusual animals.

B. It shall be unlawful for any person to sell, give away, transfer, or import into the Village any unusual animals as defined in this article, excluding a public zoo doing business with another zoo.

C. In the event that the code enforcement officer or his or her agent determines that unusual animals are being owned, kept, or harbored by any person in violation of this article, he or she may have such person prosecuted for such violation and shall order such person 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 by personal service or by certified mail, return receipt requested. If the owner shall fail to remove or destroy such animal after the expiration of ten days from receipt of notice and no appeal has been taken, the code enforcement officer shall have such unusual animal destroyed.

(Ord. No. 580, 2/11/02)

### **SECTION 6-205: IMPOUNDMENT; RELEASE; FEES**

A. It shall be the duty of the code enforcement officer to humanely capture, secure and remove to a designated animal shelter any animal violating the provisions of this article. The animal 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 animal shall be kept and maintained at the animal shelter for a period of not less than five days after public notice has been given, unless reclaimed earlier by the owner. Any impounded animal may be released immediately to the owner upon payment of the expenses incurred in the seizing and keeping of such animal; provided, an unusual or other non-domesticated or wild animal shall only be released upon condition that the owner shall immediately remove such animal from the Village or destroy it. The owner shall be required to comply with the licensing and rabies vaccinations requirements within 72 hours after such animal has been released.

B. Any animal held or impounded in the animal shelter shall be released to the owner thereof upon presentation of the following: (1) proof of ownership of such animal; (2) payment of the daily boarding costs plus the impoundment fee as set by resolution of the Village Board and kept on file at the office of the village clerk; (3) proof of proper municipal licensing and vaccinations, if the animal is kept within the village limits. Payment of the daily boarding costs and impoundment fee shall not relieve the owner's responsibilities for all penalties which may be imposed for a violation of any of the provisions of this article.

C. If the animal has not been claimed at the end of the required waiting period after public notice has been given, the code enforcement officer may dispose of the animal in accordance with the applicable rules and regulations. If in the judgment of the code enforcement officer a suitable home can be found for any such animal within the Village, the animal shall be turned over to that person and the new person shall then be required to pay all fees and meet all licensing and vaccination requirements provided in this article. The Village shall acquire legal title to any unlicensed animal

impounded in a designated animal shelter for a period longer than the required waiting period after giving notice.

D. Any animal held or impounded in the animal shelter shall be released to the owner thereof upon presentation of the following:

1. Proof of ownership of such animal;
2. Payment of the daily boarding costs plus the impoundment fee as set by resolution by the Village Board and kept on file in the office of the village clerk.
3. Proof of proper municipal licensing and vaccinations, if animal is kept within the village limits.

Payment of the daily boarding costs and impoundment fee shall not relieve responsibilities for all penalties which may be imposed for a violation of any of the provisions of this article.

(Ord. No. 580, 2/11/02)

**SECTION 6-206: CRUELTY; NEGLECT**

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

**SECTION 6-207: PARK ANIMALS OR BIRDS; INJURY**

If any person shall intentionally injure or kill any animal or bird in any public park belonging to the Village, he or she shall be deemed guilty of a misdemeanor.

**SECTION 6-208: 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 3 – Miscellaneous Misdemeanors**

### **SECTION 6-301: OBSTRUCTING AN OFFICER**

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

### **SECTION 6-302: 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 6-303: HINDERING OR RESISTING ARREST**

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

### **SECTION 6-304: 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 6-305: 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 6-306: 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 6-307: DISCHARGE OF DANGEROUS PROJECTILE**

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 6-308: FALSE REPORTING**

It shall be unlawful for any person to:

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

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

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

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

E. Furnish material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

(Neb. Rev. Stat. §28-907) (Ord. No. 538, 7/13/98)

**SECTION 6-309: 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 6-310: CRIMINAL TRESPASS**

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

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

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

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

(Neb. Rev. Stat. §§28-520, 28-521)

### **SECTION 6-311: 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 6-312: INDECENT BEHAVIOR**

It shall be unlawful for any person or persons over the age of 14 years to commit any indecent or immoral act or to appear in any public place in improper clothing or not decently garbed. It shall be unlawful for any person or persons 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.

### **SECTION 6-313: PUBLIC NUDITY; AIDING AND ABETTING**

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

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

**SECTION 6-314: SEXUAL PREDATORS**

A. For purposes of this ordinance:

1. "Childcare facility" means a facility licensed pursuant to the Child Care Licensing Act;
2. "Reside" means to sleep, live, or dwell at a place, which may include more than one location and may be mobile or transitory;
3. "Residence" means a place where an individual sleeps, lives, or dwells, which may include more than one location and may be mobile or transitory;
4. "School" means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
5. "Sex offender" means an individual who has been convicted of a crime listed in Neb. Rev. Stat. §29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act; and
6. "Sexual predator" means an individual required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Neb. Rev. Stat. §29-4001.01 and who has victimized a person 18 years of age or younger.

