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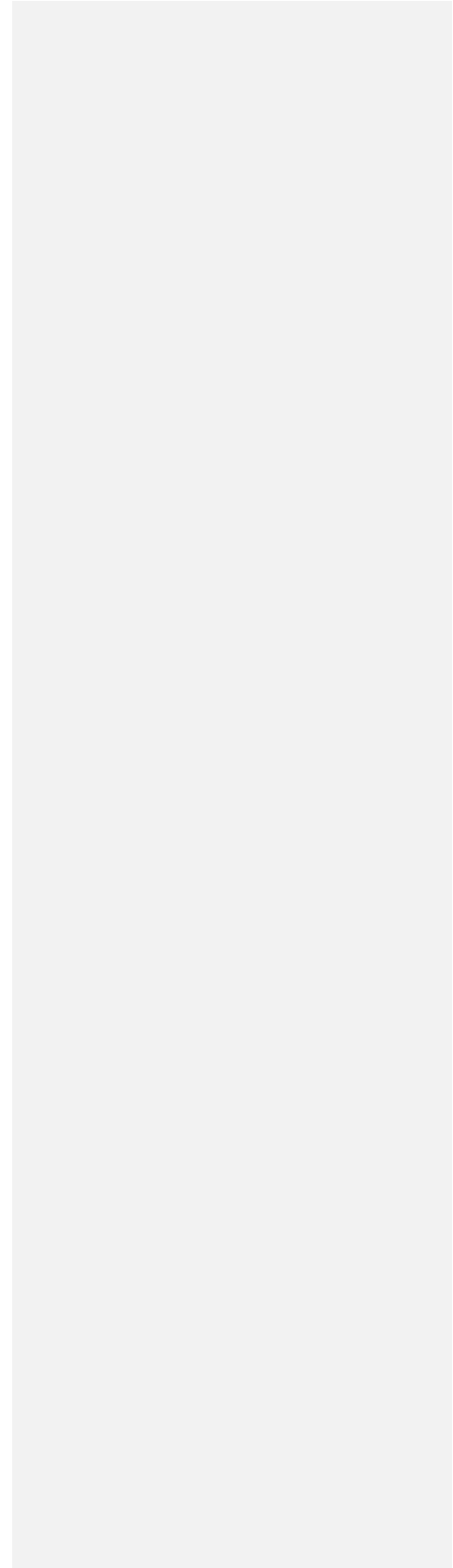
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## **CHAPTER 3 – MISDEMEANORS**

### **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 peace officer acting under color of his or her official authority. (Neb. Rev. Stat. §28-906) (Class 1)

#### **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 police 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) (Class 2)

#### **SECTION 3-103: IMPERSONATING OFFICER**

It shall be unlawful for any person to falsely pretend to be a peace officer and perform any act in that pretended capacity. (Neb. Rev. Stat. §28-610) (Class 1)

#### **SECTION 3-104: IMPERSONATING A PUBLIC SERVANT**

It shall be unlawful for any person to falsely pretend to be a public servant other than a peace officer and perform any act in that pretended capacity. It is no defense that the office the actor pretended to hold did not in fact exist. (Neb. Rev. Stat. §28-609) (Class 3)

#### **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 is attempted. (Neb. Rev. Stat. §28-904) (First Offense Class 1)

**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. §28-1202) (First Offense Class 1)

**SECTION 3-107: DISCHARGE OF FIREARMS**

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, pistol, or other fowling piece 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) (Class 5)

**SECTION 3-108: DISCHARGE OF SLINGSHOTS, PAINTBALL GUNS, BLOW GUNS, AIR RIFLES OR SIMILAR INSTRUMENTS**

It shall be unlawful for any person to discharge a slingshot, paint ball gun, blow gun, air rifle or other like instruments capable of launching a dangerous projectile therefrom at any time or under any circumstances within the Village. (Neb. Rev. Stat. §17-207) (Class 5)

**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) (First Offense Class 1)

**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) (Class 1, 2 or 3)

**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) (Class 2)

**SECTION 3-112: 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 3-113: 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 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) (Class 2 or 3)

