

## **TITLE XI: BUSINESS REGULATIONS**

Chapters:

- 110. OCCUPATION TAXES**
- 111. PEDDLERS AND HAWKERS**
- 112. ALCOHOLIC BEVERAGES**

## **Bennet – Business Regulations**

**CHAPTER 110: OCCUPATION TAXES**

Sections:

***Occupation Tax***

- 110.01 Alcoholic Liquor; Refuse Collection; Levy Amount
- 110.02 Fire Department Fund
- 110.04 Telecommunications Occupation Tax
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***OCCUPATION TAX***

**§ 110.01 ALCOHOLIC LIQUOR; REFUSE COLLECTION; LEVY AMOUNT.**

For the purpose of raising revenue:

(A) There is hereby levied an annual occupation tax equal to two times the amount of the liquor license fee as established by state law on the business of selling or offering for sale alcoholic liquor, whether at wholesale or retail, and including sales for consumption on and off the licensed premises.

(B) Commencing January 1, 2010, there is hereby levied an occupation tax of five percent (5%) on the business of hauling or collecting refuse from premises located within the corporate limits of the Village of Bennet. Any refuse hauler engaging in the business of hauling or collecting refuse within the corporate limits of the Village of Bennet shall first register with the Village Clerk/Treasurer on a form provided by the Village Clerk/Treasurer. On or before the tenth day of each month, every registered hauler shall submit a statement showing the amount of gross receipts received from the business of hauling or collecting refuse from premises within the corporate limits of the Village of Bennet for the immediately preceding calendar month, together with the amount of occupation tax due and owing. The statement of gross receipts and any supporting documentation related thereto shall be subject to audit by the Village Clerk/Treasurer or her designated agent. For purposes of this section, refuse shall mean and include garbage, building rubbish, demolition debris, putrescible waste, commercial waste, industrial waste, waste papers and cardboards, animal, food or vegetable waste, and any other waste matter or material.

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(C) This ordinance shall not apply to the hauling of refuse from the Village-owned refuse site in accordance with a contract with the Village.

(1994 Code, § 10-301) (Am. Ord. 2009-7.1 § 1, passed 9-14-2009; Am. Ord. 2009-11.1 § 1, passed 1-11-2010) Penalty, See § 10.99

### **§ 110.02 FIRE DEPARTMENT FUND.**

For the use, support, and benefit of the volunteer fire department, the Village Clerk/Treasurer shall take the proceeds of the occupation tax on fire insurance corporations, companies, and associations and credit them to the special occupation tax fund for benefit of the volunteer fire department.

(1994 Code, § 10-302)

***Statutory reference:***

*Taxing authority, See Neb. RS 35-106*

### **§ 110.03 COMMUNITY ANTENNAE TELEVISION SERVICE; ANNUAL OCCUPATION TAX (Repealed Ord. 2012-5.2, passed 5-14-2012)**

### **§ 110.04 TELECOMMUNICATIONS OCCUPATION TAX.**

(A) Commencing May 1, 2008, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telecommunications services to the public for hire in the Village of Bennet (“Telecommunications Service Provider”) an occupation tax of five percent (5%) on the gross receipts resulting from any toll services and charges for basic local exchange services, inter-exchange services, mobile telecommunications services, and other telecommunications services, as more particularly described below:

(1) Basic local exchange services shall include the access and transmission of two-way switched communications within the Village, including local telephone and telecommunications services.

(2) Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (i) originates from an end user within the Village or (ii) terminates with an end user within the Village, and is charged to a service address within the Village, regardless of where the charges are actually paid.

(3) Mobile telecommunications service shall have the meaning set forth in 4 U.S.C. § 124 and shall include, but not be limited to, cellular, radio paging, and mobile radio services charged to a service address within the Village by a customer’s home service provider, as defined in 4 U.S.C. § 124, regardless of where the charges are actually paid.

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(4) Any other similar telecommunications services involving any electronic or electromagnetic transmission of messages originating or terminating in the Village and charged to a service address in the Village, regardless of where the charges are actually paid.

