

ORDINANCE NO. 2022-01

AN ORDINANCE OF THE VILLAGE OF MALCOLM, LANCASTER COUNTY, NEBRASKA, TO ADOPT A MASTER FEE SCHEDULE AND TO AMEND THE MALCOLM VILLAGE CODE TO REMOVE SPECIFIC FEES AND REPLACE WITH REFERENCES TO MASTER FEE SCHEDULE

**BE IT ORDAINED BY THE CHAIRMAN AND BOARD OF TRUSTEES OF THE VILLAGE OF MALCOLM, NEBRASKA:**

**Section 1.** The Village of Malcolm hereby establishes and adopts a Master Fee Schedule, attached and incorporated as Exhibit A.

**Section 2.** The following code sections are hereby repealed in their entirety:

Section 5-606 Drunken Driving; Penalty  
Section 5-607 Reckless Driving  
Section 5-608 Reckless Driving; Willful  
Section 5-609 Accident; Driver's Duty  
Section 5-610 Accident; Penalty  
Section 6-404 Misdemeanors; Larceny

**Section 3.** Section 2-110 of the Malcolm Village Code is amended as follows:

**2-110 Municipal Water Department; Delinquent Payments; Delinquent Charges; Shutoff; Lien**

- a) Timely payment is essential for the Village to provide quality water services to the public. Accordingly, the Village shall enforce the following procedure with respect to billing and collection for such services:
2. Invoices for water services shall be mailed on the first day of each month, or the next business day thereafter if mail service is not available on the first of the month.
  3. Payment is due by the 4:00PM on the 20th day of the month. Payment may be made by mail or in person at the Village Office.
  4. Late notices shall be issued for delinquent accounts on the next business day after the 20th day of the month. Delinquent accounts shall be subject to a late fee of ~~\$12.50 per month~~. The late fee may be waived for financial hardship or other exigent circumstances on a case by case basis, provided the waiver is requested before the fee is assessed. The late notice shall state the unpaid amount, plus any late fees, and shall provide a deadline of the first Wednesday of the following month.
  5. Shutoff notices shall be issued for accounts that remain delinquent after the first Wednesday of the month following the late notice. The shutoff notice shall state that payment is due within seven (7) days from the date of the notice. Failure to make payment within seven (7) days shall result in a water shutoff and an additional reconnection fee of ~~\$50.00~~.
  6. A single thirty (30) day extension may be available for customers suffering from serious illness or disability, provided the customer presents medical documentation from a licensed physician within seven (7) days from the date of the shutoff notice. The customer must show that a water shutoff poses an immediate and serious hazard to their health.

7. For accounts that remain delinquent more than thirty (30) days after the mailing of a shutoff notice, the Village may, by resolution passed and approved by the Village Board of Trustees, cause a water lien to be recorded upon the premises or real property for which or upon which the water services were used or supplied.
  8. All late fees and reconnection fees shall be set by the Village Board by separate ordinance.
- b) If a water consumer orders water services to their premises to be disconnected, transfers ownership or control of said premises or real property, or abandons said premises or real property without bringing their account current, the Village may, by resolution passed and approved by the Board of Trustees, cause a water lien to be recorded upon the premises or real property for which or upon which the water services were used or supplied.
  - c) It shall be the duty of the village clerk to regularly submit to the Chairman and Board of Trustees a list of all unpaid accounts due for water rents, fees, penalties, and charges, together with the legal description of the premises upon which the same was used or supplied.

**Section 4.** Section 2-118 of the Malcolm Village Code is amended as follows:

**2-118 Municipal Water Department; Payment With Dishonored Check**

There will be a service charge of ~~twenty five (25) dollars~~ for the tender of water fees to the village of Malcolm with a check which is dishonored. The service charge shall be set by the Village Board by separate ordinance. The maker will have ten (10) days, after being given written notice, to pay both the amount of the check tendered and the service charge with good funds. Any person who shall violate or refuse to comply with this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred (100) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

If payment for more than one service is included in the dishonored check, the maker will only be charged the service charge and penalties for the one check.

