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CHAPTER IV – BUSINESS REGULATIONS

ARTICLE I – OCCUPATION TAX

SECTION 4-101: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation 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 4-102: OCCUPATIONS ENUMERATED; AMOUNT OF TAX; EXEMPTION

1. There is hereby levied an occupation 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:

Magazines, non-residents engaged in soliciting subscriptions for, per person, per day	\$25.00
Insurance companies, non-residents engaged in soliciting for, per person, per day	25.00
Any stock of goods, wares or merchandise brought into this village and sold at auction	25.00

2. The sale of farm produce locally grown and the sale of consigned goods at a community-wide consignment auction is exempted from this tax if prior approval of the Village Board is obtained for these sale activities.

SECTION 4-103: INTERSTATE OR GOVERNMENT BUSINESS

The license tax by this ordinance levied 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 4-104: WHEN DUE

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.

SECTION 4-105: 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 4-106: 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 4-107: NO REFUND

No person paying occupational tax shall be entitled to a refund of any part of the tax so paid.

SECTION 4-108: 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 \$100.00 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 II – FIRE INSURANCE COMPANIES TAX

SECTION 4-201: TAX IMPOSED, PURPOSE

For the use, support and maintenance of the Volunteer Fire Department of the Village, regularly organized under the laws of the State of Nebraska, an occupation tax of \$5.00 per annum shall be and is hereby levied upon each and every fire insurance company, corporation or association doing business in this village.

SECTION 4-202: WHEN DUE

Such occupation tax shall be due and payable on the first day of May each year and upon such payment thereof by any person to the village clerk, said clerk shall give receipt therefor, properly dated and specifying the person paying, the name of the fire insurance company, corporation or association, the amount and for what time said tax is paid.

SECTION 4-203: FUNDS, HOW USED

The money paid to the village clerk under the provisions of this article shall be paid over to the village treasurer, and shall constitute and be known as the Special Occupation Tax Fund of the Volunteer Fire Department of the Village and the same shall be used exclusively for the purposes and support of such department. Upon claims filed by the chief of the fire department and approved, the monies credited to said fund shall be paid over to said department as other claims against said village.

SECTION 4-204: FAILURE TO PAY

Should any fire insurance company, corporation or association fail to pay the tax provided for in Section 4-201 on the day it becomes due and payable, the Village may recover the same in a civil action brought against such fire insurance company, corporation or association.

ARTICLE III – LIQUOR REGULATIONS

SECTION 4-301: 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.

SECTION 4-302: 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. A violation of this section shall constitute a misdemeanor, and any persons convicted of such shall be fined \$100.00 and assessed the court costs of prosecution.

SECTION 4-303: LIQUOR APPLICATION; RETAINING 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 resources and 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 city-wide 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 4-304: 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 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 subsections (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.

SECTION 4-305: HOURS OF SALE

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

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

2. All alcoholic liquors, including beer and wine, shall be off the tables and bars by fifteen minutes after closing, and all persons excluding owners and employees shall be off the premises by thirty minutes after closing.

3. 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.

SECTION 4-306: RESTRICTIONS ON PLACE OF CONSUMPTION

No person shall drink or consume alcoholic liquors on any street or alley in this village or inside any vehicle on any street or alley of this village or in any place open to the general public, other than a premises having an on-sale liquor license.

SECTION 4-307: OCCUPATION TAX

1. Occupation taxes for each of these and similar retail establishments shall be as follows, in addition to the \$250.00 fee required by the state:

Class B: Beer only, except for craft breweries, for consumption off the premises, sales in the original packages only	\$100.00
Class C: Alcoholic liquor for consumption on the premises and off the premises, sales in original packages only, except for farm winery or craft brewery sales outlets	300.00
Class D: Alcoholic liquor, including beer, for consumption off the premises, sales in the original packages only, except for farm winery or craft brewery sales outlets	200.00

2. The amount of such liquor license fee and occupation tax set forth above shall be deposited with the village clerk at the time the application for license is made, whether such application be filed with the village clerk or the Nebraska Liquor Control

Commission, and the village clerk shall hold such occupation tax as a trust fund until the application is finally passed on. If the application is refused and license denied, then the amount thereof shall be returned to the applicant without interest.

