

RESOLUTION NO. 2024-1

A RESOLUTION TO ADOPT THE 2024 LOCAL LEGISLATION SUPPLEMENT

BE IT RESOLVED BY THE CHAIRPERSON AND THE BOARD OF TRUSTEES OF THE VILLAGE OF CLEARWATER, NEBRASKA, AS FOLLOWS:

Section 1. Pursuant to Section 5 of Ordinance No. 2022-3, the Village Board of Trustees hereby adopts Exhibit A attached hereto as the Cumulative Supplement to the Municipal Code. Sections modified or added since the adoption of the 2023 Cumulative Supplement are: Sections 11-120 and 11-320.

Section 2. That all resolutions or parts of resolutions in conflict be and are hereby repealed.

PASSED AND APPROVED this 15 day of January, 2024.



Chairperson Kelly Kerkman

ATTEST:



Village Clerk Angie Hupp

2024 Cumulative Supplement

to the Revised Municipal Code of the Village of Clearwater, Nebraska

Adopted pursuant to Resolution No. 2024-1

Chapter 11 – Local Legislation

Article 1 – Civil Administration

Section 11-120: Meetings; Place, Day, Time, Quorum

Section 11-130: Slip Ordinances and Cumulative Supplements

Article 2 – Commissions and Boards

Article 3 – Misdemeanors

Section 11-320: Dogs; Failure to License; Fee

Section 11-340: Nuisances Specifically Defined

Section 11-370: Purpose

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Section 11-372: Vacant Building Registration

Section 11-373: Vacant Building Fees

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Article 4 – Vehicles and Traffic

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Section 11-522: Approval or Denial of Permit

Section 11-523: Permits Nontransferable

Section 11-524: Permit Fee

Section 11-525: Wavier of Liability

Section 11-526: Strict Conformity with Permit

Section 11-527: Penalty

Section 11-528: Revocation or Suspension of Permit

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Article 6 – Public Ways and Property

Article 7 – Public Utilities

Article 8 – Fire Regulations

Article 9 – Building Regulations

Article 10 – Cross-Reference Table

Article 1 – Village Administration

SECTION 11-120: MEETINGS; PLACE, DAY, TIME; QUORUM

- A. The regular meetings of the Village Board shall be held on the second Monday of each month at 7 p.m. at the fire hall meeting room.
- B. At all meetings of the Village Board, a majority of members shall constitute a quorum to do business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the board may have previously prescribed by ordinance.
- C. Any change in time or date of the regular meeting of the Village Board shall be published in the Summerland Advocate-Messenger and posted in three public places: Cornerstone Bank, Clearwater US Post Office, and Clearwater Market. (Neb. Rev. Stat. §§ 17-204 and 17-205; Ord. No. 2023-11 § 1).

SECTION 11-130: SLIP ORDINANCES AND CUMULATIVE SUPPLEMENTS

An ordinance enacted to add, amend, modify, or repeal a section of the Municipal Code shall be held by Village Clerk as a Slip Ordinance until the end of the calendar year. At the first regular meeting of the Board of Trustees of the calendar year, the Board of Trustees shall authorize via resolution the publication of a Cumulative Supplement to the Municipal Code, which shall incorporate all Slip Ordinances and prior revisions to the Municipal Code and shall revise the Cross-Reference Table of Chapter 11 to identify all sections of the original code that are amended, modified, or repealed by Chapter 11. The most recent Cumulative Supplement shall constitute Chapter 11 of the Municipal Code. (Ord. No. 2022-3 § 5).

Article 2 – Commissions and Boards

(Reserved)

Article 3 – Misdemeanors

11-320: DOGS; FAILURE TO LICENSE; FEE

For any person failing to license a dog in contravention of Section 3-203 of the Municipal Code, a late fee of \$50 per dog per year of failed licensure shall be imposed. Failure to pay said late fee within 30 days of notice of its imposition shall be punished in accordance with Section 3-601. (Ord. No. 2023-4 § 1).

11-340: 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:

- A. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish or fowl.
- B. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
- C. Filthy, littered or trash-covered cellars, house yards, barnyards, stable yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings or premises.
- D. Animal manure in any quantity which is not securely protected from flies and the elements, or which, is kept or handled in violation of any ordinance of the village.
- E. Liquid household waste, human excreta, garbage, butcher’s trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided nothing herein contained shall prevent the temporary

retention of waste in receptacles in a manner provided by the health officer of the village nor the dumping of nonputrefying waste in a place and manner approved by the health officer.