**Section 5.** Section 2-120(e) of the Malcolm Village Code is amended as follows:

**2-120 Municipal Water Department; Backflow Prevention Devices Required: Customer Installation, Maintenance And Testing**

- a) A cross connection control officer shall be appointed by the Board of Trustees of the Village of Malcolm to oversee the enforcement of this ordinance. This person shall be responsible for reviewing the surveys submitted by the customers of the municipal water department and determining if a backflow prevention device is required to comply with Title 179, NAC 2, *"Regulations Governing Public Water Supply Systems"*.
- b) All customers of the municipal water department shall be required to report to the cross connection control officer any potential cross connections which may be on their premises. This report shall be made at least every 5 years.
- c) A customer of the municipal water department may be required by the cross connection control officer to install and maintain a properly located backflow prevention device at the customer's expense appropriate to the potential hazard as set forth in Title 179 NAC 2, *"Regulations Governing Public Water Supply Systems"* and approved by the cross connection control officer.

The customer shall make application to the cross connection officer to install a required



backflow prevention device on a form provided by the municipality. The application shall contain at a minimum the name and address of the applicant, the type of backflow prevention device to be installed, including make and model number, and the location of the proposed installation.

The cross connection control officer shall approve or disapprove the application based on whether such installation will protect the municipal water distribution system from potential backflow and backsiphonage hazards.

When a testable backflow prevention device shall be required, the customer shall also certify to the municipality at least one (1) time annually that the backflow prevention device has been tested by a Nebraska Health and Human Services System Grade VI certified water operator. Such certification shall be made on a form available at the office of the municipal clerk.

Any decision of the cross connection control officer may be appealed to the Board of Trustees of the Village of Malcolm, whose decision shall be final.

- d) That any other ordinance or section passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.
- e) Any customer refusing to report on possible cross connections on their premises, refusing to install the necessary backflow prevention device, or failing to have a testable backflow prevention device tested at least annually shall be in violation of this ordinance and may have their water service discontinued. Any customer who has had their service discontinued for violation of this ordinance shall be subject to a ~~fifty dollar (\$50)~~ reconnect fee to have the service reinstated after supplying proof that the potential cross connection has been eliminated or properly protected. Such reconnect fee shall be set by the Village Board by separate ordinance.

**Section 6.** Section 3-401(f) of the Malcolm Village Code is amended as follows:

### **3-401 Community Development Agency**

- a) **Established.** There is hereby established pursuant to §18-2101.01 Neb. Rev. Stat. a community development agency for the Village of Malcolm, Nebraska.
- b) **Composition Generally.** The Chairperson for the Village Board of Trustees and the Village Board of Trustees are hereby designated to be the community development agency for the Village.
- c) **Chairperson; Vice Chairperson; Secretary.** The Chairperson of the Village Board of Trustees shall be the Chairperson of the Community Development Agency; the Chairperson Pro Tempore of the Village Board of Trustees shall be the Vice Chairperson of the Community Development Agency; and the Village Clerk shall be the Secretary of the Community Development Agency.
- d) **Power and Authority.** The Community Development Agency shall have the power and authority to exercise those powers and authority granted to a community redevelopment authority under Neb. Rev. Stat. §§18-2101 to 18-2144. The Community Development Agency shall also have the power and authority to do all community development activities, and to do all things necessary to cooperate with the state and federal governments in all matters relating to community development program activities as a grantee, agent or otherwise, under the provisions of the Nebraska Revised Statutes and the provisions of the Federal Housing and Community Development Act of 1974, as amended through the



Housing and Community Development Amendments of 1981, and all future amendments thereto. The Community Development Agency may levy taxes for the exercise of such jurisdiction and authority, and may issue general obligation bonds, general obligation notes, revenue bonds, and revenue notes including those general obligation and revenue refunding bonds and notes for the purposes set forth in such sections and under the powers granted to any community redevelopment authority described therein.

