

VILLAGE OF CHAPIN
ORDINANCE NO. 2010-2

AN ORDINANCE PROVIDING FOR THE REGULATION OF ANIMALS, NUISANCES AND
BURNING

FOR THE

VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS

ADOPTED BY THE

PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS

THIS 12 DAY OF May, 2010

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INDEX FOR ANIMALS, NUISANCES, AND BURNING ORDINANCE
CHAPTER 1 – ANIMALS
ARTICLE 1 – GENERAL

<u>SECTION NO.</u>		<u>PAGE</u>
SECTION 1-1-1	- RUNNING AT LARGE	1
SECTION 1-1-2	- NUISANCE ANIMALS	1
SECTION 1-1-3	- PENALTY	2
SECTION 1-1-4	- ABATEMENT	2
ARTICLE II – DOMESTICATED ANIMALS		
SECTION 1-2-1	- DEFINITION	3
SECTION 1-2-2	- RUNNING OF ANIMALS AT LARGE PROHIBITED	3
SECTION 1-2-3	- IMPOUNDING	3
SECTION 1-2-4	- REDEMPTION	3
SECTION 1-2-5	- SENTRY OR GUARD DOGS	4
SECTION 1-2-6	- RABIES INOCULATION	4
SECTION 1-2-7	- INJURY TO PROPERTY	4
SECTION 1-2-8	- RESTRICTIONS ON THE NUMBER OF DOGS AND CATS	5
ARTICLE III – PROHIBITED ANIMALS		
SECTION 1-3-1	- DEFINITION	5
SECTION 1-3-2	- PROHIBITION OF DANGEROUS ANIMALS	5
SECTION 1-3-3	- PROHIBITION OF SPECIFIC ANIMALS	5
ARTICLE IV – VICIOUS AND DANGEROUS DOGS		
SECTION 1-4-1	- DEFINITIONS	5
SECTION 1-4-2	- ENCLOSURE OF VICIOUS DOGS	7
SECTION 1-4-3	- APPLICATION FOR VICIOUS DOG PERMIT	8
SECTION 1-4-4	- ISSUANCE OF PERMIT	9

SECTION 1-4-5	-	DISPATCHING OF VICIOUS DOGS	10
SECTION 1-4-6	-	PROHIBITION ON SELLING OR GIVING AWAY VICIOUS DOGS	11
SECTION 1-4-7	-	DANGEROUS DOGS AS NUISANCE	11
SECTION 1-4-8	-	EXEMPT DOGS	11
SECTION 1-4-9	-	FIGHTING PROHIBITED	11
SECTION 1-4-10	-	POTENTIALLY DANGEROUS DOG	11

ARTICLE V – KEEPING REGULATIONS

SECTION 1-5-1	-	ENCLOSURE REQUIRED	12
SECTION 1-5-2	-	LOCATION OF ENCLOSURES	12
SECTION 1-5-3	-	GRANDFATHER PROVISION	12

CHAPTER 2 – NUISANCES

ARTICLE 1 – GENERAL

SECTION 2-1-1	-	PURPOSE	12
SECTION 2-1-2	-	ADDITIONAL REQUIREMENTS	13
SECTION 2-1-3	-	CREATING OR MAINTAINING PROHIBITED	13
SECTION 2-1-4	-	NOTICE TO ABATE	13
SECTION 2-1-5	-	FAILURE TO COMPLY WITH NOTICE PROHIBITED	13
SECTION 2-1-6	-	ABATEMENT BY THE VILLAGE	13
SECTION 2-1-7	-	COMMON LAW STATUTORY NUISANCES	14
SECTION 2-1-8	-	NUISANCES DETRIMENTAL TO HEALTH GENERALLY	14
SECTION 2-1-9	-	UNHEALTHFUL BUSINESS	14
SECTION 2-1-10	-	SPECIFIC NUISANCES ENUMERATED	14
SECTION 2-1-11	-	PENALTIES	17

**ARTICLE II – ABANDONED, INOPERABLE, UNLICENSED AND JUNKED/WRECKED
MOTOR VEHICLES**

SECTION 2-2-1	-	DEFINITIONS	17
SECTION 2-2-2	-	DECLARATION OF NUISANCE	19
SECTION 2-2-3	-	PROHIBITED STORAGE	19
SECTION 2-2-4	-	PERMITTED STORAGE	19
SECTION 2-2-5	-	INVESTIGATION OF PREMISES	19
SECTION 2-2-6	-	NOTICE	20
SECTION 2-2-7	-	HEARING	20
SECTION 2-2-8	-	REMOVAL AND FINE	21

ARTICLE III – WEEDS, GRASSES, BUSHES AND TREES

SECTION 2-3-1	-	DEFINITION	21
SECTION 2-3-2	-	REFUSAL OR NEGLECTING TO CUT WEEDS, GRASSES, BUSHES AND TREES PROHIBITED	22
SECTION 2-3-3	-	AUTHORITY TO ORDER CUTTING	22
SECTION 2-3-4	-	LIABILITY FOR COST WHEN CUT OR REMOVED BY VILLAGE; LIEN	23

ARTICLE IV – BURNING

SECTION 2-4-1	-	DEFINITIONS	23
SECTION 2-4-2	-	BURNING OF GARBAGE, HOUSEHOLD GOODS AND REFUSE	24
SECTION 2-4-3	-	FIRES WITHIN THE VILLAGE	24
SECTION 2-4-4	-	BURNING OF LEAVES AND STICKS	24
SECTION 2-4-5	-	PENALTIES	24
SECTION 2-4-6	-	AUTHORITY TO EXTINGUISH FIRES	25

ORDINANCE NO. 2010-2

AN ORDINANCE PROVIDING FOR THE REGULATION OF ANIMALS, NUSIANCES AND BURNING

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS:

SECTION 1: Village Ordinance 98-4 entitled *An Ordinance Providing for the Regulations of Animals and Nuisances*, Village Ordinance 07-08, entitled *An Ordinance entitled An Ordinance Regulating Fires within the Village of Chapin*, and Village Ordinance No. 93-6, entitled *Nuisance Ordinance*, are hereby repealed in their entirety.