**SECTION 3-114: 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) (Class 1, 2, or 3)

**SECTION 3-115: 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) (Class 1 or 2)

**SECTION 3-116: 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) (Class 5)

**SECTION 3-117: 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 3-118: 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) (Class 3)

**SECTION 3-119: 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 3-120: MISREPRESENTATION BY MINOR**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, 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 3-121: MINOR IN POSSESSION**

It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-102, to transport, knowingly possess or have under his or her control in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway or property owned by the State or any subdivision thereof or any other place within the village limits. (Neb. Rev. Stat. §53-180.02, 53-180.05)

**SECTION 3-122: LITTERING**

A. Any person who deposits, throws, discards, or otherwise disposes of any litter 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 water craft 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) (Class 3)

**SECTION 3-123: APPLIANCES IN YARD**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children, whether on private or public property, unless he or she shall first remove all doors and make the same reasonably safe. (Neb. Rev. Stat. §18-1720) (Class 3)

**SECTION 3-124: 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 3-125: DISEASED OR DYING TREES**

A. It is hereby declared a nuisance for a property owner to permit, allow or maintain any dead or diseased trees within the right of way of streets within the corporate limits of the Village.

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

C. Notice to abate and remove such nuisance 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 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.

D. 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) (Class 3)

**Comment [MJF1]: *Moved***

**INTERFERING WITH A FIREMAN** (Chapter 8)  
**FIRE EQUIPMENT** (Chapter 8)  
**DRINKING IN PUBLIC** (Chapter 5)  
**PROCURING FOR MINOR** (Chapter 5)  
**OBSTRUCTION OF PUBLIC WAYS** (Chapter 6)  
**SHOOTING HIGHWAY SIGNS, MARKERS OR NOTICES** (Chapter 4)  
**REMOVAL AND POSSESSION OF HIGHWAY SIGNS, MARKERS OR NOTICES** (Chapter 4)

Removed

**COLLECTION OF TAXES, REAL ESTATE, BONDED INDEBTEDNESS, DESTRUCTION OR REMOVAL OF BUILDINGS**(Repealed)

## Article 2 – Dogs

### SECTION 3-201: DEFINITIONS

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

“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 person, firm, corporation, organization, political subdivision or department possessing, harboring, keeping or having control or custody of a dog; and specifically in reference to a collarless dog, every person who shall harbor such a dog about his or her premises for the space of ten days shall be held to be the owner. (Neb. Rev. Stat. §54-606, 71-4401)

### SECTION 3-202: 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 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 less 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 less than 30 days; such dogs shall be kept under the strict supervision of the owner. (Neb. Rev. Stat. §71-4402)

### SECTION 3-203: RABIES CERTIFICATE; LICENSING; FEE

A. Any person who shall own, keep, or harbor a dog over the age of six 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. If the dog has been spayed or neutered, a statement signed by a veterinarian verifying the spaying or neutering must be presented.

B. Upon payment of the license fee as set by the Village Board for each male dog and spayed female dog and for each unspayed female dog, the village clerk shall issue to the dog owner a license certificate and a metallic tag for each animal so li-

censed. The Village shall, in addition to the license tax imposed, collect from the licensee a fee of \$1.00. 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.

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 of any year 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 licensing period. 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)

#### **SECTION 3-204: 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. (Neb. Rev. Stat. §17-526, 54-603)

#### **SECTION 3-205: 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 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 male or spayed female dog. (Neb. Rev. Stat. §17-526)

#### **SECTION 3-206: REMOVAL OF TAG**

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

**SECTION 3-207: COLLAR AND NAME TAG REQUIRED**

It shall be the duty of every owner of any dog to securely place upon the neck of such dog a good and sufficient collar with a metallic plate attached thereon. The plate shall be plainly inscribed with the name of such owner. (Neb. Rev. Stat. §54-605)

**SECTION 3-208: 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 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 3-209: 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 3-210: BARKING AND OFFENSIVE DOGS**

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: FEMALE IN SEASON**

It is hereby declared unlawful for the owner, keeper, or harborer 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 3-212: 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 3-213: 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 3-214: 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 3-215: DANGEROUS DOGS; DEFINITIONS**

“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 of 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 and the owner has received notice of such determination; and 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 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 police officer engaged in law enforcement duties.

