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## CHAPTER IV

## BUSINESS REGULATIONS

### ARTICLE I - PLUMBERS

#### SECTION 4-101: LICENSED PLUMBER DEFINED

The term "licensed plumber" as used in the ordinances of this village is hereby defined to denote any person to whom a plumber's license has been duly issued or renewed, as hereinafter provided, which has not been revoked or terminated by lapse of time.

#### SECTION 4-102: PROCEDURE TO OBTAIN LICENSE

Any person wishing to obtain a license as a plumber shall file in the office of the village clerk a written application and stating his/her willingness to be governed in all respects by the ordinances of said village and all rules and regulations now in effect or hereafter to be adopted by said village concerning its water system. Such application shall be presented by the village clerk to the Board at its next meeting thereafter held. Said Board may grant to such applicant a license to be issued by the village clerk, authorizing the applicant to engage in business as a licensed plumber in said village for and during the then current municipal year upon the following conditions:

1. Satisfaction of the Board of the business capacity, qualifications, and good reputation of the applicant and of his/her worthiness to receive a license;
2. Payment to the village clerk of a license fee of \$5.00;
3. Filing with the village clerk of a bond with corporate surety to be approved by the Board in the penal sum of \$2,000.00, conditioned upon the following: (A) indemnifying and keeping harmless the Village from all liability for any damage arising from any negligence or unskilled act in doing or protecting his/her work, or from any unfaithful or inadequate work done in pursuance of his/her license; (B) restoring the streets, alleys, sidewalks, and pavements over the pipes he/she may lay and filling all excavations made by him/her so as to leave said streets, alleys, sidewalks, and pavements in as good condition as he/she found them, and keeping and maintaining the same in good order to the satisfaction of the chairman of the Board for the period of one year next thereafter; (C) paying all fines that may be imposed upon him/her for a violation of any of the ordinances, rules, and regulations adopted by this village and in force during the term of his/her license.

Said license and bond shall cover all employees of the applicant.

#### SECTION 4-103: RENEWAL OF LICENSE

Any license granted as provided in the preceding section may be renewed from year to year at the option of the Village Board, on application therefor, upon payment of the license fee of \$5.00 for the year and the renewal of applicant's bond.

#### SECTION 4-104: REVOCATION OF LICENSE

Any license or renewal may be revoked at any time at the option of the Board.

#### SECTION 4-105: FEES TO BE PAID TO VILLAGE TREASURER

The village clerk shall pay over to the village treasurer all license fees collected pursuant to this article.

## ARTICLE II - LIQUOR REGULATIONS

### SECTION 4-201: TERMS DEFINED

Unless the context otherwise requires, the words and phrases defined in R.R.S. Neb. 1943, or as hereafter amended or revised, shall be adopted for the purpose of construing this article; and said words and phrases are hereby incorporated by reference the same as though copied at full length herein.

Source: Neb. Rev. Stat. §53-103

### SECTION 4-202: LICENSE REQUIRED

No persons shall manufacture for sale, sell, keep for sale, barter, or exchange under any pretext any alcoholic liquor within this village unless said person shall have in full force and effect a license therefor as provided by the Nebraska Liquor Control Act, as amended.

Source: Neb. Rev. Stat. §53-102

### SECTION 4-203: LIQUOR APPLICATION; RETAIL LICENSING STANDARDS

The Village Board adopts the following licensing standards and criteria for consideration by the Liquor Control Commission of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, in accordance with the Nebraska Liquor Control Act, R.R.S. Neb. 1943 and Section 7 of LB 911, 89th Legislature, Second Session, 1986:

1. The adequacy of existing law enforcement services in the area.
2. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking.
3. Zoning restrictions.
4. Sanitation or sanitary conditions on or about the proposed licensed premises.
5. The existing population and projected growth, both citywide and within the area to be served.
6. Existing liquor licenses, the class of such licenses and the distance and time of travel to such licenses.
7. The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.

8. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

**SECTION 4-204: SALE TO MINORS AND INCOMPETENTS PROHIBITED**

1. No persons shall within this village sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors to or for any person who is incompetent or who is physically or mentally incapacitated by the consumption of such liquors.

2. No minor shall have in his/her possession alcoholic liquor in any tavern, public place, street or alley in this village or inside a vehicle while upon any street, alley or public place in this village.

3. No minor shall obtain or attempt to obtain alcoholic liquor by misrepresentation of age or any other method in any tavern or other public place where liquor is sold in this village.