- F. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.
- G. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.
- H. Any buildings or structures which have any or all of the following defects are hereby declared to be unsafe or dangerous buildings or structures and a public nuisance:
 - 1. 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;
 - 2. Those showing 33% or more of damage or deterioration of the supporting member or members, exclusive of the foundation;
 - 3. 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;
 - 4. 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;
 - 5. 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 injure to the health, morals, safety or general welfare of those living therein;
 - 6. 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;
 - 7. 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;
 - 8. Those having parts thereof which are so attached that they may fall and injure persons or property;
 - 9. Those that are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the village because of their condition;
 - 10. Those having been inspected by the County Health Department or a professional engineer appointed by the village which ae, after inspection, deem to be in violation of any provision of the Health Department rules and regulations or which are structurally unsafe or unsound as found by the inspection of the professional engineer;
 - 11. Those existing in violation of any provision of this article, any provision of the Fire Prevention Code, any provision of the county health rules and regulations or other applicable provisions of village ordinances, including but not limited to the building code adopted by the village.
- I. All places used or maintained as junkyards or dumping grounds, or for the wrecking and dissembling 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.

- J. Stagnant water permitted or maintained on any lot or piece of ground.
- K. Any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk;
- L. Any motor vehicle without a current license and not housed in a storage or other building;
- M. Any wood or tree limbs not cut and stacked in neat rows on an area not exceeding 10 feet by 16 feet.
- N. Debris from burned or damaged buildings, whether created by consensual burning or demolition or whether occurring due to fire or age.
- O. Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure in which animals or fowl of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter, including grain, is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the village, or are maintained and kept in such a manner as to be injurious to the public health.
- P. Maintenance of weeds, grasses or worthless vegetation of 12 inches or more in height, or 8 inches or more in height of weeds, grasses or worthless vegetation on any lot or piece of ground located within the corporate limits during any calendar year if, with 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. Weeds shall include, but not be limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).
- Q. Mobile storage containers on real estate located in areas zoned as residential.
- R. All other things specifically designated as nuisances elsewhere in this code. (Neb. Rev. Stat. § 18-1720; Ord. No. 2022-4 § 2).

SECTION 11-370: PURPOSE

Recognizing that vacant buildings and properties contribute to blight in commercial neighborhoods, discourage economic development and retard appreciation of property values, endanger public health and safety, attract criminal activity, and create fire hazards, it is the responsibility of property owners to prevent buildings from becoming a burden to the neighborhood and community and a threat to the public health, safety, and welfare. Maintenance of the public health, safety and welfare thus requires the Village to maintain an accurate registration of all vacant buildings and properties. (Ord. No. 2022-7 § 1).

SECTION 11-371: DEFINITIONS

For purposes of Sections 11-370 to 11-377:

- A. Evidence of vacancy means any condition or circumstance that on its own or in combination with other conditions or circumstances would lead a reasonable person to believe that a residential building or commercial building is vacant. Such conditions or circumstances may include, but are not limited to:
 - 1. Overgrown or dead vegetation, including grass, shrubbery, and other plantings;
 - 2. An accumulation of abandoned personal property, trash, or other waste;

3. Visible deterioration or lack of maintenance of any building or structure on the property;
 4. Graffiti or other defacement of any building or structure on the property; or
 5. Any other condition or circumstance reasonably indicating that the property is not lawfully occupied for residential purposes or being used for the operation of a lawful business.
- B. Owner means the person or persons shown to be the owner or owners of record on the records of the register of deeds;
- C. Vacant means that a building exhibits evidence of vacancy.
- D. Village means the Village of Clearwater. (Ord. No. 2022-7 § 2).

SECTION 11-372: VACANT BUILDING REGISTRATION

- A. The Village shall create a vacant property registration database, and the Village Clerk is designated as program administrator. The program administrator may utilize additional Village employees as may be necessary to administer the program.
- B. The owner of a vacant building shall register the building with the Village Clerk if the property has been vacant for one hundred eighty (180) days or longer. A vacant property registration form shall be in either paper or electronic form, and the following information shall be required:
1. The name, street address, mailing address, telephone number, and, if applicable, the facsimile number and email address of the property owner and his or her agent;
 2. The street address and parcel identification number of the vacant property;
 3. The transfer date of the instrument conveying the property to the owner;
 4. The date on which the property became vacant; and
 5. A plan for occupancy of the property.
- C. The owner shall notify the city of any changes in information supplied as part of the vacant building registration within thirty (30) days of the change. Removal of the property from the vacant property registration database shall occur when the property is no longer vacant. (Ord. No. 2022-7 § 3).