SECTION 2: The Corporate Authorities of the Village of Chapin hereby adopted the following rules and regulations concerning animals, nuisances and burning:

CHAPTER 1 – ANIMALS

ARTICLE 1 - GENERAL

SECTION 1-1-1. **Running at Large.** It shall be unlawful to permit any animal to run at large in the Village. Any such animal running at large in any public place shall be impounded by the appropriate authorities. The procedures for impoundment and redemption of any animal shall be the same as provided for domesticated animals in Article II of the chapter.

SECTION 1-1-2. **Nuisance Animals.**

(a) No person shall own, keep, have in his possession or harbor any animal which, by frequent or habitual howling, yelping, barking, crying, calling loudly, molesting passerby, chasing vehicles, attacking other animals, or trespassing upon private property, shall cause a nuisance or disturbance to any individual or the neighborhood.

(b) It shall be unlawful for the owner or person having charge of any animal within the Village to fail to exercise proper care and control of the animal to prevent it from becoming a nuisance, as defined in this Section or in Chapter 2 of this Ordinance. Violation of this Section shall

subject such owner or person to penalty as provided under Chapter 2 of this Ordinance. Such animal shall be deemed a nuisance if it:

- (1) Molests a person walking or driving on any public street, alley or sidewalk;
- (2) Attacks another domestic animal upon any public street, alley or sidewalk;
- (3) Trespasses upon private property and while thereon causes damage to property; or
- (4) Is kept, housed, harbored or maintained in any manner in violation of this Chapter or as to create a nuisance under the provisions of Chapter 2 of this Ordinance.

(c) Any animal which is a nuisance as defined in this Section shall be impounded by the appropriate authority, with the procedures for impoundment and redemption being the same as for domesticated animals in Article II of this Chapter.

SECTION 1-1-3 **Penalty.** In addition to other remedies or penalties herein provided, any person, firm or corporation violating any provision of this Chapter shall be fined not less than Seventy-five dollars (\$75.00) nor more than Five Hundred dollars (\$500.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. A person violating this Chapter shall also be liable for and shall reimburse the Village for all attorney's fees and court costs incurred by the Village in enforcing this Chapter.

SECTION 1-1-4. **Abatement.** The Village, in addition to other remedies and penalties herein provided, may institute an appropriate legal action or proceeding to prevent the unlawful keeping of animals, or to enjoin, restrain or abate any violation of any provision of this Chapter, and shall be entitled to recover from the violator all expenses incurred by the Village in abating the nuisance and all attorney's fees and court costs associated with abating the nuisance.

ARTICLE II – DOMESTICATED ANIMALS

SECTION 1-2-1. **Definition.** For purposes of this Article, the term “domesticated animals” means dogs and cats.

SECTION 1-2-2. **Running of Animals at Large Prohibited.**

(a) It shall be unlawful for any person owning, keeping, maintaining or harboring a dog or cat to allow said dog or cat to run at large at anytime beyond the limits of the lands of its owner, and upon the streets, sidewalks or other public or private property. For the purpose of this Section, a dog shall be considered NOT to be at large whenever said dog is under the control of a person by means of a leash, chain, cord or rope of not more than ten (10) feet in length and of sufficient strength to control said dog.

(b) Each violation of the provision of this Section shall constitute a separate offense.

SECTION 1-2-3. **Impounding.** Unrestrained dogs and cats, or dogs and cats at large may be taken by police, the Village or County Animal Control Officials, or County Health Officials and impounded in an animal shelter, and there be confined in a humane manner. Impounded animals shall be kept for not less than seven (7) days unless reclaimed by their owners. If by a license tag, microchip, or other means the owner can be identified, the Village, County Animal Control Officials or County Health Officials shall immediately, upon impoundment, notify the owner by telephone or mail of the impoundment of the animal. Animals not claimed by their owners within seven (7) days shall be humanely disposed of by the Animal Control Officials or by County Health Officials delegated that authority or the pound master where the dog is held.

SECTION 1-2-4. **Redemption.** In case the owner of any impounded dog or cat desires to make redemption thereof, he or she may do so by doing the following:

- (a) Presenting proof of current rabies inoculation and registration, if applicable;
- (b) Paying for the rabies inoculation of the dog or cat and registration, if applicable;

- (c) Paying the pound for the board of the dog or cat for the period it was impounded;
- (d) Paying into the Animal Control Fund an additional impoundment fee as prescribed by the Village or County as a penalty for the first offense and for each subsequent offense;
- (e) Paying a \$25 public safety fine to be deposited into the Pet Population Control Fund; the fine shall be waived if it is the dog's or cat's first impoundment and the owner has the animal spayed or neutered within 14 days; and
- (f) Paying for microchipping and registration if not already done.

SECTION 1-2-5. Sentry or Guard Dogs. No person shall leave any sentry or guard dog unattended in any place in or out of any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a sentry or guard dog is present. As used in this Section, the term sentry or guard dog means any dog intended to attack intruders, whether the dog has been trained to do so or the dog does so without training. No sentry or guard dog shall be left unattended in any place except inside a building or out of doors in a fenced yard, with a child-proof fence not less than six (6) feet in height with a three (3) feet overhang to prevent the dog from leaving the yard.