4. Any person violating subsection (1) of this section shall, on conviction thereof, be fined not less than \$50.00 nor more than \$100.00 and shall be assessed the court costs of prosecution. Any person violating subsection (2) or (3) of this section shall, on conviction thereof, be fined not less than \$25.00 nor more than \$100.00 and shall be assessed the court costs of prosecution.

Source: Neb. Rev. Stat. §53-180 and 53-180.01

**SECTION 4-205: HOURS OF SALE**

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

<b><i>Alcoholic Liquors (except Beer and Wine)</i></b>	
<b>Monday through Saturday</b>	
Off Sale	6:00 A.M. to 1:00 A.M. the following day
On Sale	6:00 A.M. to 2:00 A.M. the following day
<b>Sunday</b>	
Off Sale	12:00 Noon to 1:00 A.M. the following day
On Sale	12:00 Noon to 2:00 A.M. the following day
<b><i>Beer and Wine</i></b>	
<b>Daily</b>	
Off Sale	6:00 A.M. to 1:00 A.M. the following day
On Sale	6:00 A.M. to 2:00 A.M. the following day

2. Such limitation shall not apply after 12:00 noon on Sunday to a licensee



which is a nonprofit corporation, but such licensee shall not sell or dispense alcoholic beverages on more than six days each week.

3. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

4. No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for the stopping of sales of alcoholic beverages on said premises.

5. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(Am. by Ord. No. 530, 10/10/13)

#### SECTION 4-206: REVOCATION OF LICENSE

The chairman and the Board shall, by resolution and subject to the right of appeal to the Nebraska Liquor Control Commission, revoke the license of any licensee finally convicted of violating any provisions of this article.

#### SECTION 4-207: ENTRY OF PREMISES FOR INSPECTION

The chairman, any member of the Board, the village police officer, any policeman or the village attorney shall have the right to enter any licensed premises at any time for the purpose of determining whether the licensee is violating any provision of the Nebraska Liquor Control Act or of this article, and for that purpose to examine and inspect said premises.

#### SECTION 4-208: FORM FOR CITIZEN COMPLAINT

The following form is hereby prescribed for the use of residents of this village desiring to complain to the chairman and the 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 Board of the Village of Homer, Nebraska.

The undersigned respectfully state:

1. That they are each residents of the Village of Homer, 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 Homer, 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 DAKOTA    )

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

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

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

(Continued on next page)

#### SECTION 4-209: FORMS, CONTINUED; PROCEDURE

The village clerk shall supply the forms prescribed herein and shall, on request, supply one to any resident of this village desirous of initiating a complaint thereon. Any complaint duly executed on the aforesaid form by five residents of this village and filed with the village clerk shall be presented by the clerk to the chairman and Board at their next meeting. If the chairman and the Board are satisfied that the complaint substantially charges a violation and that from the facts alleged there is a reasonable cause for such belief, they shall, by resolution, set the matter for hearing within ten days from the filing of the complaint. Said resolution shall state the time and place of said hearing and shall direct the village police officer to serve the same on the licensee by delivering to him/her personally a true and certified copy thereof at least 72 hours prior to the time of hearing. Said resolution shall also state the section or sections of the Nebraska Liquor Control Act, the regulations prescribed by the Nebraska Liquor Control Commission or this code alleged to have been violated and the facts on which said allegations are based as stated in the complaint.

Present at said hearing shall be the village attorney and the licensee, who may be represented by counsel employed by him/her. The complainants shall be present and may be represented by counsel employed by them. The chairman and the Board shall, within 30 days from the date the complaint is filed, by resolution, dispose of the complaint, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission.

#### SECTION 4-210: COMPLAINT INITIATED BY BOARD

The chairman and Board may on their 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 4-209 of this code, and insofar as possible the procedure shall be the same as is provided in that section.

#### SECTION 4-211: PREREQUISITES TO DELIVERY OF LICENSE

Retail licenses issued or renewed by the Nebraska Liquor Control Commission for licensees within this village shall be delivered to said licensee by the village clerk, but he/she shall not deliver any such license to a licensee who does not exhibit receipts showing payment of the license fee, payment of the publication fee for giving notice of the hearing before the Village Board on any application for license and, if a renewal, payment of the publication fee of the automatic renewal notice provided for in this code.



The village clerk shall file or cause to be filed with the Nebraska Liquor Control Commission proof of publication of said notices on or before March 12 of each year.

#### SECTION 4-214: PROTESTS AGAINST RENEWAL

In the event written protests are filed with the village clerk by three or more residents of this village against the automatic renewal of a license, the village clerk shall present the same to the chairman and Village Board at their next meeting and they shall thereupon, by resolution, direct the licensee to submit an application in the same manner as he/she would be required to do for an original license, and the village police officer shall forthwith serve said resolution on said licensee by delivering to him/her personally a true and certified copy thereof. Upon receipt by the village clerk from the Nebraska Liquor Control Commission of the notice and copy of application, the same procedure shall be followed as is provided for in the case of an application for an original license.