(B) Gross receipts shall not include any toll services and charges as follows:

(1) For local carrier access charges, transmission facilities, and switching services provided to telecommunications companies; or

(2) From accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions, or departments; or

(3) For interstate telecommunications between persons in the Village and persons outside the state.

No part or portion of the tax provided for in this Chapter shall be levied upon or assessed against or taken from any such gross receipts so excepted from the provisions of this Ordinance.  
(Ord. 2008-2.1 § 1, passed 4-14-2008)

### **§ 110.05 TELECOMMUNICATIONS OCCUPATION TAX; CREDIT; PAYMENT.**

On or before the last day of each month, each Telecommunications Service Provider shall pay to the Village of Bennet five percent (5%) of the gross receipts as provided for in Section 110.04 from the preceding month as an occupation tax; provided that such Telecommunications Service Provider shall be entitled to a credit for any occupation tax or other similar tax based on gross receipts, satisfactorily documented or verified as paid to any other jurisdiction upon any gross receipts taxed herein. All deferred payments shall draw interest at the rate of one percent (1%) per month. After default for six (6) months, a penalty of five percent (5%) shall be added in addition to the interest charge.

(Ord. 2008-2.1 § 2, passed 4-14-2008)

### **§ 110.06 TELECOMMUNICATIONS OCCUPATION TAX; REPORTS; CONTENTS.**

All Telecommunications Service Providers shall, on the last day of each month, submit to the Village Clerk/Treasurer a full, complete, and detailed statement of the income and gross receipts, omitting any exemptions provided for in Section 110.04, and said statement shall be duly verified and sworn to by the officer or officers in charge of the business. All such Telecommunications Service Providers shall, at any reasonable time during business hours, permit the Village, through its officers, agents, or representatives, to inspect the books and records of any such Telecommunications Service Provider for the purpose of verifying such report or reports.

(Ord. 2008-2.1 § 3, passed 4-14-2008)

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### **§ 110.07 COLLECTION DATE.**

(A) Unless specifically provided otherwise, all occupation taxes shall be due and payable as follows:

- (1) Daily occupation taxes shall be due and payable daily.
- (2) Annual occupation taxes shall be due and payable on the first day of May of each year.
- (3) Occupation taxes on establishments holding liquor licenses shall be due and payable upon the date of issuance or renewal of the license.
- (4) Telecommunications occupation taxes shall be due and payable on the last day of each month for the preceding month's gross receipts.

(B) Upon the payment thereof by any person or persons to the Village Clerk/Treasurer, the Clerk/Treasurer shall issue a receipt, properly dated, and specifying the person paying the tax, and the amount paid. All receipts shall be issued in duplicate, with one copy provided to the taxpayer and one retained in the records of the Village. The Village Clerk/Treasurer shall keep an accurate account of all revenue received from such occupation taxes and the revenue so collected shall then be immediately deposited by the Village Clerk/Treasurer into the general fund.  
(Neb. RS 17-525) (1994 Code, § 10-303) (Am. Ord. 2008-2.2 § 2, passed 4-14-2008; Am. Ord. 2009-11.1, passed 1-11-2010)

### **§ 110.08 CERTIFICATES.**

The receipt issued after the payment of any occupation tax shall constitute the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place or carried in a way as to be easily accessible while business is being conducted.  
(1994 Code, § 10-304) (Am. Ord. 2008-2.2 § 3, passed 4-14-2008)

### **§ 110.09 FAILURE TO PAY.**

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on or before the day they become due and payable, the Village may then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one percent (1%) per month until paid. After default for six (6) months, a penalty of five percent (5%) shall be added in addition to the interest charge.  
(1994 Code, § 10-305) (Am. Ord. 2008-2.2 § 4, passed 4-14-2008)

## CHAPTER 111: PEDDLERS AND HAWKERS

Sections:

- 111.01 Definition; Regulation; Qualifications; Registration Fee
- 111.02 Hours of Solicitation

### § 111.01 DEFINITION; REGULATION; QUALIFICATIONS; REGISTRATION FEE.

(A) For purposes of this Chapter, the term peddler shall include any person traveling by foot, motor vehicle, or other type of conveyance from residence to residence carrying, conveying, or transporting goods, wares, products, merchandise or provisions of whatever nature, offering and exposing the same for sale, or making sales and delivering such articles to purchasers, or offering to furnish or perform services. Peddler shall also include any person traveling either by foot, motor vehicle, or other type of conveyance from residence to residence taking or attempting to take orders for sale of goods, wares, products, merchandise or provisions of whatever nature for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries, or exposes for sale a sample of the subject of such sale or whether or not such person is collecting advance payment on such sales.