SECTION 1-2-6. Rabies Inoculation. No person shall keep any dog over 16 weeks of age unless such dog has been inoculated by a licensed veterinarian to prevent rabies. All dogs must be inoculated to prevent rabies on an annual basis.

SECTION 1-2-7. Injury to Property. It shall be unlawful for any person owning or possessing a dog to permit such dog to go upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

SECTION 1-2-8. Restrictions on the Number of Dogs and Cats.

(a) No person(s) shall be allowed to own, keep or maintain more than six dogs or six cats or any combination of six thereof on any property within the village.

(b) The owner or person who has custody of a dog or cat may retain the puppies or kittens, born of said dog or cat exceeding the permissible numbers set forth in Section 1-2-8 for twelve weeks after the birth of the animals. If after that time, there are more than six dogs or six cats or any combination of six thereof, in any one residence or apartment the owner or person in custody of the dogs or cats will be in violation of this ordinance.

ARTICLE III – PROHIBITED ANIMALS.

SECTION 1-3-1. Definition. For purposes of this Article, “dangerous animal” means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

SECTION 1-3-2. Prohibition of Dangerous Animals. It shall be unlawful for any person to keep or maintain within the Village any dangerous animal.

SECTION 1-3-3. Prohibition of Specific Animals. It shall be unlawful for any person to keep or maintain within the Village any swine, cattle, fowl, geese or duck.

ARTICLE IV – VICIOUS AND DANGEROUS DOGS

SECTION 1-4-1. Definitions.

(a) “Vicious dog” means:

(1) Any individual dog that when unprovoked inflicts bites or attacks a human being or other animal either on public or private property.

(2) Any individual dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of

human beings or domestic animals.

(3) Any individual dog that has a trait or characteristic and a generally known reputation for viciousness, dangerousness or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or with special equipment.

(4) Any individual dog which attacks a human being or domestic animal without provocation.

(5) Any individual dog that, without justification, attacks a person and causes serious physical injury or death.

(6) Any individual dog which has been found to be a "dangerous dog" upon 3 separate occasions.

No dog shall be deemed "vicious" if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained dog for law enforcement or guard duties. If a dog is found to be a vicious dog, the dog shall be subject to enclosure.

(b) "Dangerous Dog" means (i) any individual dog anywhere other than upon the property of the owner or custodian of the dog and unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or (ii) a companion animal or a dog that, without justification, bites a person and does not cause serious physical injury.

(c) "Enclosure" means a fence or structure of at least 6 feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of a vicious dog within the enclosure. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be

designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times.

(d) "Impounded" shall have the same meaning as provided for in Section 1-2-3 above.

(e) "Found to be vicious dog" means that pursuant to 510 ILCS 5/1 et seq., a court of competent jurisdiction has found the dog to be a vicious dog as defined herein and has entered an order based on that finding.

(f) "Leash" means a cord, rope, strap or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of a sufficient strength to keep such dog or other animal under control.

(g) "Owner" means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her.

(h) "Potentially Dangerous Dog" means a dog that is unsupervised and found running at large with three (3) or more dogs.

(i) "Serious Physical Injury" means a physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

(j) "Muzzle" means a device constructed of strong, soft material or a metal muzzle. The muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration.

(k) "Fight" means a prearranged conflict between two (2) or more dogs or other animals, but does not include a conflict that is not organized or accidental.

SECTION 1-4-2. Enclosure of Vicious Dogs. It shall be unlawful for any person to

keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are (i) if it is necessary for the owner or keeper to obtain veterinary care for the dog or (ii) to comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a chain having a tensile strength of 300 pounds and not exceeding 3 feet in length, and shall be under the direct control and supervision of a person of sufficient maturity and strength. No leash restraining a vicious dog shall be attached to any inanimate object including, but not limited to, trees, posts, stakes and buildings.

No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the structure on its own volition. No vicious dog shall be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure. No person shall permit a vicious dog to be outside a house or structure unless such dog is confined in an enclosure constructed and maintained in accordance with this ordinance.

Prior to the annual renewal of a permit granting the ability to keep or maintain a vicious dog within the Village as provided for herein, and at least once not more than six (6) months after the issuance of any such permit or after its renewal, the Village Board or its designee shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Ordinance. If the Village Board or its designee determines during any such inspection that the permit holder is not in compliance with this Ordinance, they or the designee shall revoke such permit if the violation is not corrected within such period of time as the Village Board or its designee shall direct. A fee of \$50.00 shall be charged for and paid in advance for each inspection.

SECTION 1-4-3: Application for Vicious Dog Permit. It shall be unlawful for any person to keep or maintain a vicious dog within the Village unless he/she has first applied for and received a permit from the Village to keep or maintain such dog within the Village. Anyone applying

for a vicious dog permit shall submit to the Village Clerk the following information:

- (a) The name, address, and telephone number of the legal owner of the dog being permitted;
- (b) The name, address, and telephone number of the person having custody of the dog, if such person is not the legal owner.
- (c) The name, age, breed, color, sex, distinguishing features, markings, or tattoos of the dog being permitted, and, whether the dog has been neutered or spayed;
- (d) The address of the property at which the dog is to be kept or maintained;
- (e) A certificate of a veterinarian indicating the dog has current rabies immunization;
- (f) Verification that the dog has been microchipped;
- (g) A current photograph of the dog;
- (h) Certified copies of all court orders and records and Animal Control records relating to the determination that the dog has been found and determined to be a vicious dog.