#### SECTION 4-215: CHANGE OF PREMISES

Any retailer licensee desiring to transfer his/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 chairman and Village Board at their next meeting and they shall, by resolution, approve or disapprove the transfer. If they approve the transfer, the approval thereof shall be endorsed on the license by the chairman and attested by the village clerk.

#### SECTION 4-216: SIGNS

1. No retailer licensed in this village shall use an exterior sign describing or with reference to his/her liquor business larger than 600 square inches, and only one such sign shall be used at any time.

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

3. 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 entryway or entry hall.

#### SECTION 4-217: GAMBLING

Unless sanctioned by Nebraska law, no licensee in this village holding a license covering premises open to the public for the sale of intoxicating liquor or beer shall directly or indirectly permit gambling on or in the licensed premises; nor shall he/she permit the operation or possession of any pay-off gambling device, slot machine or punchboard, mechanical or otherwise, whether pay-off is in cash or merchandise, in, on or about the licensed premises.

#### SECTION 4-218: SALE FOR RESALE

No retail licensee in this village shall engage, directly or indirectly, in any transaction including or conspiring as to the resale of any liquors owned by him/her as a licensee, nor shall such licensee so permit the sale or delivery of any such liquors in such quantities as would place a reasonable-minded person on notice that such liquor might be intended for resale.

#### SECTION 4-219: TRANSPORTATION OF LIQUOR OF RETAIL LICENSEES

No retail licensee in this village shall permit the transportation of alcoholic liquor from his/her licensed premises for storage purposes in any manner for any purpose, or to any location other than has been expressly authorized in writing by the commission.

#### SECTION 4-220: NO DELIVERY AFTER CLOSING HOURS

No retail licensee in this village operating premises open to the public shall act as retainer or keeper of liquor for customers or other persons for the purpose of delivering or disposing of such liquor after closing hours as provided by state law, ordinance or resolution or on days when sales are prohibited.

#### SECTION 4-221: RESTRICTIONS ON CONDUCT OF OTHER BUSINESS

Retail licensees in this village shall not maintain in their licensed premises any door opening into or access leading into premises owned, used, or occupied by other persons; nor shall any retail licensee permit any other person to use his/her licensed premises for the purpose of carrying on within such licensed premises any business activity of such other persons in any of its phases, such as solicitation, sale, service, delivery, storage or otherwise.

#### SECTION 4-222: 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 4-223: ADVERTISEMENTS AND SALES

Advertising by licensees in this village shall not contain misrepresentation or misleading statements, and no sales shall be promoted or made by any licensee by unlawful means. Alcoholic liquors shall not be offered, delivered or disposed of by any licensee as a prize.

#### SECTION 4-224: SANITATION

Sanitary conditions conducive to public health and welfare must be maintained at all times in or about licensed premises in this village.

#### SECTION 4-225: SALES FOR CASH ONLY

No person shall, in this village, sell or furnish alcoholic liquor at retail: (1) on credit or on a passbook, (2) order on a store, (3) in exchange for any goods, wares or merchandise, or (4) in payment for any services rendered.

#### SECTION 4-226: PREMISES OPEN TO VIEW

In premises within this village in which the sale of alcoholic liquor for consumption upon the premises is licensed, other than as a restaurant, hotel or club, no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the door of such premises which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times. No booth, screen, partition or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such licensed premises which shall prevent a full view of the entire interior of such licensed premises from the street, road or sidewalk. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural or artificial white light so that all parts of the interior of the premises shall be clearly visible.

#### SECTION 4-227: DISPLAY OF LICENSE

Every licensee in this village shall cause his/her license to be framed and hung in plain view in a conspicuous place in the licensed premises.

Source: Neb. Rev. Stat. §53-148

#### SECTION 4-228: CATERING LICENSE

1. The holder of a Class C, Class D, or Class I license issued under subdivision (5) of Section 53-124 R.S. Neb., or a brewpub license, may obtain an annual

catering license as prescribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Liquor Control Commission.

2. Upon receipt from the Commission of the notice and copy of the application as providing in Section 53-124.12 R.S. Neb., the Village Board shall fix a time and place at which a hearing will be held and at which time the Village Board shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The Village Board may examine or cause to be examined, under oath, any applicant; examine or cause to be examined the books and records of any such applicant; 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, the village clerk or the village attorney, to act on its behalf.

3. 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 nor 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.

