

## **CHAPTER 5 – BUSINESS REGULATIONS**

### **ARTICLE 1 – ALCOHOLIC BEVERAGES**

- SECTION 5-101: DEFINITIONS**
- SECTION 5-102: ACQUISITION AND POSSESSION**
- SECTION 5-103: DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER**
- SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE**
- SECTION 5-105: LICENSE REQUIRED**
- SECTION 5-106: VILLAGE POWERS AND DUTIES**
- SECTION 5-107: LICENSEE REQUIREMENTS**
- SECTION 5-108: LOCATION**
- SECTION 5-109: ACCESS TO DWELLINGS**
- SECTION 5-110: SANITARY CONDITIONS**
- SECTION 5-111: CATERING LICENSE**
- SECTION 5-112: DISPLAY OF LICENSE**
- SECTION 5-113: HOURS OF SALE**
- SECTION 5-114: INSPECTIONS**
- SECTION 5-115: OWNER OF PREMISES**
- SECTION 5-116: EMPLOYER**
- SECTION 5-117: HIRING MINORS**
- SECTION 5-118: MINORS AND INCOMPETENTS**
- SECTION 5-119: MINOR'S PRESENCE**
- SECTION 5-120: CREDIT SALES**
- SECTION 5-121: ORIGINAL PACKAGE**
- SECTION 5-122: CONDUCT PROHIBITED ON LICENSED PREMISES**
- SECTION 5-123: AUTOMATIC LICENSE RENEWAL; PROTESTS**
- SECTION 5-124: CITIZENS' COMPLAINT**
- SECTION 5-125: COMPLAINT INITIATED BY BOARD**
- SECTION 5-126: REVOCATION OF LICENSE**
- SECTION 5-127: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY**

### **ARTICLE 2 – DIRECT SELLERS**

- SECTION 5-201: REGISTRATION REQUEST**
- SECTION 5-202: DEFINITIONS**
- SECTION 5-203: EXEMPTIONS**
- SECTION 5-204: REGISTRATION; INFORMATION REQUIRED**
- SECTION 5-205: DRIVER'S LICENSE**
- SECTION 5-206: FEE**
- SECTION 5-207: BOND REQUIRED**
- SECTION 5-208: INVESTIGATION; REFUSAL OF REGISTRATION**
- SECTION 5-209: APPEAL FROM REFUSAL**
- SECTION 5-210: ISSUANCE**

- SECTION 5-211: LIMITATION**
- SECTION 5-212: CONTENTS OF PERMIT**
- SECTION 5-213: DURATION OF PERMIT**
- SECTION 5-214: DISPLAY OF PERMIT**
- SECTION 5-215: PROHIBITIONS**
- SECTION 5-216: DISCLOSURE REQUIREMENTS**
- SECTION 5-217: REVOCATION**

**ARTICLE 3 – OCCUPATION TAXES**

- SECTION 5-301: PURPOSE**
- SECTION 5-302: LEVY AUTHORIZED**
- SECTION 5-303: COLLECTION DATE; RECEIPT**
- SECTION 5-304: FAILURE TO PAY**

**ARTICLE 4 – TRAILERS AND MOBILE HOME COURTS**

- SECTION 5-401: DEFINITIONS**
- SECTION 5-402: TEMPORARY PERMIT**
- SECTION 5-403: TRAILERS ON PRIVATE PROPERTY; UNLAWFUL**
- SECTION 5-404: PERMIT REQUIRED**
- SECTION 5-405: APPLICATION; ISSUANCE OF PERMIT; FEE**
- SECTION 5-406: PERMIT; REVOCATION, SUSPENSION, TRANSFER**
- SECTION 5-407: POSTING OF PERMIT; SERVICE AND INSPECTION FEE**
- SECTION 5-408: CARETAKER; REGISTER**
- SECTION 5-409: MAINTENANCE OF PREMISES; RULES AND REGULATIONS**
- SECTION 5-410: GROUND AREA**
- SECTION 5-411: DRAINAGE; WATER SUPPLY; SANITARY CONDITIONS; LIGHTING**
- SECTION 5-412: REMOVAL OF WHEELS OR SIMILAR DEVICES**
- SECTION 5-413: ANIMALS AT LARGE**
- SECTION 5-414: FLAMMABLE LIQUIDS**

**ARTICLE 5 – JUNKYARDS**

- SECTION 5-501: DEFINITIONS**
- SECTION 5-502: REGULATION**
- SECTION 5-503: OWNER'S RESPONSIBILITY**
- SECTION 5-504: INSPECTIONS; HEALTH OR SAFETY HAZARDS**
- SECTION 5-505: NUISANCE**
- SECTION 5-506: PREMISES**
- SECTION 5-507: RODENTS**

**ARTICLE 6 – BINGO**

- SECTION 5-601: REGULATION; PERMIT**
- SECTION 5-602: TAX**
- SECTION 5-603: QUARTERLY REPORT**
- SECTION 5-604: INCORPORATED REGULATION**

**ARTICLE 7 – RAILROADS**

- SECTION 5-701: SAFE CROSSING**
- SECTION 5-702: SPEED**
- SECTION 5-703: OBSTRUCTING TRAFFIC**

**ARTICLE 8 – FAIR HOUSING**

- SECTION 5-801: PURPOSE**
- SECTION 5-802: DEFINITIONS**
- SECTION 5-803: UNLAWFUL ACTS**
- SECTION 5-804: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS**
- SECTION 5-805: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED**
- SECTION 5-806: MULTIPLE LISTING SERVICE; OTHER SERVICE; DISCRIMINATORY PRACTICES PROHIBITED**
- SECTION 5-807: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED**
- SECTION 5-808: INFORMATION**