- e) **Public Policy Statement for Tax Increment Financing Program.** In accordance with a Blighting and Substandard Study, Redevelopment Plan, and Declaration of Blighting and Substandard property, as may be adopted by the Village Board of Trustees, whether now or in the future, it shall be the public policy of the Community Development Agency to proactively exercise such powers under the Community Development Law of the State of Nebraska to do all things as are necessary and expedient to assist in the remediation of blight and substandard conditions in Village of Malcolm. Accordingly, the Public Policy shall include, (i) Encouragement of investment in redevelopment areas by providing partial loans and/or grants (and/or combinations of loans and grants) for redevelopment projects in areas declared to be blighted and substandard; (ii) Issuance of bonds set forth in Neb. Rev. Stat. §18-2147 financed with a pledge for the incremental ad valorem taxes on real property in the redevelopment project area(s); (iii) Requirement that such redevelopment be self-supporting without the requirement to use taxing authority to increase current property tax levels to support redevelopment; (iv) Development of a Community Redevelopment Fund for smaller project which may not qualify for the division of taxes under Neb. Rev. Stat. §18-2147 due to the small size of the project or due to a projected increase in the assessed value of real estate in the redevelopment project area which will not benefit from the issuance of bonds under Neb. Rev. Stat. §18-2147, which is hereby deemed to be an increase of no more than \$100,000.00 per redevelopment project; (v) Implementation of a fee payable in cash in advance, chargeable to the redeveloper sufficient to cover the costs of bond issuance, staff time, attorney fees, engineering costs, and all other costs and expenses of the Village of Malcolm, at the time of the submission of a proposed redevelopment plan or redevelopment contract by the redeveloper to the Planning Commission of the Village of Malcolm, with the understanding that such advance payment shall be non-refundable to the redeveloper and without a guarantee for acceptance or recommendation for approval of any such plan or contract; (vi) Requirement of consistency and conformance of all proposed redevelopment plans and/or redevelopment contracts with the Redevelopment Plan and Comprehensive Plan adopted by the Village, now or in the future at the time of the submission of such proposed plan or contract; (vii) Requirement that all bond proceeds generated from any redevelopment project which are subject to a loan be secured with a lien on the project area with release of lien in whole or in part based upon repayment in whole or in part of loan proceeds, with any loan payments in excess of repayment of general obligations to be placed in the Community Redevelopment Fund; and (viii) Understanding that the grant of a loan or an award of assistance in any redevelopment project shall not obligate the Village or the Community Development Agency to grant a loan or an award of assistance of any amount to any other redevelopment project, whether similar in nature or otherwise.
- f) **Tax Increment Financing Application Fee** (Revised - Ordinance 2017-04; dated April 5, 2017). In addition to any and all other charges or fees for subdivisions in Chapter 11 of this Code, or for Building Permits in Chapter 9 of this Code, there shall be a fee of ~~\$500.00~~ payable in cash in advance by a redeveloper requesting Tax Increment Financing, to cover the costs of bond issuance, staff time, attorney fees, engineering costs, and all other costs and expenses of the Village of Malcolm, due and payable at the time of the submission of a proposed redevelopment plan and/or redevelopment contract by the redeveloper to the Planning Commission of the Village of Malcolm, with the understanding that such advance



payment shall be non-refundable to the redeveloper and without a guarantee for acceptance or recommendation for approval of any such plan or contract. The fee shall be set by the Board of Trustees by ordinance. This fee shall be enforced effective for any and all applications, redevelopment plans and/or redevelopment contracts submitted to the Planning Commission, Community Development Agency and/or Village Board of Trustees from and after April 5, 2017.