4. The Village Board shall, after the hearing provided in subsection 2, approve or deny the application within 45 days of receipt of such application from the Commission and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The village clerk shall thereupon mail or deliver to the Commission a copy of the decision to approve or deny the application.

5. Any resolution denying an application rendered by the Village Board shall be in writing or state in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

6. The Village Board, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the District Court.

Source: Neb. Rev. Stat. §53-124.12



ARTICLE III - OCCUPATIONAL TAX

SECTION 4-301: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupational tax upon each and every occupation and business carried on within the corporate limits of this village as hereinafter specified and enumerated; and every person, firm, association or corporation carrying on the occupation or business herein specified within the limits of said village shall pay to the village treasury the sum hereinafter named as a tax upon such occupation or business. All money so collected shall be credited to the general fund of said village; the said money shall be and remain under the control of the Village Board for such use and purpose as other monies belonging to the general fund.

SECTION 4-302: OCCUPATIONS ENUMERATED; AMOUNT OF TAX;  
EXEMPTION

There is hereby levied an occupational tax upon each and every occupation and business within the corporate limits of this village as hereinafter enumerated, in the several different amounts and upon the several respective occupations, professions and lines of business, as follows:

Retailer of Beer only, off-sale, per year-----\$ 100.00  
Retailer of Alcoholic Beverages on-sale and off-sale,  
per year----- 300.00

All other liquor license applications submitted shall be accompanied by an occupation tax in an amount equal to the application fee submitted to the State of Nebraska for such license.

Fire Insurance companies, per year----- \$ 5.00  
Telephone companies----- 3% of  
gross receipts from the legally established basic monthly charges  
collected for the local exchange telephone service to subscribers  
in the Village  
Hawkers and Peddlers, per day----- 2.00  
Retailers of Tobacco Products, per year----- 10.00  
Establishments providing pool tables for rent,  
per table, per year----- 10.00  
(Amended December 6, 2001, Ord. No. 465; January 13, 2005, Ord. No. 490)

#### SECTION 4-303: FIRE INSURANCE COMPANIES

For the use, support and maintenance of the Village Fire Department, all revenue realized from the occupation tax on fire insurance companies shall be appropriated to the Special Occupation Tax Fund of the Volunteer Fire Department of the Village.

#### SECTION 4-304: 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, this village or the officers thereof, as such in the course of its or their official duties or by any county or subdivision of this state or its officers.

#### SECTION 4-305: WHEN DUE

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 the first day of January; and said tax for the year shall be due and payable in advance on the first day of January 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 the 1st day of November. (Amended February 6, 2003, Ord. No. 472)

#### SECTION 4-306: DUTIES OF PARTIES LIABLE

It is hereby made the duty of each and every person, firm, association or corporation to pay the tax levied against him, her, them or it at the time the same becomes due as provided in the foregoing section.

#### SECTION 4-307: PAID TO TREASURER; NOT ASSIGNABLE

The tax herein levied shall be paid in cash to the village treasurer or other person designated by resolution of the chairman and Board who, upon the payment thereof, shall issue receipt therefor to the person, persons, partnership, firm or corporation paying the same, properly dated and specifying on behalf of whom and for what the sum is paid. The village treasurer's receipt shall be the warrant and proper authority of any person to carry on and conduct the business specified in said receipt and for which the money has been paid; provided, said receipt shall not be assignable.

#### SECTION 4-308: DAILY OR YEARLY PAYMENTS; NO REFUND

Every occupational tax levied at a daily or yearly rate must be paid in one payment, in advance, before the business is commenced, whether commenced at the beginning of the day or year or at any time thereafter. No person paying occupational tax shall be entitled to a refund of any part of the tax so paid.

#### SECTION 4-309: VIOLATION; PENALTY

Any person, firm, association or corporation who shall refuse or neglect to pay the occupational tax or taxes herein levied or who shall transact any such business or engage in any such occupation without having complied with the provisions of this article shall, upon conviction thereof, be fined in a sum not less than \$5.00 nor more than \$500.00 and assessed the court costs of prosecution; provided that every suit brought under this section shall be in the name of this village and may be commenced by a warrant and arrest of the person or persons against whom the suit is brought, or that suit may be commenced by a common summons; and provided further, whenever any of the above-enumerated businesses or occupations shall be conducted by an agent for a corporation or a non-resident, such agent shall be subject to arrest and punishment under the provisions of this section if his/her principal shall not have complied with the provisions of this ordinance.