SECTION 1-4-4: Issuance of Permit. The Village Board shall issue a permit for the keeping and maintaining of a vicious dog if it finds:

- (a) That the dog will at all times be kept in an enclosure as provided for herein.
- (b) That adequate safeguards are made to prevent unauthorized access to such dog by members of the public.
- (c) That the health or well-being of the dog is not in any way endangered by the manner of keeping or confinement.
- (d) That the keeping of such dog does not constitute a nuisance and will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding

neighborhood.

(e) That the keeping of such dog will not create or cause offensive odors or constitute a danger to public health.

(g) That the applicant for such special permit has proven his/her ability to respond in damages to and including the amount of \$300,000 for bodily injury to or death of any person or persons or for damage to property owned by any person which may result from the ownership, keeping or maintenance of such vicious dog. Proof of liability to respond in damages must be given by filing with the Village Board a certificate of insurance stating that applicant is, at the time of his application, and will be during the period of such permit, insured against liability to respond in such damages, or by posting with the Village Board a surety bond conditioned upon the payment of such damages during the period of such special permit. Such certificate of insurance or bond shall provide that no cancellation of the insurance or bond will be made unless thirty (30) days written notice is first given to the Village Board.

All persons possessing a vicious dog shall display in a prominent place on the premises where a vicious dog is to be kept a sign which is readable by the public from a distance of not less than one hundred (100) feet using the words "**BEWARE OF DOG - DANGEROUS**". A similar sign shall be posted on any confinement structure.

SECTION 1-4-5. Dispatching of Vicious Dogs. Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the Police, Village or County Animal Control Officials or County Health Officials.

If the owner of the dog has not appealed the impoundment order to the Circuit Court in the county in which the animal was impounded within fifteen (15) working days, the dog may be humanely dispatched. A dog found to be a vicious dog shall not be released to the owner until the Police, Village or County Dog Animal Control Officials or County Health Officials approve the enclosure as defined above.

SECTION 1-4-6. Prohibition on Selling or Giving Away Vicious Dogs. No owner or keeper of a vicious dog shall sell or give away the dog.

SECTION 1-4-7. Dangerous Dogs as Nuisance. It is unlawful for any person to maintain a public nuisance by permitting any dangerous dog or other animal to leave the premises of its owner when not under control by lease or other recognized control methods. No dangerous dog shall be left unattended in any place except inside a building or out of doors in a fenced yard, with a child-proof fence not less than six (6) feet in height with a three (3) feet overhang to prevent the dog from leaving the yard.

SECTION 1-4-8. Exempt Dogs. Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with the Illinois Animal Control Act 510 ILCS 5/1, *et seq.*, and must be maintained in compliance with this Ordinance. It shall be the duty of the owner of such exempted dog to notify the Village Board of changes of address.

SECTION 1-4-9. Fighting Prohibited. No person shall fight or bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, any dog.

SECTION 1-4-10. Potentially Dangerous Dog. A dog found running at large and unsupervised with 3 or more other dogs may be deemed a potentially dangerous dog by the police, Village, or County Animal Control. Potentially dangerous dogs shall be spayed or neutered and microchipped within 14 days of reclaim. The designation of "potentially dangerous dog" shall expire 12 months after the most recent violation of this Section. Failure to comply with this Section will result in impoundment of the dog or a fine of \$500.00.

ARTICLE V – KEEPING REGULATIONS

SECTION 1-5-1. Enclosure Required.

(a) The owner or person having charge of animals other than domesticated animals described in Article II of this Chapter, shall provide and maintain adequate fencing or an enclosure for such animals so as to keep such animals at all times on the premises of the owner or person in charge of the same.

(b) All enclosures for animals including domesticated animals describing in Article II of this Chapter, shall be kept and maintained by the owner or keeper in a clean and sanitary manner and so as not to create a nuisance.

SECTION 1-5-2. Location of Enclosures. No enclosure wherein any animal is kept shall be less than fifty (50) feet from the property line of any other person or entity within the Village.

SECTION 1-5-3. Grandfather Provision. No owner or person having charge of animals or fowl, other than domesticated animals described in Article II of this Chapter, shall be required to comply with the provision of Section 1-3-2 or Section 1-5-2 of this Ordinance if such owner or person kept said animals or fowl on property located within the Village on the effective date of this Ordinance; and such owner or person shall be permitted to continue to keep the animal or fowl on that property upon which said animals or fowl were located on the effective date of the Ordinance, provided such animals or fowl are kept and maintained in compliance with all remaining provisions of this Ordinance. When such animals or fowl die or are otherwise removed from the Village, then such owner or person shall be required to comply with every provision of this Ordinance.

CHAPTER 2 – NUISANCES

ARTICLE I – GENERAL

SECTION 2-1-1. Purpose. The purpose of this Ordinance is to provide for the regulation and abatement of nuisances within the Village of Chapin as authorized by Section 11-60-

2 of the Illinois Municipal Code and other applicable state and federal statutes, laws and regulations.

SECTION 2-1-2. Additional Requirements. The provision of this Ordinance shall be deemed as additional requirements to the minimum standards required by other ordinances of the Village and by the statutes, laws, regulations and requirements of the State of Illinois and other governmental bodies with appropriate jurisdiction.

SECTION 2-1-3. Creating or Maintaining Prohibited. The maintenance or creation of any nuisance is prohibited and shall constitute a misdemeanor.

