

## **CHAPTER 5 – BUSINESS REGULATIONS**

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## **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 com-

partment. "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)

**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                         |                        |
| Off Sale  | 6:00 a.m. to 1:00 a.m. |
| On Sale   | 6:00 a.m. to 1:00 a.m. |
| Sunday  |                        |
| Off Sale  | 6:00 a.m. to 1:00 a.m. |
| On Sale   | 6:00 a.m. to 1:00 a.m. |
| <b>Beer and Wine</b>                            |                        |
| Monday through Saturday                         |                        |
| Off Sale  | Prohibited             |
| On Sale   | 6:00 a.m. to 1:00 a.m. |
| Sunday  |                        |
| Off Sale  | 6:00 a.m. to 1:00 a.m. |
| On 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) (Am. Ord. No. 243, 5/7/13)

#### **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. 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: 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 said minor is accompanied by a parent or legal guardian and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

#### **SECTION 5-119: MINORS AND INCOMPETENTS**

A. 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)

B. It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to obtain or attempt to obtain alcoholic liquor by misrepresentation of age or by any other



method in any tavern or other place where alcoholic liquor is sold. (Neb. Rev. Stat. §§53-180.01, 53-180.05)

C. It shall be unlawful for any minor, as defined by Neb. Rev. Stat. §53-168.06, to sell, dispense, consume or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways of the village or inside any vehicle while in or on any other place, including but not limited to the public streets, alleys, roads, or highways of the village or upon property owned by the village, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual, or ceremony or in his or her permanent place of residence. It shall be unlawful for any person under 21 years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. (Neb. Rev. Stat. §53-180.02)

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

No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a pass-book, 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 or persons who own, manage, or lease 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: SIGNS**

A. No retailer licensed in the village shall use an exterior sign describing or with reference to his or her liquor business larger than 600 square inches. Only one such sign shall be used at any time.

B. No retailer licensee shall use an interior sign describing or with reference to his or her liquor business larger than 28 square feet, including its frame, and no brand name included in said sign shall exceed 100 square inches.

C. All signs in or about any licensed retail premises shall be considered exterior signs when the same, in whole, at all times cannot be conveniently read by those within

that portion of the licensed premises normally occupied by customers or the general public, exclusive of any entry way or entry hall.

#### **SECTION 5-124: 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 5-125: 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 Big Springs, Nebraska:

The undersigned respectfully state:

1. That each one is a resident of the Village of Big Springs, 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 Big Springs, 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 DEUEL    )

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 5-126: 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 5-125 (Citizens' Complaints), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

**SECTION 5-127: 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 5-128: CHANGE OF PREMISES**

Any retailer licensee desiring to transfer his or her license from one premises to another shall file a written request for permission to do so with the village clerk and shall also file with said clerk a sworn statement showing that the premises to which removal is to be made comply in all respects with the requirements of the Nebraska Liquor Control Act, as amended. The village clerk shall present said application and statement to the Village Board at its next meeting and it shall by resolution approve or disapprove the transfer. If the transfer is approved, the said approval shall be endorsed on the license by the chairman and attested by the village clerk.

### **SECTION 5-129: 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 – Peddlers and Solicitors

### SECTION 5-201: REGISTRATION; ISSUANCE OF PERMIT

A. To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers and solicitors shall register with the village clerk before doing business within the village. Said registration shall contain all the necessary information and documents required by the Village Board.

B. Any person or persons granted a peddlers' and solicitors' permit shall be subject to any rules and regulations which the board deems appropriate for the purposes stated herein, as well as any fees, including occupation taxes, set by the board by resolution and kept on file in the office of the village clerk.

C. Any permit so granted shall be subject to revocation in the event that the information provided is inaccurate or misleading or for good and sufficient cause. It shall be unlawful for a solicitor, salesperson, or peddler to solicit without a proper permit on his or her person at all times.

(Neb. Rev. Stat. §17-525)

### SECTION 5-202: EXCEPTIONS

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county; to wholesale companies or their agents soliciting merchants directly; to residential route salespersons; to representatives of a nonprofit or charity organization soliciting on behalf of that organization; nor to persons canvassing residents within the village for religious, political or other noncommercial purposes.

### SECTION 5-203: HOURS

It shall be unlawful to make calls as a solicitor or peddler to prospective customers before 8:00 a.m. or after 6:00 p.m. any day unless requested to do so by the prospective customer. (Neb. Rev. Stat. §17-134)

## Article 3 – Occupation Taxes

### SECTION 5-301: PURPOSE

A. For the purpose of raising revenue, there is hereby levied an occupation tax upon each and every vendor, occupation and business carried on within the village which does not have a permanent business residence within the village limits. The amounts of said taxes shall be determined by the Village Board by resolution, kept on file and available for inspection at the village office. Every person, firm, association or corporation carrying on the occupation or business specified by such resolution 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.

B. The provisions of this article shall not extend to nor affect individuals selling their own labor, handiwork, farm products, food livestock, meat, poultry, butter, eggs, vegetables, hay, or grain if raised or produced by the vendor(s); provided, the sale or offering for sale in the village of the products or commodities above excepted shall be *prima facie* evidence that such products or commodities were not raised or produced by such vendors shall satisfy the village clerk by sufficient proof that they are entitled to exemption under

this section; and provided further, the village clerk or may, in the case of vendor (s) claiming exemption under this section, require such vendor(s) to make affidavit under oath with respect to the matter concerning the raising or production of the specific products or commodities sold or offered for sale by such vendor(s).

(Ord. No. 258, 8/14/17)

## **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: INTERSTATE OR GOVERNMENT BUSINESS**

The license tax levied by this ordinance is not levied upon any business or occupation which is interstate or which is done or conducted by any department of the government of the United States, the State of Nebraska, the village or the officers thereof, as such in the course of official duties, or by any county or subdivision of the state or its officers.

## **SECTION 5-304: COLLECTION DATE**

A. *Hotels.* Notwithstanding any contrary provisions of this chapter, the tax imposed by this ordinance shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the 25<sup>th</sup> of the month in which they are due and payable shall be deemed to be delinquent. The operator shall be assessed a penalty of 10% on all delinquent amounts as well as interest of 1% per month or fraction thereof from the first of the month such tax becomes due and payable until the date of payment. (Ord. No. 217, 9/4/07)

B. *Other Businesses*. On all occupations and businesses on which said tax is levied at a yearly rate, the year for such tax shall be deemed to begin May 1 following and said tax for the year shall be due and payable in advance on May 1 of every year and thereafter shall be delinquent. On all occupations or businesses on which said tax is levied at a daily rate, the tax shall be due and payable in advance before the business begins, for the number of days for which the occupation or business is to be carried on within the taxing year. Occupation taxes collected from Class C liquor licensees shall be due and payable on November 1.

#### **SECTION 5-305: 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.

### **Article 4 – Penal Provision**

#### **SECTION 5-401: 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.