**ARTICLE 9 – PENAL PROVISION**

- SECTION 5-901: VIOLATION; PENALTY**



## CHAPTER 5 – BUSINESS REGULATIONS

### Article 1 – Alcoholic Beverages

#### SECTION 5-101: DEFINITIONS

All words and phrases herein used shall have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

#### SECTION 5-102: ACQUISITION AND POSSESSION

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act. Nothing in this section shall prevent:

A. The possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, so long as the quantity of alcoholic liquor transported, imported, brought, or shipped into the state does not exceed nine liters in any one calendar month;

B. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains or the products thereof by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

C. Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians;

D. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

E. Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

F. Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

G. Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

H. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §§53-168.06, 53-175, 53-194.03)

### **SECTION 5-103: DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER**

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. Rev. Stat. §53-186[1])

B. It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this village.

C. Except as provided in Neb. Rev. Stat. §53-186, it is unlawful for any person to consume an alcoholic beverage (1) in a public parking area or on any highway in this village or (2) inside a motor vehicle while in a public parking area or on any highway in this village.

D. This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Rev. Stat. Chapter 75, Article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this village if:

1. The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and
2. Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

E. For purposes of this section:

1. "Alcoholic beverage" means (a) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; (b) wine of not less than one-half of one percent of alcohol by volume; or (c) distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. "Alcoholic beverage" does not include trace amounts not readily consumable as a beverage;

2. "Highway" means a road or street including the entire area within the right of way;
3. "Open alcoholic beverage container" means any bottle, can, or other receptacle that (a) contains any amount of alcoholic beverage; and (b) is open or has a broken seal; or (c) the contents of which are partially removed; and
4. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. "Passenger area" does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.
5. "Limousine" shall mean a luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than fourteen persons behind the driver with a physical partition separating the driver's seat from the passenger compartment. "Limousine" does not include taxicabs, hotel or airport buses or shuttles, or buses.

(Neb. Rev. Stat. §60-6,211.08)

#### **SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE**

It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, club, or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, club, or any place open to the general public except as permitted by a license issued for such premises pursuant to the act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. Rev. Stat. §60-6,211.08. (Neb. Rev. Stat. §53-186.01)

#### **SECTION 5-105: LICENSE REQUIRED**

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the village unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-168.06)

#### **SECTION 5-106: VILLAGE POWERS AND DUTIES**

- A. The Village Board is authorized to regulate by ordinance, not inconsistent

with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the village.

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail or a craft brewery or microdistillery license, the Village Board may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

C. The Village Board, with respect to licenses within the corporate limits of the village, has the following powers, functions, and duties with respect to retail, craft brewery, and microdistillery licenses:

1. To cancel or revoke for cause retail, craft brewery, and microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission.
2. To enter or authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act (“the act”) to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the Village Board has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Nebraska Liquor Control Act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the Village Board has been or is being violated shall report such violation in writing to the executive director of the commission:
  - a. Within 30 days after determining that such violation has occurred;
  - b. Within 30 days after the conclusion of an ongoing police investigation;  
or
  - c. Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.
3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act.

4. To receive retail, craft brewery, and microdistillery license fees as provided in Neb. Rev. Stat. §§53-124 and 53-124.01 and pay the same to the village treasurer after the license has been delivered to the applicant.
  5. To examine or cause to be examined any applicant or any retail, craft brewery, or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Village Board may authorize its agent or attorney to act on its behalf.
  6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within 30 days after the date of the order by filing a notice of appeal with the commission, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133.
  7. Upon receipt from the commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the Village Board shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the village one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the Village Board in support of or in protest against the issuance of such license may do so at the time of the hearing. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission. After such hearing the Village Board shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The village clerk shall mail to the commission by first class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.
- D. When the Nebraska Liquor Control Commission mails or delivers to the village clerk a license issued or renewed by it, the clerk shall deliver the license to the licensee upon proof of payment of (1) the license fee if, by the terms of Neb. Rev. Stat.

§53-124(5), the fee is payable to the village treasurer; (2) any fee for publication of notice of hearing before the Village Board upon the application for license; and (3) the fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and (4) occupation taxes, if any, imposed by the village.

E. Notwithstanding any ordinance or charter power to the contrary, the village shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the village in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(Neb. Rev. Stat. §§53-131, 53-132, 53-134)

### **SECTION 5-107: LICENSEE REQUIREMENTS**

No liquor license shall be issued to any person unless he or she is a resident of Nebraska; is a person of good character and reputation in the community; is a U.S. citizen; has never been convicted of or pled guilty to a felony under the laws of this state, any other state, or the United States; has never been convicted of or pled guilty to any Class I misdemeanor pursuant to Neb. Rev. Stat. §53-125; has never had a liquor license revoked for cause; and meets other requirements as provided in Neb. Rev. Stat. §53-125. (Neb. Rev. Stat. §53-125)

### **SECTION 5-108: LOCATION**

A. Except as otherwise provided in subsection (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (1) to any location within such distance of 150 feet for which a license to sell alcoholic liquor at retail has been granted by the commission for two years continuously prior to making of application for license, or (2) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935.