SECTION 2-1-4. Notice to Abate. It shall be the duty of the President, at the direction of the Board of Trustees, to serve notice, in writing, upon the owner, occupant, agent or person in possession or control of any lot, building, or premises in or upon which any nuisance may be found, or who may be owner or the cause of any such nuisance, requiring him to abate the same within such reasonable time as may be specified in said notice, but not less than five (5) days. It shall not be necessary in any case for the corporate authorities to specify in the notice the manner in which any nuisance shall be abated, unless they shall deem it advisable to do so.

SECTION 2-1-5. Failure to Comply with Notice Prohibited. If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a misdemeanor.

SECTION 2-1-6. Abatement by the Village. The President and Board of Trustees may, upon the expiration of the time specified in the aforesaid notice, proceed immediately to cause such nuisance to be abated; provided, however, that whenever the owner, occupant, agent or person in possession or control of any premises in or upon which any nuisance may be found is unknown or cannot be found, the President and Board of Trustees may proceed to abate such nuisance without notice. In either case, the expense of such abatement and the attorney's fees and costs incurred as part of said abatement, shall be collected from the owner of the premises or the person who may have created, continued, or suffered such nuisance to exist, in addition to any

penalty or fine. The Village may claim and file a lien upon the premises for expenses incurred, including its attorney's fees and fees for the recording or releasing of a lien as provided by law. The Village may also seek to enjoin such act, activity, or undertakings creating the nuisance, or take any other legal action necessary to enforce the provisions of this Ordinance, and recover all attorney's fees and costs associated with said proceedings.

SECTION 2-1-7. Common Law Statutory Nuisances. In all cases where no provision is made defining what are nuisances and how the same may be removed, abated or prevented, in addition to what may be declared such herein, those offenses which are known to the common law of the land and the statutes of Illinois as nuisances may be treated as such, and proceeded against as is provided in this Ordinance, or in accordance with any other provision of law.

SECTION 2-1-8. Nuisances Detrimental to Health Generally. No building, vehicle, structure, receptacle, yard, lot, premises, or part thereof, shall be made, used, kept, maintained, or operated in the Village, if such use, keeping, maintaining, or operation of any such nuisance shall be dangerous or detrimental to public health, safety or welfare.

SECTION 2-1-9. Unhealthful Business. No substance, matter, or thing of any kind whatever which shall be dangerous or detrimental to health shall be allowed to exist in connection with any business, or be used therein, or be used in any work or labor performed in the Village, and no nuisance shall be permitted to exist in connection with any business or in connection with any such work or labor.

SECTION 2-1-10. Specific Nuisances Enumerated. It is hereby declared to be a nuisance and to be against the health, peace and comfort of the Village of Chapin for any person, firm, or corporation within the limits of the Village to permit the following, but the enumeration of the following nuisances shall not be deemed to be exclusive:

(a) **Creating Offensive Smells.** To so negligently conduct any business or use any premises so as to create such an offensive smell as may taint the air and render it unwholesome or disagreeable to the neighborhood.

(b) Permitting Offensive Matter to Remain. To cause or suffer the carcass of any animal, or any animal or vegetable matter, slops, swills, suds, garbage, filth, manure droppings or offal, or noisome substance of any kind, to be collected, deposited, or to remain in any place in the Village to the prejudice of others.

(c) Depositing Offensive Matter. To deposit, collect, throw or place manure, dead animals or any other filthy, offensive or noisome substance in or upon any street, lot, alley, highway, park, water course, lake, pond, spring or other place within the Village, with the exception of commercial fertilizer normally used for home gardening.

(d) Keeping Place Where Areas or Containers are Kept in an Offensive Condition. To keep or suffer to be kept, in a fowl, offensive, nauseous, or filthy condition any chicken coop, cow stable, stable, pen, cellar, vault, drain, pool, privy, sewer, or sink upon any premises belonging to or occupied by him, or any railroad car, building yards, grounds, or premises belonging to or occupied by him.

(e) Slaughter, Slaughter Houses, etc. To slaughter or kill any animals within the Village or to locate or maintain at any place within the Village, or within a radius of one mile without the Village, any slaughter house, packing house, rendering establishment or bone factor, or to suffer or permit any premises at any place within the limits of aforesaid used for any of the purposes aforesaid to be fowl or offensive.

(f) Accumulations of Junk, Trash. To keep, deposit, accumulate, or pile up any rags, old rope, paper, old iron, brass, copper, tin, ashes, garbage, trash, refuse, junk, debris, litter, weeds, slush, lead, glass bottles or broken glass, abandoned, discarded or unused objects or equipment such as automobiles, tires, furniture, stoves, appliances, refrigerators, cans or containers upon any lot, piece of parcel of land or upon any public or private alley or street within the Village.

(g) Dense or Offensive Smoke. To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner, wood burning stove, or any other agency

in the Village so as to cause annoyance or discomfort to another resident, or create a hazard to vehicular or pedestrian traffic.

(h) Buildings. To construct or maintain any buildings or structure in any unsanitary condition, or in an unsafe or dangerous condition, or which in any manner endangers the health or safety of any person or persons. Every building or part thereof which is in an unsanitary condition by reason of the basement or cellar being damp or wet, or by reason of the floor of such basement or cellar being covered with stagnant water, or by reason of the presence of sewer gas, or by reason of any portion of the building being infected with disease or being unfit for human habitation, or by reason of any other unsanitary condition, is a source of sickness or which endangers the public health, is hereby declared to be a public nuisance.

(i) Permitting Conditions Attractive to Rats, Rodents and Pests. To permit any conditions upon the premises that attract or serve as habitat to or breeding or nesting area for rats, mice, rodents, raccoons, opossums, and pests (wood infesting organisms and insects, spiders, mites, ticks, and related organisms).