SECTION 11-373: VACANT BUILDING FEES

- A. The vacant property registration fee shall be one thousand dollars (\$1,000.00) due and payable one hundred eighty (180) days after initial registration of the vacant property pursuant to this section or three hundred sixty (360) days after the property becomes vacant, whichever is sooner.
- B. Supplemental registration fees at intervals every six (6) months thereafter shall be due for as long as the property remains on the vacant property registration database. The supplemental registration fees shall be not more than double the previous fee amount, with a maximum supplemental registration fee of ten (10) times the initial registration fee amount. Subject to these limitations, the supplemental registration fees may be adopted by resolution of the Board of Trustees.
- C. A subsequent owner or owners of property subject to Sections 11-370 to 11-377 will assume the obligations of the previous owner or owners.
- D. Registration fees are refundable to the payor for the year preceding the date on which the property is no longer vacant. (Ord. No. 2022-7 § 4).

SECTION 11-374: EXEMPTIONS

The following vacant properties shall be exempt from registration and fee requirements:

- A. A vacant property that is advertised in good faith for sale or lease shall be exempt from registration and fee requirements. Any building advertised for sale at a price not exceeding one hundred twenty-five (125) percent of the assessed valuation as documented by the Antelope County Assessor's Office shall be deemed to be advertised in good faith for sale. Any building advertised for lease at an amount of rent comparable to other comparable buildings shall be deemed to be advertised in good faith for lease. The burden of proving this exemption shall be on the owner and the standard of proof shall be by clear and convincing evidence.
- B. A vacant property under construction or renovation pursuant to a validly issued building permit or plan of renovation submitted to and approved by the program administrator;
- C. A vacant property which is subject to ongoing divorce, probate, or estate proceedings; and
- D. A vacant property which is owned by the federal government, the State of Nebraska, or any political subdivision thereof. (Ord. No. 2022-7 § 5).

SECTION 11-375: INSPECTIONS

The Village Clerk or his or her designee may inspect the interior and exterior of the vacant property upon registration and at one-year intervals thereafter for so long as the property remains on the vacant property registration database. A report will be provided to the Owner noting code deficiencies, if any. The Owner will be required to make necessary repairs based upon a reasonable timetable to allow the property to become occupied. Follow-up inspections will be made by the Village Clerk or his or her designee to ensure that repairs have been timely completed. (Ord. No. 2022-7 § 6).

SECTION 11-376: PENALTIES

Any person violating any provision of Sections 11-370 to 11-377 or providing false information to the Village shall be fined for failure to comply in an amount of five hundred dollars (\$500.00), with each day of violation being a separate offense. The Village may enforce the collection of vacant property registration fees and/or fines by civil action in any court of competent jurisdiction. Unpaid vacant property registration fees and unpaid fines for any violation of Sections 11-370 to 11-377 shall become a lien on the applicable property upon the recording of a notice of such lien in the Antelope County Register of Deeds Office. The lien created under this section shall be subordinate to all liens on the applicable property recorded prior to the time the notice of such lien under this section is recorded. (Ord. No. 2022-7 § 7).

SECTION 11-377: DUE PROCESS

Owners shall have the right to prior notice and to appeal adverse decisions of the Village or the program administrator. Such notice shall be sent by certified mail to the registered Owner at the address maintained in the Antelope County Register of Deeds Office, the Antelope County Treasurer's Office, or the Antelope County Assessor's Office at least ten (10) days prior to such adverse decision. (Ord. No. 2022-7 § 8).

Article 4 – Vehicles and Traffic

(Reserved)

Article 5 – Business Regulations

11-520: MOBILE FOOD VENDING/FOOD TRUCKS UNLAWFUL

It shall be unlawful for any person to sell or offer for sale or peddle food from a mobile food truck or mobile food vending unit upon any property within the municipal limits of the Village of Clearwater, including, but not limited to, streets, sidewalks, parking lots, parks, and private property without first having obtained a permit from the Village in accordance with Sections 11-520 to 11-529. (Ord. No. 2022-12 § 1).

11-521: MOBILE FOOD VENDING/FOOD TRUCK PERMIT

Persons may apply for a permit to operate a mobile food truck or a mobile food vending unit by filing with the Village Clerk a signed application on a form to be furnished by the Village Clerk, which shall contain the following information:

- A. The applicant's business name, address, phone number, and email address;
- B. If the applicant is a corporation, partnership, or other entity, the names of all officers and managers of such entity;
- C. The vehicle license plate numbers and descriptions of all vehicles from which the applicant proposes to sell food;
- D. The description of the general type of food items to be sold;
- E. The requested term of the permit (e.g., a single event or a recurring license to operate);
- F. Documentation from the State of Nebraska showing any and all licenses and permits required for applicant's sale of food;
- G. A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption for the applicant;
- H. The address of the location the applicant anticipates selling from, including written permission from any private landowner, as well as adjoining private landowners;
- I. A copy of the vehicle registration and proof of insurance;
- J. Proof of insurance with a minimum coverage of \$1,000,000.00, together with an insurance certificate listing the Village of Clearwater as an additional insured;
- K. A signed waiver of liability set forth in Section 11-525;
- L. A nonrefundable application fee
- M. A plan for disposal of grease, water, and other waste; and
- N. Such other information as the Village Clerk may require and as requested in the application form. (Ord. No. 2022-12 § 2).