B. If a proposed location for the sale at retail of any alcoholic liquor is within 150 feet of any church, a license may be issued if the Liquor Control Commission gives notice to the affected church and holds a hearing as prescribed in Neb. Rev. Stat. §53-133 if the affected church submits a written request for a hearing.

(Neb. Rev. Stat. §53-177)

### **SECTION 5-109: ACCESS TO DWELLINGS**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises having any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. Nothing herein shall prevent any

connection with such premises and such other portion of the building that is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. §53-178)

### **SECTION 5-110: SANITARY CONDITIONS**

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections which the Village Board or the village law enforcement may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

### **SECTION 5-111: CATERING LICENSE**

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12[1])

B. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the Village Board shall process the application in the same manner as provided in Section 5-106 (Village Powers and Duties). (Neb. Rev. Stat. §53-124.12) (Am. by Ord. Nos. 95-298, 2/13/95; 98-369, 1/12/98)

### **SECTION 5-112: DISPLAY OF LICENSE**

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

### **SECTION 5-113: HOURS OF SALE**

A. For the purposes of this section:

1. "On sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.
2. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell at retail or dispense any alcoholic beverages within the village except during the hours provided herein:

<b>Alcoholic Liquors (except Beer and Wine)</b>	
Monday through Saturday	
On and Off Sale	6:00 a.m. to 1:00 a.m.
Sunday	
On and Off Sale	12:00 noon to 1:00 a.m.
<b>Beer and Wine</b>	
Daily	
On and Off Sale	6:00 a.m. to 1:00 a.m.

C. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C or Class I license.

D. It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which this section prohibits the sale or dispensing of alcoholic beverages.  
(Neb. Rev. Stat. §53-179)

**SECTION 5-114: INSPECTIONS**

The Liquor Control Commission and Village Board shall cause frequent inspections to be made on the premises of all retail licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.  
(Neb. Rev. Stat. §53-116.01)

**SECTION 5-115: OWNER OF PREMISES**

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

**SECTION 5-116: EMPLOYER**

The employer of any officer, director, manager, or employee working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission is made with the authorization, knowledge, or approval of the employer or licensee. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the

same manner as if the said act or omission had been committed by him or her personally. (Neb. Rev. Stat. §53-1,102)

#### **SECTION 5-117: HIRING MINORS**

It shall be unlawful for any person to hire minors under the age of 19 years to serve or dispense alcoholic liquors, including beer, in the course of their employment. (Neb. Rev. Stat. §53-168.06)

#### **SECTION 5-118: MINORS AND INCOMPETENTS**

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of, or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

#### **SECTION 5-119: MINOR'S PRESENCE**

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the minor is accompanied by his or her parent or legal guardian and unless the minor remains seated with and under the immediate control of said parent or legal guardian.

#### **SECTION 5-120: CREDIT SALES**

No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered. If any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law. Nothing in this section shall prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and nothing in this section shall prevent (A) any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests, or (B) any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Neb. Rev. Stat. §53-183)

#### **SECTION 5-121: ORIGINAL PACKAGE**

It shall be unlawful for any person who owns, manages, or leases any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184)

**SECTION 5-122: CONDUCT PROHIBITED ON LICENSED PREMISES**

No licensee in this village shall engage in, allow, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls, or unnecessary noise or allow, permit or suffer the licensed premises to be used in such a manner as to create public censure or become a nuisance, public or private.

**SECTION 5-123: AUTOMATIC LICENSE RENEWAL; PROTESTS**

A. An outstanding retail license issued by the Liquor Control Commission may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within 30 days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the Village Board. If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in Neb. Rev. Stat. §53-131.

B. Any licensed retail premises located in an area which is annexed by the village shall file a formal application for a license. While such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

C. The village clerk shall cause to be published in a legal newspaper in or of general circulation in the village one time between January 10 and January 30 each year individual notice of the right of automatic renewal of each retail liquor and beer license within the village in the form prescribed by law; provided, Class C license renewal notices shall be published between July 10 and July 30 each year. Upon the conclusion of any hearing required by this section, the Village Board may request a licensee to submit an application as provided in Neb. Rev. Stat. §53-135.

D. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the village on or before February 10, 20...., or August 10, 20...., in the office of the village clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.

(Neb. Rev. Stat. §§53-135, 53-135.01)

**SECTION 5-124: CITIZENS' COMPLAINT**

A. Any five residents of the village shall have the right to file a complaint with the Village Board stating that any retail licensee subject to the jurisdiction of the board

has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the Village Board and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based.

B. If the Village Board is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the Village Board within 30 days from the date the complaint was filed by resolution thereof and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.

C. The following form is hereby prescribed for the use of residents of this village desiring to complain to the chairman and the Village Board that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission, or any provision of this ordinance:

To the Chairman and Village Board of the Village of Fairmont, Nebraska:

The undersigned respectfully state:

1. That each one is a resident of the Village of Fairmont, Nebraska.

2. That they believe that \_\_\_\_\_, the holder of a Class \_\_\_\_ license in the aforesaid village, has violated Section \_\_\_\_\_ of (check one or more):

\_\_\_\_\_ the Nebraska Liquor Control Act.

\_\_\_\_\_ the regulations prescribed by the Nebraska Liquor Control Commission.