## ARTICLE IV - BUILDING REGULATIONS

### SECTION 4-401: BUILDING INSPECTOR

The Village Board may appoint an individual to serve as building inspector for the Village to regulate and inspect all construction, repairs and alterations for compliance with the Nebraska statutes and village building rules and regulations. The appointed building inspector shall use as guidelines the National Building Code pertaining to housing construction, plumbing, electrical and fire prevention in making his/her inspections. The Village Board shall also have the power to contract said duties with another governmental subdivision whenever it deems the appointment of a resident inspector impractical. Said building inspector shall have the power to issue permits for construction, repairs and alterations within said village, and shall have the power and authority to order all work stopped on any construction, repair or alteration which violates any provision prescribed herein.

### SECTION 4-402: BUILDING INSPECTOR; RIGHT OF ENTRY

It shall be unlawful for any person to refuse to allow the building inspector entry into any building or structure where the work of construction, alteration, repair or relocation is taking place, for the purpose of making official inspections at any reasonable hour.

### SECTION 4-403: BUILDING PERMITS REQUIRED; APPLICATION, ISSUANCE

Any person desiring a building permit to commence or proceed to erect, construct, repair, relocate or destroy any building or dwelling, or cause the same to be done, including but not limited to, a lawful burning pursuant to Nebraska Revised Statute 28-506, shall file with the village clerk an application therefor, on a form to be furnished by the village clerk for that purpose, before proceeding with the work. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect and contractor, and such other information as may be requested thereon. If such application and included information are in conformity with the provisions of the ordinances of the Village, the Board of Trustees shall order the issuance forthwith of a permit to the applicant thereof.

Source: Neb. Rev. Stat. §18-1743 (1979 Supp.)

### SECTION 4-404: PERMIT, FEE

The village clerk shall, at the time of filing the application for the issuance of any permit as aforesaid, charge and collect in advance a fee in an amount set from time to time by resolution of the Village Board. Said fee shall be the property of the Village and shall be paid over to the village treasurer for credit to the general

fund of the Village.

#### SECTION 4-405: VARIANCE NOT PERMITTED

It shall be unlawful for any person to whom a permit to construct or repair a building within the corporate limits of the Village is issued, as provided in this article, to vary in any manner from the plans and specifications submitted to the Board of Trustees in the construction or repair authorized, so that such construction or repair shall not conform to the ordinances of the Village.

#### SECTION 4-406: PERMIT LIMITATION

If the work for which a permit has been issued shall not be begun within six months of the date thereof, or if the construction shall be discontinued for a period of six months, the permit shall be void; and before such work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

#### SECTION 4-407: BARRICADES AND LIGHTS

It shall be the duty of the owner, lessee or tenant causing the construction or destruction of any building or improvement upon or near any public street, alley or sidewalk to have during such construction all excavations, building materials and debris protected by suitable guards or barricades by day and by warning lights at night. The failure, neglect or refusal of said persons to erect such guards shall constitute a violation of this section and the village police shall stop all work until guards are erected and maintained as required.

#### SECTION 4-408: BOND REQUIREMENT

It shall be the duty of the owner, lessee or tenant intending the destruction of any building or improvement to post a \$1,000.00 cash bond with the village clerk prior to such destruction. This bond will be refunded upon payment of all damages to village property occasioned by such destruction and any cleanup work resulting from such destruction. In the event that a nuisance remains on the building permit site for more than six months after the issuance of the building permit, then the bond shall be forfeited and shall be applied to offset the cleanup by the Village.

#### SECTION 4-409: BUILDING WITHOUT PERMIT; NUISANCE

Every building or other structure hereafter erected, remodeled or moved into or within said village without a permit therefor, as herein required, or which is not constructed, remodeled or located in accordance with the permit granted and issued therefor, shall be deemed and considered to be a public nuisance and may be abated or removed by the Village at the expense of the owner.

#### SECTION 4-410: APPEAL FROM DECISION

In the event that it is claimed that (1) the true intent and meaning of this chapter has been wrongly interpreted by the building inspector; (2) the time allowed for compliance with any order of the building inspector is too short; or (3) conditions peculiar to a particular building make it unreasonably difficult to meet the literal requirements prescribed by this chapter and the building inspector, the owner, his/her agent or the occupant may file a notice of appeal within ten days after the decision or order of the building inspector has been made. The Village Board shall sit and act as the Village Board of Appeals and shall have the power and authority, when appealed to, to modify the decision or order of the building inspector. Such a decision shall be final, subject only to any remedy which the aggrieved person may have at law or equity. Applications for review shall be in writing and shall state the reasons why the variance should be made. A variance shall be granted only where it is evident that reasonable safety and sanitation is assured and may include conditions not generally specified by this Code to achieve that end. A copy of any variance so granted shall be sent to the applicant.