(j) Weeds, Grasses, Bushes, and Trees. To permit excessive growth of brush, trees or vegetation, or to permit weeds or grasses to reach a height/length in excess of twelve inches (12").

(k) Bringing Nuisances Into the Village. To bring into the Village, or keep therein for sale or otherwise, either food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(l) Trash Containers. To permit trash containers to remain on the curb or on Village property more than two (2) days before or after the scheduled trash pick-up day.

(m) Noise. To make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or

endangers the comfort, repose, health, peace or safety with others.

SECTION 2-1-11. **Penalties.** Except as otherwise provided for in this Chapter, any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor and shall be fined an amount not less than \$75.00, but not more than \$500.00. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable hereunder as such. The Village shall be entitled to recover its reasonable attorney's fees and court costs associated with the enforcement of this Chapter. The penalties set forth in this Section 2-1-11 shall be in addition to the Village's right to demand the abatement of any nuisance and/or to take affirmative steps to abate any nuisance pursuant to Sections 2-1-4 and 2-1-6 above.

ARTICLE II – ABANDONED, INOPERABLE, UNLICENSED AND JUNKED/WRECKED MOTOR VEHICLES

SECTION 2-2-1. **Definitions.** For the purpose of this Article, the following words and phrases shall have the meanings set forth in this section:

(a) **Abandoned motor vehicle on private property:** Any motor vehicle which is left on private property, in full view of the public, anywhere within the Village except on property of the owner or bailee for a period of seven (7) days or more and under such circumstances as to cause such motor vehicle to reasonably appear to be abandoned.

(b) **Abandoned motor vehicle on public property:** Any motor vehicle or unlicensed motor vehicle which is left on public property for a period of twenty-four (24) hours and under such circumstances as to cause such motor vehicle to reasonably appear to be abandoned. If such vehicle is determined to be "unsafe", it may be towed from public property immediately.

(c) **Authorized Village Official:** The code enforcement officer, the Village President, any police officer of the Village or any other person designated by the Village President.

(d) Inoperable motor vehicle: Any motor vehicle from which, for a period of at least seven (7) days, the engine, wheels or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power; however, an inoperable motor vehicle shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repairs, any motor vehicle which is kept entirely within a building and out of view of the public, any operable historic vehicle over twenty-five (25) years of age, or to a motor vehicle on the premises engaged in the wrecking or junking of motor vehicles.

(e) Junked motor vehicles: Any motor vehicle which is partially dismantled, wrecked or damaged and which cannot be safely or legally operated.

(f) Motor vehicle: A self-propelled land vehicle which can be used for towing or for transporting people or materials, including, but not limited to, automobiles, trucks, buses, motor homes, motorized capers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

(g) Motor vehicle accessories: Any part or parts of a motor vehicle.

(h) Private property: Any real property not owned by the federal government, state, county, Village, school district, or other unit of local government.

(i) Property: Any real property within the Village which is not a street.

(j) Public property: Any real property owned by the federal government, state, county, Village, school district or other unit of local government.

(k) Removal: The physical relocation of a motor vehicle to an unauthorized location.

(l) Street: The entire width as dedicated for public use of every street, alley or other public way which is open to the use of the public for the purposes of vehicle traffic.

(m) Unlicensed motor vehicles: Any motor vehicle which does not have a current

Illinois license and registration sticker affixed to same.

SECTION 2-2-2. Declaration of Nuisance. All abandoned, inoperable, junked, and unlicensed motor vehicles and any motor vehicle accessories from any vehicle, whether on public or private property, in full view of the public, are hereby declared to be a nuisance.

SECTION 2-2-3. Prohibited Storage.

(a) It shall be unlawful for any person owning or having custody or control of any abandoned, inoperable, unlicensed, or junked motor vehicle or any motor vehicle accessories to store or permit any such vehicle or accessories to remain on any public or private property within the Village in full view of the public, for longer than the period of time allowed by this Article, and after receipt of notice to remove such vehicle or accessories as provided by this Article.

(b) It shall be unlawful for any person, after notification to remove any abandoned, inoperable, junked or unlicensed motor vehicle or any motor vehicle accessories from any property within the Village to move such motor vehicle or accessories to any other public or private property upon which such storage is not permitted or onto any streets or public property for purposes of storage.

SECTION 2-2-4. Permitted Storage. This Article shall not apply to any motor vehicle or motor vehicle accessories which are stored entirely within an enclosed building and out of view of the public, or on the premises of a properly licensed auto junking or wrecking business or auto repair or body shop operated in a lawful place and manner and when necessary for the operation of such business, provided that all vehicles or accessories stored by any such business establishment must be stored in accordance with the requirements of this Code and applicable law.

SECTION 2-2-5. Investigation of Premises. Any law enforcement officer or Village official, on routine inspection or upon receipt of a complaint, may enter upon any property and may investigate any suspected abandoned, inoperable, unlicensed or junked motor vehicle or any motor

vehicle accessories and record the make, model, style, identification numbers or any other relevant information and other facts about the situation.