\_\_\_\_\_ the municipal code of the Village of Fairmont, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF FILLMORE )

Subscribed in my presence and sworn to before me by \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Neb. Rev. Stat. §53-134.04)

**SECTION 5-125: COMPLAINT INITIATED BY BOARD**

The Village Board may on its own motion by resolution fix the time and place for a hearing on whether a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission, or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 5-124 (Citizens' Complaint), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

**SECTION 5-126: REVOCATION OF LICENSE**

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The Village Board may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

**SECTION 5-127: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY**

A. Village law enforcement, county sheriffs, officers of the Nebraska State Patrol, and any other such law enforcement officers with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, or alcoholism center or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are

not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only so long as is necessary to preserve life or to prevent injury and under no circumstances for longer than 24 hours.

B. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

D. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

E. For purposes of this section, "public property" shall mean any public right of way, street, highway, alley, park, or other state-, county-, or village-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121)



## Article 2 – Direct Sellers

(Ord. No. 06-447, 9/11/06)

### SECTION 5-201: REGISTRATION REQUEST

It shall be unlawful for any direct seller to engage in direct sales within the village without being registered for that purpose as provided herein. Each individual who acts as a direct seller and be required to register as required herein.

### SECTION 5-202: DEFINITIONS

A. "Clerk" shall mean the village clerk.

B. "Direct seller" shall mean any individual who, for him- or herself or for a partnership, association or corporation, sells goods and/or services or takes sales orders for the later delivery of goods and/or services at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include but not be limited to peddlers, solicitors and transient merchants. The sale of goods and/or services includes donations required by the direct seller for the retention of goods and/or services by a donor or prospective customer.

C. "Goods" shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

D. "Services" shall include labor and professional services of any kind and shall include services provided incidental to goods offered or sold.

### SECTION 5-203: EXEMPTIONS

The following shall be exempt from all provisions of this article:

A. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

B. Any person selling goods at wholesale to dealers in such goods.

C. Any person selling agricultural products which such person has grown.

D. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.

E. Any person who has had or one who represents a company which has had a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.

F. Any person holding a sale required by statute or by order of any court.

G. Any person conducting a *bona fide* auction sale pursuant to law.

H. Any person who represents a charitable, educational or religious organization which has its principal place of business or activity in Fillmore County.

**SECTION 5-204: REGISTRATION; INFORMATION REQUIRED**

Applicants for registration must complete and return to the village clerk a registration form furnished by the clerk which shall require the following information. The clerk may authorize his or her assistant to act on his or her behalf to perform the duties and functions set forth in this article.

A. Name, permanent address and telephone number, and temporary address, if any.

B. Age, height, weight, color of hair and eyes.

C. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by or whose merchandise is being sold.

D. Temporary address and telephone number from which business will be conducted, if any.

E. Nature of business to be conducted and a brief description of the goods and/or services offered

F. Proposed method of delivery of goods, if applicable.

G. Make, model and license number of any vehicle to be used by applicant in the conduct of his business.

H. The last three previous cities, villages, or towns where applicant conducted similar business.

I. Place where applicant can be contacted for at least seven days after leaving the village; and

J. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, the nature of the offense, and the place of conviction.

**SECTION 5-205: DRIVER'S LICENSE**

At the time of filing his or her application for a permit required by this article, the applicant shall present his or her driver's license or other identification to the village clerk.

**SECTION 5-206: FEE**

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee based upon the duration he or she desires to engage in business in the village, either per day or per 12 months. Such fees shall be as set by resolution by the Village Board and kept on file in the office of the village clerk.

**SECTION 5-207: BOND REQUIRED**

The application for a permit required by the provisions of this article shall be accompanied by a bond in the penal sum of \$1,000.00, signed by the applicant and signed as surety by some surety company authorized to do business in this state, conditioned for the final delivery of goods, wares, merchandise or services in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of such bond, at the time of delivery, and that may be discovered by such purchaser or customer within 30 days after delivery, and which bond shall be for the use and benefit of all persons that may make any purchase or give any order to the principal on such bond, or to an agent or employee of such principal.

**SECTION 5-208: INVESTIGATION; REFUSAL OF REGISTRATION**

Upon receipt of each application, the clerk may make and complete an investigation of the statements made in such registration. The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation, that:

A. The application contains any material omission or materially inaccurate statement.

B. Complaints of a material nature have been received and proven against the applicant by authorities in any of the three previous cities, villages or towns in which the applicant conducted similar business.

C. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling.

**SECTION 5-209: APPEAL FROM REFUSAL**

Any person denied registration may appeal to the Village Board by appearing before

the board at its next regular meeting.

**SECTION 5-210: ISSUANCE**

No permit shall be issued under the provisions of this article until the applicant shall have complied with all the provisions and requirements of this ordinance.

**SECTION 5-211: LIMITATION**

No direct seller's permit shall be issued to a corporation, partnership or other impersonal legal entity but each individual person engaging in the business of peddling within the village shall be required to have a permit whether acting for himself or as an agent or representative of another.

**SECTION 5-212: CONTENTS OF PERMIT**

Each permit issued under the provisions of this article shall be signed by the village clerk, shall be dated as of the date of its issuance, and shall state the duration or term of such permit on the face thereof. Any permit not dated and signed as herein provided or which was issued in violation of this section shall be void.

**SECTION 5-213: DURATION OF PERMIT**

Every permit issued under the provisions of this article shall be valid for the period of time stated therein but in no event shall any such permit be issued for a period of time in excess of 12 months.

**SECTION 5-214: DISPLAY OF PERMIT**

Every direct seller having a permit issued under the provisions of this article and doing business within the village shall display his or her permit upon the request of any person. Failure so to do shall be deemed a misdemeanor.