**Section 7.** Section 6-102 of the Malcolm Village Code is amended as follows.

**6-102 Dogs; License**

Any person who shall own, keep, or harbor a dog within the Village within thirty (30) days after acquisition of the said dog shall acquire a license for each such dog annually by or before the first (1st) day of June of each year. The said tax shall be delinquent from and after June tenth (10th); provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to June first (1st) of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within thirty (30) days thereafter. Licenses shall be issued by the Village Clerk upon the payment of a fee of ~~eleven dollars (\$11.00)~~ for each dog. The fee shall be set by the Village Board by separate ordinance. One dollar (\$1.00) of the license fee will be submitted to the State Treasurer for the Commercial Dog and Cat Cash Fund. The owner shall state at the time the application is made and upon printed forms provided for such purpose, the owner's name and address and the name, breed, color, and sex of each dog owned and kept by the owner. A certificate that the dog has had rabies shot effective for the ensuing year of the license shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown.

**Section 8.** Section 6-105 of the Malcolm Village Code is amended as follows:

**6-105 Dogs; License Tags**

Upon the payment of the license fee and proof of rabies vaccination by the owner, the Village Clerk shall issue to the owner of a dog.

A metallic tag shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirty-first (31st) day of May following such licensing.

In the event a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the Village Clerk may issue a new tag for the balance of the year for which the license tax has been paid, and shall charge and collect a fee of ~~fifty (50¢) cents~~ set by the Village Board by separate ordinance for each duplicate or new tag so issued, or the owner may have made containing the originally issued Malcolm tag number at the owner's sole expense. All license fees and collections shall be immediately credited to the General Fund.

**Section 9.** Section 6-109 of the Malcolm Village Code is amended as follows:

**6-109 Dogs; Kennel Zoning And Permit**

Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs shall be a kennel. Kennels shall be maintained only where zoning regulations permit; provided that a ~~one hundred (\$100.00) dollar~~ permit fee,



which shall be set by the Village Board by separate ordinance, shall be paid to the Village Clerk for each kennel sought to be maintained, and shall be paid annually by June 1st of each year.

**Section 10.** Section 6-121 of the Malcolm Village Code is amended as follows:

#### **6-121 Dogs; Impounded**

In the event that the official in charge of dogs, or the Governing body, determines that a dog being kept unlawfully in the Municipality or running at large, should be impounded rather than killed. The official in charge of dogs, the Governing body or the Clerk shall contact the Lancaster County Humane Society to impound the animal at the expense of the owner or owners of the animal. The official in charge of dogs, the Governing body or the Clerk shall contact the owner or owners of the animal within twenty-four hours of impoundment that the animal has been impounded, and that the expense of such impoundment shall be paid by such owner or owners. If the owner or owners thereof are unknown, such person shall within the time aforesaid, cause written notices to be posted in three of the most public places in the Municipality, containing a description of each animal so impounded, and the date the Lancaster County Humane Society was contacted for impoundment of the animal. Failure to pay for the cost of impoundment whether or not the owner or owners retrieves the animal, shall result in a fine of ~~\$25.00~~ which shall be set by the Village Board by separate ordinance, in addition to any costs or penalties incurred by the Village for the impoundment of said animal. Said fine shall increase by multiplying the number of repeat impoundments for each animal by the fine referred to herein.

**Section 11.** Section 6-601 of the Malcolm Village Code is amended as follows:

#### **6-601 Violations, Penalty**

It shall be unlawful for any person to fail to comply with the provisions herein, and every person failing to comply with, or violating any of the provisions of this chapter, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof, shall for each offense, be fined in any sum not exceeding five hundred dollars (\$500.00), unless the fine is otherwise set by the Village Board by separate ordinance. ~~In lieu of a court appearance, a person so failing to comply may admit guilt and pay a fine of \$100.00 for a first offense within one calendar year, or pay a fine of \$150.00 for a second offense within one calendar year. This option is not available for any offense after the second offense within one calendar year from the date of the first offense.~~