#### SECTION 4-411: BUILDING CODES ADOPTED

To provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated and converted and to provide certain minimum standards, provisions and requirements for safe and fireproof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances, gas pipe and fittings, and plumbing and heating systems, the most current and up-to-date versions of the following building codes, to-wit:

- A. Uniform Building Code;
- B. Uniform Mechanical Code;
- C. Plumbing Code;
- D. National Electric Code;
- E. NPPA 101 Life Safety Code;
- F. Nebraska Accessibility Guidelines; and
- G. National Fuel Gas Code

are hereby incorporated by reference in addition to all amendments as though printed in full herein, insofar as said codes do not conflict with the statutes of the State of Nebraska. One copy of each code is on file at the office of the village clerk and is available for public inspection at any reasonable time. The provisions of all said codes shall be controlling throughout the Village and throughout its zoning jurisdiction. (Ord. No. 468, 6/6/02) (Amended by Ord. No. 512, 4/10/08)





## ARTICLE V - MOVING BUILDINGS

### SECTION 4-501: PERMIT, FEE AND FINANCIAL SECURITY REQUIRED

1. It shall be unlawful for any person to move any building over or across any street or public way of this village until a permit therefor has been issued by the chairman of the Board and all other provisions of this article complied with. The chairman of the Board is hereby authorized to issue such permit upon the written application of the owner of said building proposed to be removed, or of his/her agent, showing the size and kind of building, its present location and its proposed location. All applications shall be accompanied by a permit fee set by resolution of the chairman and Board of Trustees and on file in the office of the village clerk.

2. However, said permit shall not be issued until the owner of said building has furnished good and sufficient financial security, such as a corporate surety bond, certified check, or cash, in the amount of \$10,000.00. The financial security offered shall be approved in writing by the chairman of the Board before said permit is issued.

3. Approval of the financial security and issuance of the permit shall, among other things, be conditioned upon the licensee's agreement to strictly comply with all the provisions of the ordinances of this village relating to moving buildings, and the licensee's agreement to save, indemnify and hold harmless the village from all liabilities, judgments, costs and expenses which may in any way accrue against the village in consequence of the granting of such license. In addition, approval of the financial security and issuance of the permit shall be conditioned upon the licensee's agreement to pay to the village any and all damages which may be sustained by any pavement, curb, gutter, sidewalk, street or other village property as a result of the moving of such building by the licensee, and the licensee's agreement to pay the owner any and all damages caused in a like manner to any private property in the village.

4. The chairman of the Board in said permit shall limit the time of removal and shall specify the route to be followed in moving said building over and across the streets and public ways of said village, which shall be the route that least interferes with telephone systems and lighting systems in the village under all circumstances. It shall be unlawful for any such licensee to digress from such time or specified route without permission or written consent of the chairman of the Board.

(Amended by Ord. No. 505, 4/12/07)

### SECTION 4-502: NOTICE TO PUBLIC SERVICE COMPANIES REQUIRED

Before moving any building, the licensee shall notify all public service companies

whose wires or other appliances may obstruct the moving of such building of the time when such building will be moved, and request such public service companies to arrange for the passage of such building. Such licensee shall pay said public service companies the reasonable and actual cost and expense of the work required to be done.

#### SECTION 4-503: CARE REQUIRED OF LICENSEE; LIABILITY FOR DAMAGE

1. It shall be unlawful for any licensee to make any openings or excavations in any street pavement or to set any stakes therein, and it is hereby made a duty of every licensee to move any buildings in a careful manner and with the least possible injury to the public or private property.

2. For every such injury or damage, he/she shall be liable on the financial security posted as a condition of the permit. The estimate of the chairman of the Board of any damage shall be final and conclusive upon said licensee. The amount of damage determined by the chairman of the Board shall be withheld from the financial security to pay for damage to public or private property. The remainder of the financial security, if any, shall be refunded to the licensee. The forfeiture of any amount of the financial security provided shall not in any way absolve the licensee of liability for payment of damages in excess of the amount of financial security provided.

(Amended by Ord. No. 505, 04/12/07)

#### SECTION 4-504: NO GENERAL PERMIT

There shall be no license issued or general permit given to anyone to move buildings at will or generally within the corporate limits of the Village.

## ARTICLE VI - TRAILER REGULATIONS

### SECTION 4-601: TERMS DEFINED

The term "court" as used in this code shall mean and include any tract of land upon which are located two or more trailers or other temporary enclosures used for living purposes, whether a charge is made or not.