**SECTION 5-215: PROHIBITIONS**

The following regulations shall govern the conduct of registrants under this article:

A. It shall be unlawful for any direct seller to call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors," or words of similar meaning; to call at the rear door of any dwelling place; or to remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

B. It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of the visit, his or her identity or that of the organization

being represented. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

C. It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

D. It shall be unlawful for any direct seller to make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

E. It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he or she is conducting business.

F. It shall be unlawful for any direct seller to engage in the business of peddling within the village between the hours of one-half hour before sunset and 9:00 am. the following morning or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

G. Any direct seller who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises or his or her agent to leave the same and not return to such premises shall be deemed to be in violation of this ordinance and shall be punished as provided by this code.

## **SECTION 5-216: DISCLOSURE REQUIREMENTS**

The following requirements shall govern the conduct of registrants:

A. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his or her name, the name of the company or organization affiliated with, if any, and the Identity of goods or services offered for sale.

B. If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction when such right is provided by state law.

C. If the direct seller takes a sales order for the later delivery of goods, he shall at the time the order is taken provide the buyer with a written statement containing the terms of the agreement, the amount paid In advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, whether a guarantee or warranty is provided and if so, the terms thereof.

**SECTION 5-217: REVOCATION**

Any permit issued under the provisions of this article may be revoked by the village clerk for the violation by the permittee of any applicable provision of this code, state law or village ordinance. Upon such revocation, such permit shall immediately be surrendered to the village clerk; failure to do so shall be a violation of this ordinance and shall be punished as provided by this code. The permit holder may appeal from any revocation of the permit to the Village Board for consideration at its next regular meeting by giving written notice of such appeal to the clerk within five days of the revocation of such permit by the clerk.

## Article 3 – Occupation Taxes

### SECTION 5-301: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation tax upon such occupations and businesses carried on within the corporate limits of this village and in such amounts as set by ordinance and kept on file with the village clerk. Every person, firm, association or corporation carrying on the occupation or business specified within the limits of said village shall pay to the village treasury the sum named as a tax upon such occupation or business. All money so collected shall be credited to the general fund, except as provided in Section 5-302(B) as to fire insurance companies. (Neb. Rev. Stat. §17-525)

### SECTION 5-302: LEVY AUTHORIZED

A. The village shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the village and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under Neb. Rev. Stat. §§53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under Neb. Rev. Stat. §77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. Rev. Stat. §18-1208, except that Neb. Rev. Stat. §18-1208 does not apply to an occupation tax subject to Neb. Rev. Stat. §86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the village.

B. The Village Board shall have authority, by ordinance, to impose an occupation tax of not more than \$5.00 per annum on each fire insurance corporation, company or association doing business in the village for the use, support and benefit of the volunteer Fire Department. The village clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax, the clerk shall pay over the proceeds thereof to the village treasurer, who shall credit the same to a fund to be known as "special occupation tax fund" for the benefit of the Fire Department. Upon proper claim filed by the fire chief and allowed by the Village Board, the treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department as hereinbefore provided.

C. Notwithstanding any ordinance or charter power to the contrary, the village shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the village in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.  
(Neb. Rev. Stat. §§17-525, 35-106, 53-132)

**SECTION 5-303: COLLECTION DATE; RECEIPT**

A. All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily. Upon the payment thereof by any person or persons to the village clerk, he or she shall give a receipt as described below; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. The revenue collected shall then be immediately deposited into the general fund by the village treasurer. All forms and receipts herein mentioned shall be issued in duplicate; one copy shall then be kept by each party in the transaction.

B. The receipt issued after the payment of any occupation tax shall be the occupation tax certificate, which shall specify the amount of the tax and the name of the person and business that paid the said tax. The certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

(Neb. Rev. Stat. §17-525)

**SECTION 5-304: FAILURE TO PAY**

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided in this article on the day they become due and payable, the village shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid. (Neb. Rev. Stat. §17-525)

## Article 4 – Trailers and Mobile Home Courts

### SECTION 5-401: DEFINITIONS

For the purpose of this article, the following terms and definitions shall prevail:

"Public camp" shall be deemed to include any park, court, camp, place, area, or tract of land upon which is located, or which is designed, maintained, or intended for the purpose of supplying location or accommodations for, two or more camping parties using or erecting for use any house, cabin, tent, camping outfit, automobile, auto trailer, or other enclosure for living or sleeping purposes by day, week, or month, whether a charge is made therefor or not and having a common use of any part thereof or any convenience thereon.

"To camp" shall be deemed to include the using, erecting, placing, or locating of a house, cabin, tent, camping outfit, automobile, auto trailer, or other enclosure for living or sleeping purposes.

"Trailer" shall be deemed to include any vehicle or structure so designed and constructed as to permit occupancy thereof as living or sleeping quarters for one or more persons or the conduct of any business, profession, occupation, or trade or used as a selling or advertising device and so designed that it is or may be mounted on wheels and used as a conveyance on highways or village streets, propelled or drawn by its own or other motive power.

"Unit" or "unit space" shall be deemed the ground space as actually set aside in and by a trailer camp for occupancy by and use in connection with any single cabin, camp car, trailer, or other enclosure for living or sleeping purposes.