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

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

(Neb. Rev. Stat. §54-617)

**SECTION 3-216: 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. 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)

**SECTION 3-217: DANGEROUS DOGS; RESTRAINED**

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

**SECTION 3-218: DANGEROUS DOGS; FAILURE TO COMPLY**

Any dangerous dog may be immediately confiscated by an animal control 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 an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this

article. In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. Rev. Stat. §54-620)

**SECTION 3-219: 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 3-220: 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)

**SECTION 3-221: IMPOUNDMENT**

A. It shall be the duty of the village police to capture, secure and remove in a humane manner to the village animal shelter any dog violating any of the provisions of this article. 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 72 hours after public notice has been given unless reclaimed earlier by the owner.

B. 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. Any dog may be reclaimed by its owner during the period of impoundment by payment of a general impoundment fee and daily board fee as set by resolution of the Village Board and filed 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. Any dog may be reclaimed by its owner during the period of impoundment by payment a general impoundment fee as determined by the animal shelter.

C. If the dog is not claimed at the end of the required waiting period after public notice has been given, the village police 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 the village police, 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 3-222: LEGAL DESTRUCTION**

Any person who owns or in any way sustains a dog that he or she wishes to be destroyed may place the same in the animal shelter to be destroyed and disposed of according to the provisions herein. (Neb. Rev. Stat. §17-526)

**SECTION 3-223: 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)

Comment [MJF2]: Joe says leave in if town has but don't add if they don't have it



### **Article 3 – Animals Generally**

#### **SECTION 3-301: LIVESTOCK PROHIBITED**

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, including pot-bellied pigs. (Neb. Rev. Stat. §17-547)

#### **SECTION 3-302: RUNNING AT LARGE**

It shall be unlawful for the owner, keeper, or harbinger of any animal or any person having the charge, custody, or control thereof to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property or upon the property of another 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. (Neb. Rev. Stat. §17-547)

#### **SECTION 3-303: 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 3-304: SNAKES AND FOWLS; DEFINED; PROHIBITED**

A. The following definitions shall apply in this article:

1. "Snake" shall be defined as any poisonous snake or boa constrictor.
2. "Fowl" is hereby defined as any chicken, turkey, guinea hen, duck, swan, ostrich, emu, goose or any similar bird. Canaries, parrots and other birds normally kept in the house are specifically excluded from this definition.

B. It is unlawful for any person, firm or corporation to keep, maintain or confine snakes or fowls, as defined herein, within the corporate limits of the Village, and maintenance or confinement of such snakes or fowls is hereby determined to be a nuisance. (Neb. Rev. Stat. §17-547)

#### **SECTION 3-305: WILD ANIMALS AND BIRDS**

No person shall keep or permit to be kept on his or her property any wild animals or wild birds without first having obtained a permit therefor as required by the Nebraska statutes as the same may from time to time be amended.

Village of McCool Junction

Misdemeanors

**SECTION 3-306: 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 4 – Nuisances

### SECTION 3-401: WEEDS, GRASSES AND LITTER; DEFINITIONS

A. The terms "weeds, grasses or worthless vegetation" shall mean any weed or grass growth of more than 12 inches in height, or 8 inches as described in Section 3-502. Weeds shall include, but not be limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant and ragweed.

B. The term "litter" shall include, but not be limited to:

1. Trash, rubbish, refuse, garbage, paper, rags and ashes;
2. Wood, plaster, cement, brick or stone building rubble;
3. Offal and dead animals or any foul, decaying, or rotting substance, including stagnant water.
4. 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;
5. Any motor vehicle without a current license and not housed in a storage or other building;
6. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.
7. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.

### SECTION 3-402: WEEDS OR GRASSES; PUBLIC NUISANCE

It is hereby declared to be a public nuisance to permit grasses or weeds to grow in excess of 12 inches on any property within the corporate limits of the Village or maintain any growth of 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground during any calendar year if, within the same calendar year, the Village has previously acted to remove weeds, grasses, or worthless vegetation exceeding 12 inches in height on the same lot or piece of ground and had to seek recovery of the costs and expenses of such work from the owner.

**SECTION 3-403: LITTER; PUBLIC NUISANCE**

It is hereby declared to be a public nuisance to permit the accumulation of litter on any property within the corporate limits.