**Section 12.** Section 9-102 of the Malcolm Village Code is amended as follows:

#### **9-102 Building Inspector; Building Permits**

All construction, remodeling, repairs, or other work on real property, which comprises residential or commercial premises, shall require a building permit unless otherwise exempted herein, and the owner or contractor shall file with the Governing Body an application therefor, in writing, on a form to be furnished by the Municipal Clerk for that purpose. 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. All work completed in accordance with any building permit shall be completed by contractors who are required to be licensed by the City of Lincoln, Nebraska, except when a home owner self performs the construction and signs a "Homeowner Acting as Contractor" form. The application, plans, and specifications so filed shall be checked and examined and if they are found to be in conformity with the requirements of the Village ordinances applicable thereto, the



Governing Body shall issue the said applicant a permit upon the payment of the permit fee set by resolution of the Governing Body, which shall include the costs of the inspections other than electrical to be completed by the State of Nebraska, the plan review by the Planning Commission, the time expended by the Village Clerk, Village Attorney, Village Engineer, and any other entity utilized in the review and approval of the permit. The following construction shall be inspected by a qualified Inspector endorsed by the Village of Malcolm: Structural inspections shall be made of the footings, framing, insulation and final building inspection; Plumbing/Mechanical inspections shall be made of under slab plumbing, plumbing rough-in, mechanical rough-in, final plumbing inspection, and final mechanical inspection; Electrical inspections shall be made in accordance with, and upon inspection by the State of Nebraska but shall include but not be limited to adding new wiring, adding circuitry; connecting to the main power source, or moving, adding or splitting electrical circuitry. Within 10 days of receiving the electrical inspection, the building permit applicant shall submit the inspection card to the Village Clerk containing the signature of the electrical inspector. The inspection card promulgated by the Village Board shall be posted in an obvious place near or within the construction area, accessible to the inspector, and including one set of plans at all times during the pendency of the construction project. The Village Board shall set all applicable fees by separate ordinance. ~~The attached fee schedule shall be adopted. A \$5.00 processing fee be added to all inspection fees; the plan review fee for all commercial permits be added to the building permit fee at actual cost; and the plan review fee for new residential construction be included in the permit fee without additional charge to the permit holder for the first plan review, with all follow up plan reviews added to the permit fee at actual cost.~~

~~Additionally, there~~ There shall be a plan review of new residences and buildings by a qualified Plan Reviewer endorsed by the Village of Malcolm. The following construction activities shall be exempt from the requirement of a building permit:

- a) Fences not over 6 feet 4 inches in height;
- b) Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge;
- c) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons, and the ratio of height to diameter or width does not exceed 2:1;
- d) Shingling a roof or re-siding the outside of a structure;
- e) Painting, papering, tiling, carpeting, cabinets, countertops and similar finish work or flooring;
- f) Prefabricated swimming pools that are less than 24 inches deep;
- g) Swings and other playground equipment accessory to a one or two family dwelling;
- h) Window awnings supported by an exterior wall;
- i) Replacing an existing electrical fixture, electrical outlet or switch if using existing wiring;
- j) Concrete slab which does not support a structure;
- k) Replacing an existing water heater;
- l) Adding a non-load-bearing interior wall in an existing structure;
- m) Mechanical/plumbing change and/or replacement of an existing fixture, furnace, air conditioner/condenser, or toilet; and
- n) Replacement of windows which maintain the original size of window frame.
- o) Screening, lattice work, and other cosmetic changes to the exterior of a building or residence which does not create an enclosure.