### SECTION 5-402: TEMPORARY PERMIT

It shall be unlawful for any person to place a trailer, camp car, or any similar enclosure used for living or sleeping purposes, or to camp upon any land or premises within the village except at a duly registered and approved trailer park or public camp, without first having secured permission to do so from the board chairperson or, in his or her absence, the acting chairperson. Application for such permission shall be made in writing to the village clerk and shall be accompanied by written permission from the owner of the property upon which such person proposes to camp and place a trailer. The granting of such permission shall be discretionary with the board chairperson or acting chairperson taking into consideration the location of the premises, available sanitary facilities and the general welfare and safety of the public; provided, in no event shall such person be granted permission to exceed 30 consecutive days. Such permit may be renewed or reissued after a period of at least seven days has passed from the expiration or termination of any permit that was previously issued or renewed. No person may be granted permission to exceed 90 days in any calendar year as authorized by this section. (Am. Ord. No. 03-421, 6/9/03)

**SECTION 5-403: TRAILERS ON PRIVATE PROPERTY; UNLAWFUL**

It shall be unlawful for the owner or lessee of private property not designated as a public camp to permit the owner, occupant or occupants of any cabin car, camp car, trailer or any similar enclosure used for living or sleeping purposes to park the same and camp on such private property unless a permit is first obtained under the provisions herein.

**SECTION 5-404: PERMIT REQUIRED**

It shall be unlawful for any person to open, conduct, establish, and maintain any place of ground for the purpose of a trailer camp unless a permit to do so shall have first been issued by the Village.

**SECTION 5-405: APPLICATION; ISSUANCE OF PERMIT; FEE**

A. Application for a permit for a trailer camp shall be made in writing to the village clerk, setting forth the name and residence of the applicant; the name and residence of the person who will be in direct control and management thereof; a plat of said property location showing the location and size of the grounds proposed to be used for such trailer camp and showing the number and location of each unit and unit space and space between units; water service available upon said grounds; toilet, sanitary, and electric facilities; and the type of building or buildings to be erected thereon.

B. Before issuing a permit for such trailer camp, the chairman and Village Board or their duly authorized agent shall investigate the premises in question and determine if the village ordinances have been and will be complied with as to toilet, sanitary, and electric facilities and whether in other respects such camp will not be detrimental in any way to the public interest. The Village Board may in its discretion reject any proposed camp site. If the board grants such permit, it shall direct the village clerk to issue the same upon the payment of an annual permit fee as set by resolution of the Village Board. All permits issued shall expire on April 30 following the date of issuance unless sooner revoked.

**SECTION 5-406: PERMIT; REVOCATION, SUSPENSION, TRANSFER**

A. Any permit granted hereunder shall be subject to revocation or suspension in the following manner: The chairman and Village Board shall cause a notice to be personally served on the person holding said permit, setting forth wherein permittee has failed to comply with this article and citing him or her to appear before the board at a date set forth in said notice to show cause why his or her permit should not be revoked or suspended. Said permittee shall have the right to appear with counsel and introduce such evidence as he or she may desire.

B. Any permit issued hereunder may be transferred without the payment of an additional permit fee upon written application to the board by the holder thereof and

the approval of such body.

#### **SECTION 5-407: POSTING OF PERMIT; SERVICE AND INSPECTION FEE**

A. It shall be unlawful for any permittee hereunder to fail to post in a conspicuous place in his or her trailer camp the permit issued hereunder.

B. The Village Board may in its discretion fix and determine a service and inspection fee on camps hereunder and if such is fixed, each permittee shall be responsible to pay the same to the village clerk. If he or she fails to do so, any permit hereunder can be revoked or suspended as provided herein.

#### **SECTION 5-408: CARETAKER; REGISTER**

A caretaker shall be provided at all times for each licensed premises, said caretaker to be responsible to enforce all regulations and all other ordinances of the village. Said caretaker shall also maintain a register of all persons using any camp licensed hereunder, setting forth each person's name, address, registration number of automobile, and time and place of issuance. Said register shall be open to inspection by the village authorities at any time.

#### **SECTION 5-409: MAINTENANCE OF PREMISES; RULES AND REGULATIONS**

Each permittee hereunder shall maintain his or her licensed premises in a clean condition and in a state of good repair and abide by all the rules, ordinances, and regulations of the village.

#### **SECTION 5-410: GROUND AREA**

Every trailer and campground licensed hereunder shall be laid out with an available unit space of not less than 2,700 square feet for each camp car, trailer or other facility. No greater number of trailers or mobile homes shall be allowed in such campground than there are available spaces therein; and each camp car, trailer or cabin shall be arranged in neat appearing rows as set forth on a plat to be furnished by applicant. The Village Board shall determine from examination of the plat the necessary distance from unit line to unit line and the applicant shall be bound by said determination, including the necessary distance of the camping or trailer unit or facility from the unit lot line. Each application shall be considered separately by the board to achieve necessary uniformity.

#### **SECTION 5-411: DRAINAGE; WATER SUPPLY; SANITARY CONDITIONS; LIGHTING**

Every trailer camp hereunder shall:

A. Be located on a well-drained area properly graded for drainage.

B. Have an adequate water supply with faucets located at intervals set by the Village Board.

C. Have adequate sanitary toilet facilities and conditions, the rules and regulations concerning same to be set by the Village Board as each separate application for permit hereunder is made. Such regulations shall also apply to garbage and refuse disposal, including sanitary sewage conditions, and the board in its discretion shall have the right and authority to require connection of any such camp and trailer facility to the sewer system.

