

ORDINANCE NO. 905

AN ORDINANCE OF THE VILLAGE OF MANLEY, CASS COUNTY, NEBRASKA, ESTABLISHING RULES AND REGULATIONS TO GOVERN HEALTH AND SANITATION IN THE VILLAGE OF MANLEY; DEFINING A NUISANCE AND DESCRIBING AN ABATEMENT PROCEDURE TO ELIMINATE NUISANCES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF MANLEY, CASS COUNTY, NEBRASKA:

SECTION 1. NUISANCES; GENERALLY DEFINED. A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose, health, or safety of others.
2. Offends decency.
3. Is offensive to the senses.
4. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the Municipality.
5. In any way renders other persons insecure in life or the use of property, or
6. Essentially interferes with the comfortable enjoyment of life and property, or to depreciate the value of the property of others.
(Ref. 18-1720 RS Neb.)

SECTION 2. NUISANCES; SPECIFICALLY DEFINED. The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

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

4. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the Municipality.
5. Liquid house hold waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; Provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer.
6. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.
7. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.
8. Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.
9. All places used or maintained as junk yards, or dumping grounds or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.
10. Stagnant water permitted or maintained on any lot or piece of ground.
11. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the Municipality, or are maintained and kept in such a manner as to be injurious to the public health.

12. Dogs that by loud, continued, or frequent barking, howling, or yelping, 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 municipality. Cats that annoy or disturb any neighborhood or person.
13. Dead or diseased trees or tall weeds, shrubs, bushes, or vegetation, within the right of way of streets, within the corporate limits of the municipality.
14. Registered or unregistered non-operating, junked, wrecked, or partially disabled vehicles on any property within the Village.
15. Any loud and unnecessary noise, threatening behavior, or indecent and shocking behavior that disturbs the public peace, quiet, security, repose, or sense of morality.
16. To permit the emission of smoke from any source that is injurious or offensive to the residents of the Municipality. Air shall be considered to be polluted when the discharge into the open air of dust, fumes, gases, mist, odors, smoke, or any combination thereof is of such character and in a quantity which to any group of persons interferes with their health, repose, or safety, or causes severe annoyance or discomfort, or is offensive and objectionable to normal persons and causes injury to real and personal property of any kind.
17. To obstruct or impede without legal authority any stream or collection of water or to corrupt and render unwholesome or impure any water course, stream or other water.
18. All other things specifically designated as nuisances elsewhere in the Village Ordinances.
(Ref. 18-1720 RS Neb.)

SECTION 3. NUISANCES: ABATEMENT PROCEDURE. It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the Municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, the Governing Body shall thereupon cause notice to be served upon the owner, occupant, lessee, mortgagee or agent thereof, by publication and by certified mail. Such notice shall describe the condition as found by the Board of Health and state that said condition has been declared a public nuisance, and that the condition must be remedied at once. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Board of Health within five (5) days after receipt of certified mail or within five (5) days after date of publication whichever is later, the Board of Health shall notify the Governing Body of such noncompliance and the Governing Body shall, upon receipt of such notice, cause a hearing date to be fixed and

notice thereof to be served upon the owner, occupant, lessee, or mortgagee, or agent of the real estate. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the Governing Body to show cause why such condition should not be found to be a public nuisance and remedied. A return of service shall be required by the Governing Body. Such notice shall be given not less than five (5) days prior to the time of hearing, provided that whenever the owner, lessee, occupant, or mortgagee of such real estate is a non-resident or cannot be found in the State, then the Municipal Clerk shall publish, in a newspaper of general circulation in the Municipality, such notice of hearing for two (2) consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing. Upon the date fixed for the hearing and pursuant to notice, the Governing Body shall hear all objections made by interested parties and shall hear evidence submitted by the Board of Health. If after consideration of all of the evidence, the Governing Body shall find that the said condition is a public nuisance, it shall, by resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once; Provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Governing Body, the Governing Body shall proceed to cause the abatement of the described public nuisance. Upon completion of the work by the Municipality, a statement of the cost of such work shall be transmitted to the Governing Body, which is authorized to bill the property owner or occupant, or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. (Ref. 17-123.01, 18-1720 RS Neb.)

SECTION 4. NUISANCES; JURISDICTION. The Village Board Chairman and any designated Chief of Police of the Village or any designated police officer of the Village is directed to enforce this Ordinance against all nuisances. The jurisdiction of the Village Board Chairman, any designated Chief of Police, or police officer and Court shall extent to, and the territorial application of this Ordinance shall include, all territory adjacent to the limits of the Village, within two miles thereof, and all territory within the corporate limits. (Ref. 18-1720 RS Neb.)

SECTION 5. VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Ordinance, 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 \$100.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

SECTION 6. ABATEMENT OF NUISANCE; STATE COURT. Whenever a nuisance exists as defined in this Ordinance, the Municipality 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 fine or penalty exposed, enter an Order of Abatement as a part of the Judgment in this case. (Ref.18-1720, 18-1722, RS Neb.)

SECTION 7. That any other Ordinance passed and approved prior to this passage, approval, and publication or posting of this Ordinance and in conflict with its provisions, is hereby repealed.

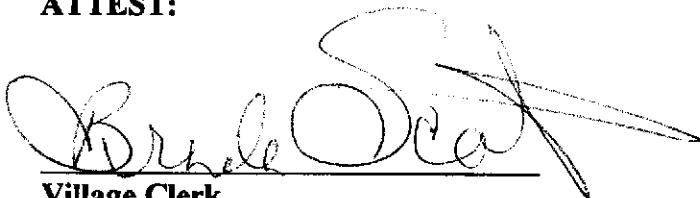
SECTION 8. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 6 day of May, 1997.



Chairman

ATTEST:



Village Clerk