**Section 13.** Section 9-108 of the Malcolm Village Code is amended as follows:

**9-108 Grease And Oil Control; Grease Interceptor Requirements**



- a) Grease interceptor sizing and installation shall conform to the most current edition of the Uniform Plumbing Code or other applicable plumbing code used by the Village of Malcolm.
- b) Grease interceptors shall be constructed in accordance with design approved by the Village Board and shall have a minimum of two compartments with fittings designed for grease retention.
- c) Grease interceptors shall be installed at a location where it shall be easily accessible for inspection, cleaning, and removal of intercepted grease. The grease interceptor may not be installed in any part of the building where food is handled. Location of the grease interceptor must meet the approval of the Village Board.
- d) All such grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain Minimum Design Capability or effective volume. These devices should be inspected at least monthly. Users who are required to maintain a grease interceptor shall:
  - 1) Provide a minimum hydraulic retention time in accordance with the Uniform Plumbing Code (or other applicable plumbing code used by the Village of Malcolm).
  - 2) Remove any accumulated grease cap and sludge pocket as required. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the device.
- e) The food service establishment shall maintain a written record of inspection and maintenance. A copy of the records will be provided yearly to the Village Clerk on or before December 31. Failure to do so will result in a ~~fine of \$10.00 per day~~ fine, which shall be set by the Village Board by separate ordinance, until such records have been provided. Willful noncompliance, as determined by the Village Board, will result in the shut-off of water service to the food service establishment. The shut-off will remain in force until all fines have been paid, the food service establishment has been brought into compliance, and the applicable re-connection fee (as set by the Village Board) has been paid.
- f) Sanitary wastes are not allowed to be connected to sewer lines intended for grease interceptor service.
- g) Access manholes, with the minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal and wastewater sampling activities.

**Section 14.** Section 9-109 of the Malcolm Village Code is amended as follows:

**9-109 Grease And Oil Control; Grease Trap Requirements**

- a) Upon approval by the Village Board, a grease trap complying with provisions of this section must be installed in the waste line leading from sinks, drains, and other fixtures or equipment in food service establishments where grease may be introduced into the drainage or sewage system in quantities that can effect line stoppage or hinder sewage treatment or private sewage disposal.
- b) Grease traps sizing and installation shall conform to the Uniform Plumbing Code or other applicable plumbing code used by the Village of Malcolm. The size of the trap will depend upon the number of fixtures connected to it as follows:

One (1) connected fixture: Requires a grease trap with a required rate of flow of 20 gpm and a grease retention capacity of 40 lbs.



Two (2) connected fixtures: Requires a grease trap with a required rate of flow of 25 gpm and a grease retention capacity of 50 lbs.

Three (3) connected fixtures: Requires a grease trap with a required rate of flow of 35 gpm and a grease retention capacity of 70 lbs.

Four (4) connected fixtures: Requires a grease trap with a required rate of flow of 50 gpm and a grease retention capacity of 100 lbs.

- c) No grease trap shall be installed which has a stated rate flow of more than fifty-five (55) gallons per minute, nor less than twenty (20) gallons per minute, except when specially approved by the Village Board.
- d) Grease traps shall be maintained in efficient operating conditions by periodic removal of the accumulated greases, and at least twice per year. No such collected grease shall be introduced into any drainage piping, or public or private sewer.
- e) No food waste disposal unit or dishwasher shall be connected to or discharge into a grease trap.
- f) Wastewater in excess of one hundred-forty (140) ° shall not be discharged into a grease trap.
- g) The food service establishment shall maintain a written record of inspection and maintenance for five years. A copy of the records will be provided to the Village Clerk on or before December 31 for each of the five years. Failure to do so will result in a fine, which shall be set by the Village Board by separate ordinance, ~~of \$10.00 per day~~ until such records have been provided. Willful noncompliance, as determined by the Village Board, will result in the shut-off of water service to the food service establishment. The shut-off will remain in force until all fines have been paid, the food service establishment has been brought into compliance, and the applicable re-connection fee has been paid.