D. Have adequate lighting. The board shall have the right and authority to set forth and enforce regulations concerning such lighting facilities.

#### **SECTION 5-412: REMOVAL OF WHEELS OR SIMILAR DEVICES**

It shall be unlawful for any person owning or operating a trailer camp to allow any occupant thereof to remove the wheels of any trailer and to otherwise permanently fix such trailer to the ground in a manner that would prevent the ready removal of same and in any way to alter it in such a way as to convert it into a permanent dwelling.

#### **SECTION 5-413: ANIMALS AT LARGE**

It shall be unlawful for any person to permit any animal to run at large in any such trailer camp.

#### **SECTION 5-414: FLAMMABLE LIQUIDS**

It shall be unlawful for any person to have within or in proximity to any trailer or cabin any quantity of gasoline or flammable liquids, except in containers or facilities as approved by the Village Board.

## Article 5 – Junkyards

### SECTION 5-501: DEFINITIONS

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Junk" shall include scrap metals, scrap materials, whether they are liquids, solids, or gases, branches of trees, and dismantled or wrecked automobiles, tractors, and machinery or parts thereof.

"Junk dealer" is hereby defined as meaning and shall include any person engaged in the business of buying, selling, receiving, collecting or dealing in metal scraps, scrap iron, metals of any kind and in any form; bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; or the storage of iron, metals or junk.

"Junkyard" is hereby defined as meaning and shall include any place in the village where or from which any person shall conduct, engage in, or carry on the business of junk dealer as herein defined.

(Neb. Rev. Stat. §17-207)

### SECTION 5-502: REGULATION

It shall be unlawful for any person to own, operate, or hold open for public use any junkyard as herein defined without first obtaining a license to do so from the village. Application for such license shall be made in writing to the village clerk and shall require such information and documents, or copies thereof, that the Village Board deems necessary to determine whether to grant or reject the said application. Upon approval of the application, the village clerk shall issue the license upon the payment of a fee set by resolution of the Village Board. The licensee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the board may determine to be beneficial to the village. Any such bond shall be set by resolution of the Village Board and will be conditioned upon the faithful observance of the provisions of this code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard. (Neb. Rev. Stat. §69-202)

### SECTION 5-503: OWNER'S RESPONSIBILITY

The owner of the premises upon which a junkyard is located shall be equally responsible with the operator, director, or employee thereof to see that the provisions of this code will not be violated. In the event the provisions of this code are violated, the owner shall be equally liable with the operator, director, or employee for the said violation of the provisions herein.

**SECTION 5-504: INSPECTIONS; HEALTH OR SAFETY HAZARDS**

The village police, health officials and the Village Board shall have the power and authority to inspect and examine the premises on which a junkyard is located, provided that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director, or employee has allowed a health or safety hazard to develop, the Village Board shall give written notice to the owner to remove the said health hazard within 30 days. (Neb. Rev. Stat. §69-204)

**SECTION 5-505: NUISANCE**

Any junkyard that becomes a danger to the public health or is not operated in the manner herein provided shall be deemed to be a public nuisance after the said 30-day period of grace. The Village Board shall then request the village attorney to prosecute the owner, operator, director, or employee of the said nuisance for violation of the provisions of this article. (Neb. Rev. Stat. §18-1720)

**SECTION 5-506: PREMISES**

Any area or parcel of land used as a junkyard shall not have more than two entrances and two exits, each of which shall not exceed 15 feet in width at the perimeter of the premises. Such premises or parcel of land shall be enclosed with either a solid, non-transparent wall, fence or link-weave steel wire or combination thereof, with a minimum height of 7 feet from the ground level, except for entrances and exits. The fence shall not contain any poster or advertising of any kind except one sign of the licensee not exceeding 100 square feet.

**SECTION 5-507: RODENTS**

Any person who owns, operates, directs, or is employed by a junkyard shall make a diligent and continuous effort to exterminate all rats, mice, and other harmful rodents frequenting the said junkyard. (Neb. Rev. Stat. §18-1720)

## Article 6 – Bingo

### SECTION 5-601: REGULATION; PERMIT

A. Games of bingo shall be conducted within the village in accordance with all laws of the village and state statutes if the said games are played for or involves profit or gain. Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the Village Board before commencing operation of said game.

B. Application shall be made to the village clerk for such permit. The application form shall contain such information and documents or copies thereof as the Village Board deems necessary to determine whether to grant or reject the application. Upon determination that granting the application would be proper, the board shall direct the village clerk to issue the said license upon payment of an annual permit fee as set by the board by resolution and kept on file in the office of the village clerk. Said license shall be subject to revocation at any time for good cause. Every licensee shall be subject to any other fees, rules and regulations which the Village Board may designate. Permits so issued will automatically expire on September 30 following issuance or renewal. The fee for each renewal shall be the same as for the initial license. Bingo fees shall be credited to the general fund. The permit shall be on display at any place where a game of bingo is conducted.