The term "trailer" as used in this code shall mean and include any vehicle commonly designated as such, also called "mobile home," and constructed to permit occupancy for sleeping, advertising, or business purposes, and so designed that it is or may be mounted on wheels and used as a conveyance on the public ways, and does not comply with the village building code.

The term "unit space" as used in this code shall mean and include the ground space that is actually set aside in a trailer court for the occupancy by and use of a trailer or other temporary dwelling.

### SECTION 4-602: TRAILER COURTS; PERMIT REQUIRED

It shall be unlawful for any person to establish a trailer court within the Village or within one-half mile beyond the corporate limits until he or she shall first obtain a permit for such purpose from the Village Board. The village clerk shall provide permit application forms, which shall require: the name and address of the applicant; the name and residence of the proposed manager of the premises; the location and size of the court; a plat of the court showing the number and location of each unit space; the water service available; the toilet or sewer facilities available; the proposed means of disposing of garbage; the electrical current sources available; and the type of buildings proposed to be erected thereon.

Upon receipt of any such permit application, the village clerk shall furnish the village chairman with a copy of the said application. The chairman shall then examine the premises involved and the proposed unit spaces for the purpose of determining whether the proposed court will violate any of the provisions of the municipal code or the laws of the State of Nebraska. The chairman's findings shall then be submitted in writing to the Village Board.

The Village Board at its next regular meeting shall consider such application, and if the members find that all of the provisions of this ordinance are complied with, shall issue a permit for the operation of the trailer court. In the event that any of the provisions of this ordinance shall not be provided for in such permit application, then such trailer court permit shall not be issued until the Village Board receives assurances that all provisions of this ordinance shall be complied with.

In the event that all of the terms and conditions of this ordinance have been complied with and the Village Board votes to permit such trailer court to exist, then the village clerk shall issue a permit to such applicant, which permit shall be for a one-year period, to be renewed annually.

#### SECTION 4-603: PERMIT RENEWAL

The annual fee for such permit shall be set by resolution of the Village Board and shall be on file at the office of the village clerk. The same procedure shall apply for the renewal of a permit as was heretofore prescribed for the issuance of a permit. No permit shall be issued for any period longer than one year.

#### SECTION 4-604: ASSIGNING PERMIT PROHIBITED

It shall be unlawful to assign or transfer without the written consent of the village clerk and the authorization of the Village Board any permit issued by the Village for the purpose of allowing the operation of a trailer court.

#### SECTION 4-605: PERMIT REVOCATION

Any permit granted under the provisions of this code shall be subject to revocation at any time by the Village Board. Notice shall be served by the village clerk upon the person holding such permit, setting forth the manner in which the owner or operator of the court has failed to comply with the provisions of this code and allowing him/her an opportunity for a hearing before the Board of Trustees at a day and hour therein specified. The said hearing shall be held not less than three days after the personal service of the said notice. The owner or operator shall then be required to show cause why the said permit should not be revoked. Any owner or operator allowed an appearance under the provisions herein shall have the right to be represented by counsel.

#### SECTION 4-606: UNIT SPACES

Each trailer home shall be located on a site not less than 1,000 square feet. No trailer home shall be parked closer than five feet to the lot lines of the trailer court without the permission of the Village Board; provided, nothing herein shall be construed to allow any trailer to be parked or located in such a manner as to obstruct the traffic on or the use of any public way or public property, and in the event that the lot line is adjacent to the public ways and property, the trailer shall be parked not less than ten feet therefrom. Each unit space shall abut a driveway of not less than 20 feet in width and shall have unobstructed access to a public street or alley. There shall be an open space of at least ten feet between the ends of the trailers located thereon, and there shall be on each trailer space an additional parking space for one vehicle for each unit in said court.

#### SECTION 4-607: DRAINAGE

Every trailer court shall be located on a well-drained area and the premises of such shall be properly graded so as to prevent the accumulation of stagnant water thereon.

#### SECTION 4-608: PLUMBING FACILITIES

The owner or operator of a trailer court shall make available connections with the sewer system for the trailer homes thereon unless other arrangements are agreed to in writing by the Village Board.

#### SECTION 4-609: WASTE DISPOSAL

For garbage and refuse collection, tight receptacles of the type permitted for use within the Village shall be provided for each unit space within the trailer court.

#### SECTION 4-610: ELECTRICAL SUPPLY

Each unit space within the trailer court shall be provided with an electrical service outlet installed and maintained in accordance with the current issue of the National Electrical Code.

#### SECTION 4-611: UNLAWFUL PARKING

It shall hereafter be unlawful for any person to place, allow to be placed, or occupy for any purpose a trailer home within the Village or one-half mile beyond the corporate limits unless the same shall be located within the boundaries of a duly established trailer court. Modular homes shall not be subject to this prohibition if they have their towing tongue and axles removed and are placed on a permanent concrete or concrete block foundation.