(B) 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 shall, before doing business within the municipality, make application for and receive a registration certificate from the Village Clerk/Treasurer. The application forms, supplied by the Clerk/Treasurer, shall contain the following information:

- (1) Name of applicant;
- (2) Address of applicant;
- (3) Telephone number of applicant;
- (4) Name and address of the firm, company or organization employing the applicant;
- (5) Brief description of the nature of the business and goods to be sold or services to be provided;
- (6) If a vehicle is to be used, a description of the same, together with the license number; and
- (7) Current photograph of the applicant.

(C) All registration certificates issued under the provisions of this section shall expire on the date specified in the registration certificate, but in no event later than one (1) year after the issuance of the same. At the time of filing the application, a nonrefundable registration fee of \$25.00 shall be paid to the Village Clerk/Treasurer.

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(D) Notwithstanding the above, the conduct of door-to-door sales or taking of orders therefor in conjunction with a charitable solicitation by a not-for-profit organization that is exempt from the payment of income taxes pursuant to § 501(c) of the Internal Revenue Code shall be exempt from the requirements of this Chapter provided that such organization notifies the Village Clerk/Treasurer in writing, in advance, of its intention to conduct such solicitations within the Village and the anticipated date or dates of such solicitations.

(Neb. RS 17-134, 17-525, 17-562) (1994 Code, § 10-201) (Am. Ord. 2009-7.1 § 2, passed 9-14-2009)

### **§ 111.02 HOURS OF SOLICITATION.**

It shall be unlawful for any 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, or residents, of the premise solicited. It shall be unlawful at any hour for a peddler to solicit without a proper permit on his or her person at all times.

(Neb. RS 17-134, 17-562) (1994 Code, § 10-202) (Am. Ord. 2009-7.1 § 3, passed 9-14-2009) Penalty, See § 10.99



## CHAPTER 112: ALCOHOLIC BEVERAGES

Sections:

### *General Provisions*

- 112.01 Definitions
- 112.02 Licenses; Municipal Powers and Duties
- 112.03 Inspections
- 112.04 Citizen Complaints

### *Regulations*

- 112.15 License Required
- 112.16 Location
- 112.17 Dwellings
- 112.18 License Displayed
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- 112.20 Liquor License Renewal
- 112.21 Owner of Premises
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- 112.23 Minors and Incompetents
- 112.24 Credit Sales
- 112.25 Spiking Beer
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- 112.27 Minor's Presence
- 112.28 Hours of Sale
- 112.29 Sanitary Conditions
- 112.30 Hiring Minors
- 112.31 Drinking on Public Property; Possession of Open Alcoholic Beverage Container
- 112.32 Removal of Intoxicated Persons from Public or Quasi-Public Property

### **GENERAL PROVISIONS**

#### **§ 112.01 DEFINITIONS.**

All words and phrases used in this chapter are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska.  
(Neb. RS 53-103) (1994 Code, § 10-101)

#### **§ 112.02 LICENSES; MUNICIPAL POWERS AND DUTIES.**

(A) The Board of Trustees is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, or craft brewery licensees carried on within the corporate limits of the municipality.  
(Neb. RS 53-134.03)

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(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, a bottle club license, or a craft brewery license, the Board of Trustees may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.  
(Neb. RS 53-131(2))

(C) The Board of Trustees, with respect to licenses within the corporate limits of the municipality, has the following powers, functions, duties with respect to retail, bottle club, and craft brewery licenses:

(1) To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control 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 Board of Trustees has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

(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 license fees, bottle club license fees, and craft brewery license fees as provided in Neb. RS 53-124 and pay the same, after the license has been delivered to the applicant, to the Village Clerk/Treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery 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 Board of Trustees 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 § 112.04, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The 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. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133;

(7) (a) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the Board of Trustees 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 municipality, 1 time not less than 7 and not more than 14 days before the time of the hearing. The notice shall include, but not be limited

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to, a statement that all persons desiring to give evidence before the Board of Trustees in support of or in protest against the issuance of such license may do so at the time of the hearing.