(Neb. Rev. Stat. §29-4016)

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

C. This ordinance shall not apply to a sexual predator who (A) resides within a prison or correctional or treatment facility operated by the Village 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 childcare facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

(Neb. Rev. Stat. §§29-4016, 29-4017)

**SECTION 6-315: 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 6-316: CRIMINAL MISCHIEF**

It shall be unlawful for any person to damage property of another intentionally or recklessly, tamper with property of another intentionally or recklessly so as to endanger any person or property or cause another to suffer pecuniary loss by deception or threat intentionally or maliciously, provided that the value of the property involved is under \$5,000.00. (Neb. Rev. Stat. §28-519) (Ord. No. 611, 5/12/03)

**SECTION 6-317: THEFT**

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

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

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

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

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

respect to another's legal claim or defense.

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

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

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

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

(Neb. Rev. Stat. §§28-511 through 28-515, 28-517, 28-518) (Am. Ord. No. 262, 6/3/75)

### **SECTION 6-318: 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 6-319: 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 6-320: 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) (Ord. No. 381, 3/8/93)

#### **SECTION 6-321: 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 6-322: 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 6-323: DESTRUCTION OF PROPERTY**

It shall be unlawful for any person within the village corporate limits to purposely, willfully, or maliciously injure in any manner or to destroy any real or personal property of any description belonging to another.

#### **SECTION 6-324: MINOR IN POSSESSION; LIQUOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the Village or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the Village or upon property owned by the Village, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a *bona fide* religious rite, ritual, or ceremony or in his or her permanent place of residence. It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (Neb. Rev. Stat. §53-180.02) (Am. Ord. Nos. 482, 3/10/97; 593, 11/11/02)

#### **SECTION 6-325: MISREPRESENTATION BY MINOR; LIQUOR**

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 6-326: MISREPRESENTATION BY MINOR; TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS**

Any person under the age of 18 years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee by representing that he or she is of the age of 18 years or over is guilty of an offense. (Neb. Rev. Stat. §28-1427)

**SECTION 6-327: MINORS; VENDORS; TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS**

A. Any minor under the age of 18 years who shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever shall be guilty of an offense. Any minor charged with a violation of this section may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco.

B. Any person who shall sell, give, or furnish in any way any tobacco in any form whatever or any cigarettes or cigarette paper, vapor products, or alternative nicotine products to any minor under 18 years of age is guilty of an offense. (Neb. Rev. Stat. §§28-1418, 28-1419)

**SECTION 6-328: CURFEW**

It shall be unlawful for any minor of the age of 18 years or younger to loiter, wander, stroll, loaf or play in or upon any of the streets, alleys, or other public places between the hours of 11:00 p.m. and 5:00 a.m. of the following day on Sunday through Thursday and between the hours of 1:00 a.m. and 5:00 a.m. following a Friday or 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. (Am. Ord. No. 378, 10/12/92)

**SECTION 6-329: LITTERING**

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

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

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

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

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

(Neb. Rev. Stat. §§17-123.01, 28-523) (Am. Ord. No. 429, 2/13/95)

### **SECTION 6-330: NOTICES AND ADVERTISEMENTS**

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

B. It shall be unlawful for any person to attach or leave any handbill or leaflet of any sort on any vehicle in the Village without the consent of the owner of such vehicle.

C. 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 6-331: APPLIANCE OUTDOORS**

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

### **SECTION 6-332: 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 6-333: 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 6-334: TREES; DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY**

A. It is hereby declared a nuisance for a property owner to permit, allow, or maintain any dead, dying, or diseased trees within the right of way of streets or on private property within the corporate limits of the Village. For the purpose of carrying out the provisions of this section, the utilities superintendent shall have the authority to enter upon private property to inspect the trees thereon.

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

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

(Neb. Rev. Stat. §§18-1720, 28-1321) (Ord. No. 428, 2/13/95)

**SECTION 6-335: PARKS; INJURY TO PROPERTY; LITTERING**

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

**SECTION 6-336: PROHIBITED FENCES**

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

**SECTION 6-337: HEDGES, VEGETATION OBSTRUCTING VIEW**

The growing or maintaining or permitting the growing of hedges, corn, or other vegetation so tall as to obstruct the view of any private building, business building, street intersection, or private drive is declared to be a nuisance and is hereby prohibited.



## **Article 4 – Penal Provision**

### **SECTION 6-401: 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.