SECTION 2-2-6. **Notice.** It shall be the duty of the Village President, at the direction of the Board of Trustees, to cause notice to be served, in writing, upon the owner or person in possession or control of any abandoned, unlicensed, inoperable or junked motor vehicle or vehicles giving such owner or person in possession or control seven (7) days from the date of said notice to dispose of the motor vehicle or vehicles from the corporate limits of the Village of Chapin, Morgan County, Illinois. Said written notice may be sent by certified United States Mail, postage prepaid, or hand delivered. If the notice is sent by certified United States Mail, postage prepaid, the addressee will be deemed to have received the notice on the third business day following the mailing. The notice shall also contain the following additional information:

- (1) The nature of the complaint;
- (2) Description and location of the motor vehicle and/or motor vehicle accessories;
- (3) Statement that any abandoned, inoperable, junked, or unlicensed motor vehicle will be removed from the property upon expiration of the seven (7) day notice period;
- (4) Statement that any nuisance created by a junked motor vehicle or any motor vehicle accessories will be abated as provided by the Ordinance and applicable law; and
- (5) Statement that other penalties may be applicable by Ordinance and the nature of such penalties.

SECTION 2-2-7. **Hearing.** Whenever an owner or person in possession or control of any inoperable, abandoned, unlicensed or junked motor vehicle receives written notice pursuant to Section 2-2-6 of this Ordinance, he/she may file a written request for a hearing before the President and Board of Trustees. The written request for hearing must be filed with the Village Clerk within seven (7) days of receipt of the written notice provided for in Section 2-2-6.

If a timely written request for hearing is made, the Village President shall fix a time and place for the hearing and shall give written notice to the party requesting the hearing. The hearing shall

be scheduled for a date within fourteen (14) days of receipt of the request for hearing.

The Village President shall preside over the hearing and the President and Board of Trustees shall hear testimony and accept any evidence relevant to the matter. The strict rules of evidence and procedure applicable to judicial proceedings shall not apply.

At the conclusion of the hearing, the President and Board of Trustees shall make a determination on the basis of the testimony and evidence presented at the hearing, and shall notify the party requesting the hearing of the decision.

SECTION 2-2-8. **Removal and Fine.** Upon the failure of any person who owns or has in his possession and control an abandoned, inoperable, unlicensed or junked motor vehicle or vehicles who fails to comply with either the notice as herein provided for in Section 2-2-6 or the determination of the President and Board of Trustees after a hearing pursuant to Section 2-2-7, the Chief of Police or any member of the police department designated by him or any other law enforcement agency, with applicable jurisdiction, is hereby authorized to remove or have removed any abandoned, inoperable, unlicensed or junked motor vehicle or parts thereof and such person shall be subject to a fine of not less than \$75.00 or more than \$500.00 and shall be liable for all costs and charges related to towing and storing said vehicle or parts thereof. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable hereunder. Vehicles or parts thereof removed hereunder shall be impounded until lawfully claimed or disposed of in accordance with and as provided by the laws of the State of Illinois. In addition to the foregoing, the Village may apply to the Circuit Court of Morgan County, Illinois for an order directing the owner or possessor of the vehicle to remove said vehicle or parts thereof and recover its attorney's fees and costs associated with said proceeding.

ARTICLE III – WEEDS, GRASSES, BUSHES AND TREES

SECTION 2-3-1. **Definition.** The term “weeds” as used in this article shall include the following: Burdock, ragweed (giant), ragweed (common), thistle, cocklebur, jimson, blue vervain, common milk weed, wild carrot, poison ivy, wild mustard, rough pigweed, lambs-quarter, wild

lettuce, curled dock, smart weeds (all varieties), poison hemlock and wild hemp.

The term "grasses" as used in this article shall be defined as plants of various growing on, and used for, lawns and pastures.

The term "nuisance bushes or trees" shall include all bushes and trees that pose a hazard to vehicles and/or pedestrian traffic or otherwise pose a health or safety hazard to people or property.

SECTION 2-3-2. Refusal or Neglecting to Cut Weeds, Grasses, Bushes and Trees Prohibited.

It is hereby declared to be illegal for any person in charge of or in control of real estate, whether as owner, lessee, tenant occupant or otherwise, to refuse or neglect to cut weeds or grasses when such weeds or grasses shall have reached a height/length in excess of twelve inches (12"), or to fail to cut and remove nuisance bushes and trees. Every such person shall cut weeds and grasses on said property as may be necessary so that such weeds and grasses do not constitute a nuisance. If said person neglects or refuses to cut weeds and grasses so that such weeds and grasses do become a nuisance, the Village may cut the weeds and grasses or authorize some person to cut the weeds and grasses on behalf of the Village with the expense thereof being chargeable to such person and the owner of the real estate.

Every such person shall cut and/or trim bushes and trees so they do not cause a hazard to vehicles, pedestrians, or property. Every such person shall trim or remove nuisance bushes and trees which pose a threat to the safety of people or property. If a person refuses to trim bushes or trees or to trim or remove nuisance bushes or trees, the Village may trim or remove or authorize some person to trim or remove the bushes or trees on behalf of the Village with the expense thereof being chargeable to such person and the owner of the real estate.

SECTION 2-3-3. Authority to Order Cutting. The Village President or his designee is authorized to order the cutting of weeds and grasses, the trimming of bushes and trees, and the trimming and removal of nuisance bushes and trees by the Village when the Owner or person in charge of or in control of the real estate has failed to do so as required by this Article.

SECTION 2-3-4. Liability for Cost When Cut or Removed by Village; Lien. The

costs incurred by the Village in cutting weeds and grasses, in trimming bushes and trees, trimming or removing nuisance bushes and trees, shall be paid by the person in possession of the real estate and the owner of the real estate. The cost shall be a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens. Within one (1) year after such cost and expense is incurred by the Village, the Village shall record a notice of lien in the Morgan County Recorder's Office. The notice of lien shall consist of a sworn statement setting out:

- (a) A description of the real estate sufficient for identification thereof;
- (b) The amount of money representing the cost and expense incurred or payable for the service; and
- (c) The date or dates when said cost and expense was incurred by the Village.