(b) The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the Board of Trustees shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The Village Clerk/Treasurer 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.

(Neb. RS 53-134)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the Village Clerk/Treasurer a license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon proof of payment of:

(a) The license fee if by the terms of Neb. RS 53-124(5) the fee is payable to the Village Clerk/Treasurer;

(b) Any fee for publication of notice of hearing before the Board of Trustees upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.01; and

(d) Occupation taxes, if any, imposed by the municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the municipality 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 municipality in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. RS 53-132(4)) (Ord. 2000-7.1, passed 7-10-2000)

### **§ 112.03 INSPECTIONS.**

It shall be the duty of the Board of Trustees to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of the Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard by the Board of Trustees.

(Neb. RS 53-146) (1994 Code, § 10-122)

### **§ 112.04 CITIZEN COMPLAINTS.**

Any 5 residents of the municipality shall have the right to file a complaint with the Board of Trustees stating that any retail or bottle club licensee, subject to the jurisdiction of the Board of Trustees, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. The complaint shall be in writing in the form prescribed by the

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Board of Trustees 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. If the Board of Trustees is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within 10 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; provided, that the complaint must in all cases be disposed of by the Board of Trustees within 30 days from the date the complaint was filed by resolution thereof, the resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law.  
(Neb. RS 53-1,114) (1994 Code, § 10-123)

### ***REGULATIONS***

#### **§ 112.15 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 municipality unless the person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act.  
(Neb. RS 53-102) (1994 Code, § 10-102) Penalty, See § 10.99

#### **§ 112.16 LOCATION.**

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least 2 years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premise within 300 feet from the campus of any college within the municipality.  
(Neb. RS 53-177) (1994 Code, § 10-103) Penalty, See § 10.99

#### **§ 112.17 DWELLINGS.**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise, and such other portion of the building which is used only by the licensee, his or her family, or personal guests.  
(Neb. RS 53-178) (1994 Code, § 10-104) Penalty, See § 10.99

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### **§ 112.18 LICENSE DISPLAYED.**

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 premise.  
(Neb. RS 53-148) (1994 Code, § 10-105)

### **§ 112.19 LICENSEE REQUIREMENTS.**

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless the person is a resident of the county in which the premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. RS Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant.  
(Neb. RS 53-124.03, 53-125) (1994 Code, § 10-106) Penalty, See § 10.99

### **§ 112.20 LIQUOR LICENSE RENEWAL.**

Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the Board of Trustees to require the licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the municipality shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this chapter until the original license expires, is canceled, or revoked. If the 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 1 year. The Village Clerk/Treasurer, upon notice from the Commission, between January 10 and January 30 of each year, shall cause to be published in a legal newspaper in, or of general circulation in the municipality, 1 time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality; provided, Class C license renewal notices shall be published between the dates of July 10 and July 30 of each year. The Village Clerk/Treasurer shall then file with the Commission proof of publication of the notice on or before February 10 of each year or August 10 of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the Board of Trustees may request a licensee to submit an application.  
(Neb. RS 53-135, 53-135.01) (1994 Code, § 10-108)

### **§ 112.21 OWNER OF PREMISES.**

The owner of any premise 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 licensee if the owner shall knowingly permit the licensee to use the licensed premise in violation of any municipal code section or Nebraska statute.  
(Neb. RS 53-1,101) (1994 Code, § 10-110)

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### **§ 112.22 EMPLOYER.**

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and 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 act or omission had been committed by him or her personally.