**SECTION 3-404: WEEDS, GRASSES AND LITTER; NOTICE OF NONCOMPLIANCE**

A. Whenever the Village Board determines that any grasses or weeds in excess of 12 inches, or 8 inches as described in Section 3-502, are growing on property within the Village or litter is found on any property, the village clerk shall cause written notice to be served upon the owner of the property on which grass, weeds or litter is located and further, upon the occupant thereof, by registered mail or by personal service. Such notice shall describe the nature of the nuisance and state the action that must be taken to remove or remedy the problem. Such notice shall state that such nuisance must be abated or removed within ten business days of receipt of notice.

B. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Village or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated or removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the Village or fails to comply with the order to abate and remove the nuisance, the Village may have such work done and assess the cost of such work against the property involved or recover such costs in a civil action.  
(Neb. Rev. Stat. §17-563(4))

**SECTION 3-405: WEEDS, GRASSES AND LITTER; FAILURE TO CORRECT; FINE**

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

**SECTION 3-406: WEEDS, GRASSES AND LITTER; COST ASSESSED TO PROPERTY**

In addition to filing a complaint for violation of this article, the Village may cause the work to be done to abate the nuisance and assess the cost of the same against the property. In this event, however, the Village shall comply with the notice and hearing requirements set forth in Sections 3-412, 3-413 and 3-414 set forth hereafter.

**SECTION 3-407: DANGEROUS BUILDINGS; DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

J. Those having been inspected by a specially appointed building inspector or a professional engineer appointed by the Village which are, after inspection, deemed to be structurally unsafe or unsound as found by the inspection of such building inspector or professional engineer;

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 the ordinances of the Village.

**SECTION 3-408: DANGEROUS BUILDINGS; STANDARDS**

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 3-409: DANGEROUS BUILDINGS; PUBLIC NUISANCE**

All unsafe or dangerous buildings or structures within the terms of this article are hereby declared to be nuisances and shall be repaired, vacated, or demolished as provided above.

**SECTION 3-410: DANGEROUS BUILDINGS; BUILDING INSPECTOR**

The Village Board may appoint a special building inspector or professional engineer who shall, at the direction of the 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 3-411: DANGEROUS BUILDINGS; NUISANCE; PROCEDURE**



If the special building inspector or professional engineer designated by the Village Board finds that a building or structure is unsafe or dangerous and a nuisance, the 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 and shall be delivered to the persons as heretofore described by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the Village or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated or removed. In any case, notice shall be posted upon such premises as a procedural step herein, as described in subsection (C) below.

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 the special building inspector 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 3-412: DANGEROUS BUILDINGS; DISPUTES**

A. In the event that the owner, occupant, lessee, mortgagee, agent or other person having an interest in the building or structure determined dangerous, 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. If written notice is received by the village clerk within 14 days, a hearing shall be held before the Village Board at its next regularly scheduled monthly meeting. The clerk shall notify the person requesting the hearing, in writing, of the time, place, and date of the regular monthly meeting and shall place the name of the person on the agenda of such meeting.

B. The hearing before the Village Board shall be informal and not governed by the Nebraska Rules of Evidence. Such hearing shall be quasi-judicial in nature and its decision shall be based on the evidence presented at the hearing. The person requesting the hearing may be represented by legal counsel or other representative, may present witnesses and offer evidence, and may examine and copy, at his or her own expense, and not less than three business days before the hearing, the records

of the Village regarding the inspection and notice. The Village Board need not make a written finding of fact and may make its pronouncement orally at the hearing. The decision of the Village 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 3-413: DANGEROUS BUILDINGS; 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 3-414: DANGEROUS BUILDINGS; 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, or shall fail to comply with the notice to abate grasses, weeds or litter, 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. In addition the Village may bring a civil action against the offending party to recover the cost of the work.

**SECTION 3-415: DANGEROUS BUILDINGS; 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, a specially appointed building inspector or a professional engineer designated by the Village Board shall report such facts to the board, which shall follow the procedures set forth in state statutes. The Village, by and through the Village 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.