3. The occupation tax year shall commence on May 1 of each year and shall end on April 30 the next succeeding year; provided, during any license year no license shall be issued unless the occupation tax for the full license year shall have been deposited with the village clerk as hereinabove provided, regardless of the time when the application for license shall be made. No reduction shall be made in the amount of the occupation tax, regardless of the time when the application for license shall have been made and regardless of the time when such license is issued.

4. The village clerk/treasurer shall credit such occupation tax fees to the general fund of the Village. Upon the failure of any such applicant to pay such occupation tax as provided by this section, it shall be mandatory upon the chairman and Board to pass a resolution denying the application for a license or requesting the Liquor Control Commission to deny such application. Such resolution shall state the reason therefor and shall be forwarded to the Nebraska Liquor Control Commission.

(Am. 9-13-05, Ord. No. 2005-O-2)

SECTION 4-308: 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 4-309: 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 4-310: 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 Pleasanton, Nebraska.

The undersigned respectfully state:

1. That they are each residents of the Village of Pleasanton, 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.

SECTION 4-312: 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 4-311 of this code, and insofar as possible the procedure shall be the same as is provided in that section.

SECTION 4-313: 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 occupation tax levied under Section 4-307 of this code, 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.

SECTION 4-314: ACTION ON APPLICATION FOR LICENSE

1. Upon receipt from the Nebraska Liquor Control Commission of the notice and copy of the application provided for in R.R.S. Neb. 1943, the village clerk shall present it to the chairman and the Village Board at their next meeting, and said chairman and Board shall, by resolution, fix a time and place at which a hearing will be had and evidence taken under oath from any person desiring to be heard on the propriety of the issuance of the license in question. Notice of the time and place of such hearing shall be published in a legal newspaper in this village one time, not less than three nor more than seven days before the time of hearing.

2. The hearing shall be held not more than 21 days after the date of receipt of the notice and copy of the application by the village clerk. After said hearing, the chairman and Board shall, by resolution, spread at large in the minute record of their proceedings, recommend either the issuance or the refusal of said license. The village clerk shall thereupon mail to the Nebraska Liquor Control Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.

SECTION 4-315: RENEWAL OF LICENSE

The village clerk shall cause to be published in a legal newspaper in this village one time between January 10 and January 30 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license for which provisions are made in R.R.S. Neb. 1943, in the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR LICENSE

Notice is hereby given that pursuant to Nebraska law, the liquor license may be automatically renewed for one year from May 1, 20____, (or August 10, 20____,) for the following retail liquor licensee, to-wit:

(Name of Licensee)
(Address of licensed premises)

Notice is hereby given that a written protest to the issuance of automatic renewal of license may be filed by any resident of the Village of Bellwood on or before February 10, 20____, (or August 10, 20____,) in the office of the village clerk; that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of said license should be allowed.

(NAME)
(VILLAGE CLERK)

Upon publication of the notice of renewal, the village clerk shall file a copy of the said notice with the Nebraska Liquor Control Commission.

SECTION 4-316: 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. 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 4-317: 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 4-318: 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 4-319: 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 4-320: 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 4-321: 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 4-322: 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 4-323: 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 4-324: 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 4-325: 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 4-326: SANITATION

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

SECTION 4-327: 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 4-328: 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 4-329: 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.

SECTION 4-330: 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 craft brewery 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 provided 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 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. The 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; hear testimony; and 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 the 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. The 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 the license may do so at the time of the hearing.

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

5. Any resolution rendered by the Village Board denying an application shall be in writing or stated 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. A copy of the decision and order and accompanying findings shall be delivered or mailed to the applicant upon request.

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

SECTION 4-331: KEG SALES; REGISTRATION; KEG IDENTIFICATION NUMBERS; PROHIBITED ACTS

1. When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18.92 or more liters, the seller shall record the date of sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. Such records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

2. Licensees shall place a label bearing a keg identification number on each keg at the time of retail sale. Any person who unlawfully tampers with, alters or removes the keg identification number from a beer container after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

SECTION 4-332: 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.

ARTICLE V – PEDDLERS AND HAWKERS

SECTION 4-401: 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 4-402: 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 or residents 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 person at all times.

SECTION 4-403: EXCEPTIONS

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, and to wholesale salespeople soliciting merchants directly.

ARTICLE V – PENAL PROVISION

SECTION 4-501: 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 any sum not exceeding that permitted by Nebraska law for violation of a municipal ordinance.