Upon payment of the lien cost after notice of lien has been filed, the Village shall release the lien, and the release may be filed of record by the owner at his or her sole expense as in the case of filing a notice of lien.

To perfect its lien on the real estate, the Village shall provide the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the cutting, trimming or removal activities the notice, which shall either be personally served on or sent by certified mail to the person, and shall be delivered or sent after the cutting, trimming, or removal activities have been performed. The notice shall contain the substance of this Section 2-3-4, identify the property, by common description, and describe the cutting, trimming or removal activities.

ARTICLE IV – BURNING

SECTION 2-4-1. Definitions. For purposes of this Ordinance, the following definitions shall apply:

Garbage: The term “*garbage*” shall be construed to mean, trash, paper, food wastes, the accumulation of animal, fruit or vegetable matter used or intended for food, or that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables.

Household Goods: The term “*household goods*” shall be construed to mean furniture, couches, chairs, tables, appliances, computers, construction materials, shingles, siding, carpets, and like items.

Refuse: The term “*refuse*” shall be construed to mean ashes, tin cans, broken crockery, glassware, bottles, rubbish, junk, plastics, liquid, waste, wastepaper, trash, and like materials.

SECTION 2-4-2. Burning of Garbage, Household Goods, and Refuse. No person or entity shall burn any garbage, household goods or refuse within the corporate limits of the Village.

SECTION 2-4-3. Fires within the Village. No person or entity shall in any of the streets, lanes, avenues, or alleys of the Village, or upon any property owned by the Village, make or kindle any fire without first having obtained permission from either the President of the Board of Trustees or an Officer of the Village’s Police Department. Between dusk and dawn of each day, no person or entity shall make, kindle, or maintain any fire within the corporate limits of the Village except for the purpose of heating a residence or place of business, or unless permission is first obtained from either the President of the Board of Trustees or an Officer of the Village’s Police Department. All such fires must be extinguished by dusk. Notwithstanding the foregoing, it is permissible during the above-referenced hours for a person or persons to kindle and make a bonfire for the purposes of a weenie roast or similar type of private function. Any person making, kindling, or maintaining a fire shall be in constant attendance observing and controlling the fire.

SECTION 2-4-4. Burning of Leaves and Sticks. No person may burn leaves, brush or other vegetation unless the fire is completely contained in a barrel, incinerator or other place of confinement.

SECTION 2-4-5. Penalties. Any person or entity violating any provision of this Article shall be fined not more than \$75.00 for the first offense, \$150.00 for the second offense, and

\$300.00 for any subsequent offense of offenses; and shall be liable for all attorney's fees and court costs incurred by the Village in enforcing this Article.

SECTION 2-4-6. Authority to Extinguish Fires. When in the judgment of the Village President, a member of the Village Board of Trustees, an officer of the Village's Police Department, or a member of the Village's Volunteer Fire Department, a fire on private property is in violation of this Ordinance, then said individual shall have the authority and discretion to take all reasonable and necessary steps to extinguish the fire including, but not limited to, going on to the property and physically putting out the fire with water or other fire resistant chemical or agent. All costs and fees incurred by the Village and/or the Village's Volunteer Fire Department in extinguishing a fire which is in violation of this Ordinance shall be borne by the person(s) who initiated and caused the fire to be created.

Section 3: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form.

Section 4: All Village ordinances or parts of Village ordinances in conflict with the provisions of this *Ordinance* are hereby repealed to the extent they conflict with the provisions of this *Ordinance*.

Passed by Board of Trustees of the Village of Chapin, Morgan County, Illinois, on the 12 day of May, 2010.

AYES: 6
NAYES: 0
ABSENT: 0

ATTEST:
Marsha Homer
Village Clerk

Approved by the President of the Village of Chapin, Morgan County, Illinois, on the 12

day of May, 2010.


Bryce McCormick Village President

STATE OF ILLINOIS)
) SS.
COUNTY OF MORGAN)

CERTIFICATION

I, Marsha Homer, the appointed and acting Clerk of the Village of Chapin, Morgan County, Illinois, do hereby certify that attached copy of Ordinance No. 2010-2 is a true and correct copy of the Ordinance passed by the Board of Trustees of the Village of Chapin, Morgan County, Illinois, at a meeting of said Village Board held on the 12 day of May, 2010, all as the original of the same remains in the official records of my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Village of Chapin, Illinois this 12 day of May, 2010.

Marsha Homer
Village Clerk

STATE OF ILLINOIS)
) SS.
COUNTY OF MORGAN)

PUBLICATION CERTIFICATE

I, Marsha Homer, certify that I am the Clerk of the Village of Chapin, Morgan County, Illinois.

I further certify that on the 12 day of May, 2010, the Board of Trustees of the Village of Chapin, Illinois, passed and approved Ordinance No. 2010-2 entitled:

AN ORDINANCE PROVIDING FOR THE REGULATION OF ANIMALS, NUSIANCES AND BURNING FOR THE VILLAGE OF CHAPIN, MORGAN COUNTY, ILLINOIS

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2010-2, including the *Ordinance* and a cover sheet thereof, was prepared, and a copy of such *Ordinance* was posted at the Village Hall, commencing on the 13 day of May, 2010, and continuing for at least ten (10) days thereafter. Copies of such *Ordinance* were also available for public inspection upon request in the Office of the Village Clerk.

Dated at Chapin, Illinois, this 24 day of May, 2010.

Marsha Homer
Village Clerk

(SEAL)