#### SECTION 4-612: CONVERSION

It shall be unlawful for any person to remove the wheels or transporting device from any trailer or to otherwise affix the said trailer to the ground without first obtaining a written permit from the Village Board; provided, the trailer so converted shall be subject to all rules and regulations prescribed herein for other habitable dwellings. Applications for such permits shall be made through the village clerk.

#### SECTION 4-613: EXCEPTIONS

Nothing in this code shall be construed to prohibit the storage of any trailer home for any length of time when the said trailer is not used for living or business

purposes, nor shall it apply to any trailer homes located within the Village at the time of the passage of this code; provided, in the event that such trailer is moved to a different location, all the provisions of this article shall become immediately applicable thereto.

#### SECTION 4-614: COURTS LIMITED

There shall be a limit of three trailer home courts which shall be licensed within the village or within one-half mile beyond the corporate limits.

#### SECTION 4-615: LIABILITY

The owner of the property upon which any trailer or trailer court is located shall be primarily liable for any violations of the provisions of this article and shall also be primarily liable for the cost of any and all utility services provided by the Village to the owner or occupant of a trailer located thereon.

#### SECTION 4-616: INSPECTIONS

It shall be the duty of the owner, manager, or occupants of any public trailer court to allow any village officials to enter upon the premises for the purpose of inspection at any reasonable time.

## ARTICLE VII - PEDDLERS AND HAWKERS

### SECTION 4-701: REGULATION

All peddlers and hawkers shall, before doing business within the Village, make application for and be issued a license to prevent the sale of fraudulent, dangerous and unhealthful goods and services, to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales and for the purpose of raising revenue. Application for a license shall be made to the village clerk upon blank forms supplied by the Village, and shall contain all the necessary information and documents required for the protection of the residents of the Village. Any person or persons granted a peddler's and hawker's license shall be subject to any fees, occupation taxes and other rules and regulations which the Village Board deems appropriate for the purposes stated herein. Any license so granted shall be subject to revocation for good and sufficient cause by the officials of the Village.

### SECTION 4-702: HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesman or peddler to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M., unless they have a previous appointment with the resident of the premises solicited. It shall be unlawful at any hour for a solicitor, salesman or peddler to solicit without having a proper license on his/her person at all times.

### SECTION 4-703: EXCEPTIONS

Nothing herein shall be construed to apply to any person selling produce raised within the county, to wholesale salespeople soliciting merchants directly, to non-profit organizations, or to route salesmen such as the Schwans Ice Cream Company. These regulations shall not pertain nor apply to persons canvassing residents within the Village for religious, political or other noncommercial purposes.

(Amended by Ord. No. 469, November 7, 2002)





## ARTICLE VIII - MANUFACTURED HOMES

### SECTION 4-801: STANDARDS

1. A manufactured home may be used as a residential structure in any zone in which residential uses are permitted, if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development.
2. Manufactured homes permitted pursuant to this section shall be located and installed according to the following standards which are applicable to site-built, single-family dwellings:
  - A. The home shall be located and installed on a permanent perimeter foundation;
  - B. The home shall be installed with permanent utility connections;
  - C. The home shall comply with all setback and lot requirements of the residential zone in which it is located;
  - D. The home shall comply with the minimum square footage requirements of the residential zone in which it is located.
3. Manufactured homes shall also meet the following standards:
  - A. The home shall have no less than 900 square feet of floor area;
  - B. The home shall have no less than an 18 foot exterior width;
  - C. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
  - D. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;
  - E. The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock; and
  - F. The home shall have wheels, axles, transporting lights and removable towing apparatus removed.

4. Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

5. For purposes of this section, "manufactured home" shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 et seq. promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in Neb. R.S. 71-1557, bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

Source: Neb. Rev. Stat. §19-902

## ARTICLE IX - JUNKYARDS

### SECTION 4-901: DEFINITIONS

"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.

"Junkyard" shall mean the use of any lot, tract of land, building, structure, or part thereof for the storage, collection, depositing, keeping, abandonment, barter or sale of junk as herein defined.

### SECTION 4-902: PROHIBITED

It shall be unlawful for any person to own or operate a junkyard as defined herein, whether for gain or otherwise, within the corporate limits of the Village or one-half mile adjacent thereto.



## ARTICLE X - PENAL PROVISION

### SECTION 4-1001: VIOLATION; PENALTY

Any person, firm, association or corporation violating any of the provisions of Chapter IV hereof for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor, and be fined in an amount not more than \$500.00.