(Neb. RS 53-1,102) (1994 Code, § 10-111)

### **§ 112.23 MINORS AND INCOMPETENTS.**

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent.

(Neb. RS 53-180) (1994 Code, § 10-112) Penalty, See § 10.99

### **§ 112.24 CREDIT SALES.**

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to 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 members or guests in accordance with the by-laws of any such club; and provided further, nothing shall be construed to prevent 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 hotel, and charged to the accounts of such guests.

(Neb. RS 53-183) (1994 Code, § 10-113) Penalty, See § 10.99

### **§ 112.25 SPIKING BEER.**

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee.

(Neb. RS 53-174) (1994 Code, § 10-114) Penalty, See § 10.99

### **§ 112.26 ORIGINAL PACKAGE.**

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquor contained in 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. RS 53-184) (1994 Code, § 10-115) Penalty, See § 10.99

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### **§ 112.27 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 establishment unless the minor is accompanied by his or her parent or legal guardian, and unless the minor remains seated with, and under the immediate control of, the parent or legal guardian.

(Neb. RS 53-147) (1994 Code, § 10-116) Penalty, See § 10.99

### **§ 112.28 HOURS OF SALE.**

(A) Alcoholic liquor, including beer, may be sold at retail or dispensed for consumption on or off the premises during the following hours:

(1) On Sunday, between the hours of 12:00 p.m. (noon) and 2:00 a.m. the following day; and

(2) On Monday through Saturday, between the hours of 6:00 a.m. and 2:00 a.m. the following day.

(B) No person shall consume any alcoholic liquor, including beer, on licensed premises where it is sold for consumption on the premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic liquors, including beer, on the premises. No person shall permit or allow any beer, bottles, glasses or containers of any kind to be or remain upon any table, booth, counter or bar on his or her licensed premises for a period of time longer than 15 minutes after the time fixed for stopping the sale of alcoholic liquor, including beer, on the premises. No person except the licensee or his or her employees shall remain on the licensed premises where alcoholic liquor, including beer, is legally sold, 15 minutes after the time fixed for stopping the sale of alcoholic liquor, including beer, on the premises; and all such licensed premises shall be closed and securely locked during the hours fixed herein when it is unlawful for persons to remain on the premises, unless the recipient of the license has some other lawful business in connection therewith.

(Neb. RS 53-179) (1994 Code, § 10-117) (Ord. 1997-10.2, passed 11-17-1997; Am. Ord. 2005-12.1, passed 12-12-2005; Am. Ord. 2006-6.1, passed 8-16-2006; Am. Ord. 2011-6.1, passed 8-15-2011) Penalty, See § 10.99

### **§ 112.29 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 the licensed premise shall be subject to any health inspections the Board of Trustees or the Village Police 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 sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license.

(Neb. RS 53-118) (1994 Code, § 10-118) Penalty, See § 10.99

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### § 112.30 HIRING MINORS.

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to the licensee's customers.  
(Neb. RS 53-102) (1994 Code, § 10-119) Penalty, See § 10.99

### § 112.31 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. RS 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. RS 53-186)

(B) (1) 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 municipality.

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

(3) For purposes of this division:

(a) Alcoholic beverage means beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing .5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; wine of not less than .5% of alcohol by volume; or 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;

right-of-way; (b) Highway means a road or street including the entire area within the

receptacle: (c) Open alcoholic beverage container means any bottle, can, or other

1. That contains any amount of alcoholic beverage; and

2. A. That is open or has a broken seal; or

B. The contents of which are partially removed; and

(d) 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 the 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.

(Neb. RS 60-6,211.08)



## **Alcoholic Beverages**

(1994 Code, § 10-120) (Ord. 2000-7.8, passed 7-10-2000) Penalty, See § 10.99

### **§ 112.32 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.**

(A) Any law enforcement officer with the 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 the intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat the individuals and which regularly do accept the individuals. If 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 as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

(B) 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. 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.

(C) For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or municipally-owned property.

(D) For the purposes of this section, 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. RS 53-1,121) (1994 Code, § 10-121)

## **Bennet – Business Regulations**