### SECTION 5-602: TAX

A tax of 3% of the gross receipts of each licensed association deriving revenue from the game of bingo is hereby imposed and levied against each such association and payable on or before the 30th day of the immediately succeeding calendar quarter to the village treasurer. Such tax shall be credited to the general fund and shall be used to pay for the cost of regulation and enforcement of this article. (Neb. Rev. Stat. §9-239)

### SECTION 5-603: QUARTERLY REPORT

Each association conducting the game of bingo shall submit a written quarterly report to the village clerk covering the preceding calendar quarter on or before the 30th day of the immediately succeeding calendar quarter. (Neb. Rev. Stat. §9-239)

### SECTION 5-604: INCORPORATED REGULATION

All applicable state statutes as they now exist or may hereafter be amended shall be and will constitute a part of this article as if repeated verbatim herein; violation of any state statute will be a distinct and separate offense against the village as well as against the state. Violators thereof shall be separately prosecuted by the village for each of such offenses and if convicted, shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §9-201 through 9-265)



## Article 7 – Railroads

### SECTION 5-701: SAFE CROSSING

It shall be the duty of every railroad company doing business in or traveling through the village to keep in a suitable and safe condition the crossings and right of way in the village. If any such crossing shall at any time fall into disrepair and become unsafe or inconvenient for public travel, the Village Board may by resolution call upon the said company to make whatever repairs may be deemed necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail or neglect to repair and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein. (Neb. Rev. Stat. §§17-551, 17-552)

### SECTION 5-702: SPEED

It shall be unlawful for any railroad company, its employees, or agents to operate a railroad engine, locomotive, or other vehicle on its tracks within or through the village at a speed in excess of 25 miles per hour. (Neb. Rev. Stat. §§17-551, 17-552)

### SECTION 5-703: OBSTRUCTING TRAFFIC

It shall be unlawful for any railroad company, its employees, or agents operating a railroad through the village to obstruct traffic on any public street, except in the event of an emergency, for a longer period than five minutes at one time. (Neb. Rev. Stat. §§17-551, 17-552)



## Article 8 – Fair Housing

(Neb. Rev. Stat. §§20-301 through 20-344)

### SECTION 5-801: PURPOSE

The purpose of this article is to promote the general welfare of village residents by endorsing the provisions of the Nebraska Fair Housing Act, Neb. Rev. Stat. §§20-301 through 20-344, to the effect that there shall be no discrimination in the village in the acquisition, ownership, possession, or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska.

### SECTION 5-802: DEFINITIONS

As used in this article, unless the context otherwise requires:

“Aggrieved person” shall include any person who:

- A. Claims to have been injured by a discriminatory housing practice; or
- B. Believes that he or she will be injured by a discriminatory housing practice that is about to occur.

“Commission” shall mean the Nebraska Equal Opportunity Commission.

“Dwelling” shall mean any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

“Familial status” shall mean one or more minors being domiciled with:

- A. A parent or another person having legal custody of such individual; or
- B. The designee of a parent or other person having legal custody, with written permission of the parent or other person.

“Handicap” shall mean, with respect to a person:

- A. A physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401, which substantially limits one or more of such person's major life activities;
- B. A record of having such an impairment; or
- C. Being regarded as having such an impairment.

“Person” shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock com-

panies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

“Rent” shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

“Restrictive covenant” shall mean any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status, or ancestry.

### **SECTION 5-803: UNLAWFUL ACTS**

A. Except as exempted by Section 5-807, it shall be unlawful to:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex;
2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status, or sex;
3. Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, handicap, familial status, or sex or an intention to make any such preference, limitation, or discrimination;
4. Represent to any person because of race, color, religion, national origin, handicap, familial status, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status, or sex of a person seeking to purchase, rent, or lease any housing;
6. Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor, exercise, or attempt to honor or exercise any restrictive covenant pertaining to housing;
7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article on the Nebraska Fair Housing Act; and

8. Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status, or sex.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

**SECTION 5-804: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS**

A. Except as exempted by Section 5-807, it shall be unlawful to:

1. Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
  - a. The buyer or renter;
  - b. Any person associated with the buyer or renter; or
  - c. A person residing in or intending to reside in the dwelling after it is sold, rented, or made available; or
2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:
  - a. Such person;
  - b. Any person associated with such person; or
  - c. A person residing in or intending to reside in the dwelling after it is sold, rented, or made available.

B. For purposes of this section, "discrimination" shall include:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;
2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and
3. In connection with the design and construction of covered multi-family

dwellings, a failure to design and construct the dwellings in such manner that:

- a. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
- b. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- c. All premises within the dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and (iv) kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

C. Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (B)(3)(c) of this section.

D. For purposes of this section, “covered multi-family dwellings” shall mean:

1. Buildings consisting of four or more units if such buildings have one or more elevators; and
2. Ground floor units in other buildings consisting of four or more units.

E. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

#### **SECTION 5-805: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED**

A. It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.

B. For purposes of this section, “transaction related to residential estate” shall mean any of the following:

1. The making or purchasing of loans or providing other financial assistance:

- a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - b. Secured by residential real estate; or
2. The selling, brokering, or appraising of residential real property.

C. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status, or sex.

**SECTION 5-806: MULTIPLE LISTING SERVICE; OTHER SERVICE;  
DISCRIMINATORY PRACTICES PROHIBITED**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status, or sex.

**SECTION 5-807: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED**

A. Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of a dwelling which it owns or operates, for other than commercial purposes, to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status, or sex.

B. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

C. Nothing in this article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her home.

D. Nothing in this article regarding familial status shall apply with respect to

housing for older persons. For purposes of this subsection, "housing for older persons" shall mean housing:

1. Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;
2. Intended for and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by at least one person 55 years of age or older per unit.

**SECTION 5-808: INFORMATION**

The village clerk, upon request, shall make available to an aggrieved person or any other person information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual.

## **Article 9 – Penal Provision**

### **SECTION 5-901: VIOLATION; PENALTY**

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