SECTION 11-522: APPROVAL OR DENIAL OF PERMIT

Upon receipt of a complete application submitted in accordance with Section 11-521, the Chairperson of the Board of Trustees and the Village Clerk shall either approve or deny the permit. Grounds for denial may include, but are not limited to, the following:

- A. A finding that the application is incomplete;
- B. Nonpayment of applicable fees;
- C. A finding that the application is not in conformity with any applicable laws, including, but not limited to, Sections 11-520 to 11-529;
- D. A finding that the proposed location of the applicant will impede traffic or cause safety concerns;
- E. A finding that statements within the application are materially untrue or incorrect;
- F. Previous revocations or suspensions of permits issued under Sections 11-520 to 11-529 or similar ordinances of other municipalities;
- G. Insufficient or unacceptable plans for the disposal of grease, water, or other waste;
- H. The requested term of the permit is during the Clearwater Rodeo, or a day before or a day after said rodeo; or
- I. Issuance of the permit is not in the best interests of the Village.

The Chairperson and the Village Clerk also may modify any provision of the permit, including, but not limited to, reducing the term of the permit. (Ord. No. 2022-12 § 3).

SECTION 11-523: PERMITS NONTRANSFERABLE

Permits issued under Sections 11-520 to 11-529 are nontransferable and no such permit shall be used at any time by any person other than the one to whom it was issued. (Ord. No. 2022-12 § 4).

SECTION 11-524: PERMIT FEE

The fee for applications submitted under Sections 11-520 to 11-529 shall be \$10.00. (Ord. No. 2022-12 § 5).

SECTION 11-525: WAIVER OF LIABILITY

Before a permit under Sections 11-520 to 11-529 is granted, the applicant shall sign a waiver of liability holding harmless the Village of Clearwater and indemnifying the Village, its officials, and employees, for any claims for damages to property or injury to persons, which may occur in connection with mobile food vending. (Ord. No. 2022-12 § 6).

SECTION 11-526: STRICT CONFORMITY WITH PERMIT

Permitholders shall conduct their activities in strict conformity with this permit, including, but not limited to, adhering to their plan for disposal of grease, water, and other waste. (Ord. No. 2022-12 § 7).

SECTION 11-527: PENALTY

It shall be unlawful for any person to violate the provisions of Sections 11-520 to 11-529. Any person found guilty of violating any of the provisions of Sections 11-520 to 11-529 shall, upon conviction, be fined a sum of not less than \$250.00 nor more than \$500.00. Each day that a violation of any of the provisions of Sections 11-520 to 11-529 continues shall constitute a distinct offense and shall be punishable as such. (Ord. No. 2022-12 § 8).

SECTION 11-528: REVOCATION OR SUSPENSION OF PERMIT

A permit issued under Sections 11-520 to 11-529 may be revoked or suspended by the Village Clerk for any of the following reasons:

- A. Any fraud, misrepresentation, or false statement contained in the application for the permit;
- B. Any fraud, misrepresentation, or false statement made in connection with the selling of food;
- C. Operating in contravention of the parameters of the permit;
- D. Any unlawful activity of the permitholder, including any violation of Sections 11-520 to 11-529; or
- E. Operating in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public. (Ord. No. 2022-12 § 9).

SECTION 11-529: NOTICE OF REVOCATION OR SUSPENSION OF PERMIT

When the Village Clerk revokes or suspends a permit or a permit application is denied, the Village Clerk shall mail a notice of such revocation, suspension, or denial to the address of the permitholder or applicant, as set forth on the application form. Such permitholder or applicant may file an appeal with the Village Clerk. The request for an appeal shall be in writing to the Village Clerk. Such request for an appeal must be received within 30 days of the date the Village Clerk mailed notice of the revocation, suspension, or denial. If no timely request for an appeal is made, the initial decision shall be final. If a timely request for appeal is received, the appeal shall be heard by the Village Board of Trustees at a regularly scheduled meeting with notice mailed to the permitholder or applicant at least 14 days prior to the meeting. (Ord. No. 2022-12 § 10).

Article 6 – Public Ways and Property

(Reserved)

Article 7 – Public Utilities

(Reserved)

Article 8 – Fire Regulations

(Reserved)

Article 9 – Building Regulations

(Reserved)

Article 10 – Cross-Reference Table

Code Sections Modified	
Original Code Section	New Code Section
1-211	11-120
3-402	11-340

Code Sections Outright Repealed	
Code Section	