**SECTION 3-416: AIR POLLUTION**

It shall be unlawful for any person, firm, or corporation to permit the emission of smoke from any source that is injurious or offensive to the residents of the Village in the judgment of the Board of Health. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose, or safety, or causes severe annoyance or discom-

fort or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind. The standards for air pollution established or adopted by the State of Nebraska, shall be presumptive evidence as to when the air is deemed to be polluted under this section. It is hereby unlawful for any such person, firm, or corporation to permit or cause the escape of the aforesaid nuisances and the escape of the said dust, fumes, gases, mists, odors, and smoke is hereby declared to be a nuisance and shall be summarily abated upon written notice by the Board of Health to the violator. Such abatement may be in addition to the penalty for air pollution in the Village. (Neb. Rev. Stat. §18-1720, 28-1321)

**SECTION 3-417: WATER POLLUTION**

It shall be unlawful for any person, firm, or corporation to obstruct or impede without legal authority any river or collection of water, or to corrupt and render unwholesome or impure any watercourse, stream, or other water. The standards for water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this Section. Such a corruption of the water in or about the Village shall constitute a nuisance and shall be summarily abated upon written notice to the violator by the Board of Health. The said abatement may be in addition to the penalty for water pollution. (Neb. Rev. Stat. §18-1720, 28-1321)

**SECTION 3-418: NOXIOUS USE OF BUILDING OR PREMISES**

It shall be unlawful for any person to use 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. Such a noxious or offensive use is hereby declared to constitute a public nuisance. (Neb. Rev. Stat. §18-1720, 28-1321)

**SECTION 3-419: RODENTS AND INSECTS; EXTERMINATION**

It shall be the duty of the owner, lessee, or occupant of any dwelling or building to be responsible for the active and continued extermination of any insects, rodents, or other pests therein or on the premises. In the event that the owner, lessee, or occupant of any said dwelling or building neglects, fails, or otherwise refuses to control and actively exterminate the insects, rodents, and other pests in and about his premises, the Board of Health shall issue notice for him to do so. If the said owner, lessee, or occupant has not made a good faith effort to exterminate the said pests within five days, the premises shall be deemed to be a nuisance and a health hazard. (Neb. Rev. Stat. §18-1720, 28-1321)

**SECTION 3-420: RODENTS AND INSECTS; OCCUPANT**

It shall be the responsibility of the occupant in a single dwelling unit, whether or not the dwelling unit is located in a multiple unit structure, to exterminate the rodents and insects infesting the premises when it is found by the Board of Health that only the occupant's dwelling is so infested. (Neb. Rev. Stat. §18-1720, 28-1321)

**SECTION 3-421: RODENTS AND INSECTS; OWNER**

The owner of a multiple dwelling unit shall have the duty to exterminate therein for rodents and insects when infestation exists in two or more units, when infestation exists in shared or public areas of a multiple unit structure when the infestation is due to failure by the owner to maintain the dwelling in an insect and rodent proof condition. The owner of a single dwelling unit shall have the duty to exterminate therein notwithstanding the occupancy of a renter or lessee when the infestation of insects or rodents is due to the said owner's failure to construct or maintain the premises in such a manner as to make it reasonably resistant to the entrance and habitability of such pests. (Neb. Rev. Stat. §18-1720, 28-1321)

**SECTION 3-422: JURISDICTION**

The chairman and village marshal are directed to enforce this village code against all nuisances. The jurisdiction of the chairman, village marshal, 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 3-423: ADJOINING LAND OWNERS; INTERVENTION BEFORE TRIAL**

In cases of appeal from an action of the Village Board condemning real property as a nuisance or as dangerous under the police powers of the Village, the owners of the adjoining property may intervene in the action at any time before trial. (Neb. Rev. Stat. §19-710)

## Article 5 – Sexual Predators

### SECTION 3-501: 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 Nebr. 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 3-502: 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 3-503: 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 6 – Penal Provisions**

### **SECTION 3-601: VIOLATION; PENALTY**

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

### **SECTION 3-602: ABATEMENT OF NUISANCE**

Whenever a nuisance exists as defined in this chapter, the Village may proceed by a suit in equity to enjoin and abate the same in the manner provided by law. Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (Neb. Rev. Stat. §18-1720, 18-1722)