**Section 15.** Section 9-110 of the Malcolm Village Code is amended as follows:

**9-110 Grease And Oil Control; Forbearance And Enforcement**

- a) **Compliance.** All food service establishments, as defined herein, shall provide the Village Clerk with proof of compliance with this Ordinance and shall grant Village employees or agents access to their property to show and establish compliance with this Ordinance.
- b) **Forbearance.** Except as provided herein, for a period of one (1) year following the adoption of this Ordinance, the Village shall forbear from taking enforcement actions against food service establishment, as defined herein, to allow them to come into compliance with this Ordinance. All food service establishments are required to provide written proof of compliance with this Ordinance to the Village Clerk within this one year forbearance period along with a grant of access to the property for a Village employee or agent to observe compliance. Food service establishments failing to provide written proof of compliance with this Ordinance or grant access to their property by the close of the forbearance period will be subject to the enforcement procedures and penalties described herein.
- c) **Enforcement and Penalties.** Food service establishments failing to be in actual compliance with this Ordinance or who fail to provide the Village Clerk with adequate proof of compliance with this Ordinance are subject to a fine of ~~\$100.00~~ set by the Village Board by separate ordinance for each day of noncompliance with this Ordinance. Willful noncompliance, as determined by the Village Board, will result in the shut-off of water service to the food service establishment. The shut-off will remain in force until all fines have been paid, the food service establishment has been brought into compliance and the re-connection fee has been paid.



**Section 16.** Section 10-201 of the Malcolm Village Code is amended as follows

**10-201 Bingo; Regulation**

Games of bingo shall be conducted within the Municipality in accordance with all laws of the Municipality and the State of Nebraska, if the game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing operation of said game. Application may be made to the Municipal Clerk on blank application forms supplied by the Municipality. Said application form shall require such information and documents, or copies thereof, as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of a fee set by ~~resolution~~ ordinance of the Governing Body. Said license shall be subject to revocation at any time for good cause. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the Governing Body may designate. All permits so issued will automatically expire on March 31, following its issuance or renewal. The fee for each renewal, ~~if any unless otherwise prescribed, shall be set by ordinance, in the sum of ten (\$10.00) dollars.~~ Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted

**Section 17.** Section 10-201 of the Malcolm Village Code is amended as follows

**10-501 Occupation Tax; Amounts**

For the purpose of raising revenue, an occupation tax is ~~hereby~~ levied on the on and off sale of beer and liquors, following businesses: The amount of the occupation tax shall be set by the Village Board by separate ordinance.

Beer, on and off sale, per year	\$100.00
Liquors, off sale, per year	\$100.00
Liquors, on and off sale, per year	\$100.00

~~The occupation tax amounts are cumulative.~~

There shall also be a fee for publication of notice. The amount of the fee shall be set by the Village Board by separate ordinance.

**Section 18.** Section 10-702 of the Malcolm Village Code is amended as follows:

**10-702 Fireworks Vendor; Permits**

A permit is required by anyone wishing to sell fireworks within the Village as well as for a commercial display. Two sales permits will be granted each year, on or before the date of the Board's June meeting for July sales; and up to two permits each year for December 31st sales. A vendor may apply for a permit for both July sales and December 31st sales at the same time. One commercial display permit will be granted each year, if there is an interested party in sponsoring a commercial display.



Permits will only be granted to vendors and commercial displayers possessing good character and a good record selling fireworks, and preference will be given to Village residents and those who have sold fireworks in the Village in prior years.

The form of Permit Application is available from the Village Clerk for a fee, which shall be set by the Village Board by separate ordinance. ~~of \$75.00 per Retail Sales Stand for July sales and for a fee of \$25.00 per Retail Sales Stand for December 31st sales; and \$75.00 per Commercial Display of a fireworks show.~~

**Section 19.** Section 10-802 of the Malcolm Village Code is amended as follows

**10-802 Tobacco License; Fee**

The Village Clerk shall assess and collect a ~~ten-dollar~~ retail sales tobacco license fee from each licensee for the calendar year, or any part of the calendar year in the first year the tobacco license is applied for issuance to a licensee. The fee shall be set by the Village Board by separate ordinance.

**Section 20.** Section 10-907 of the Malcolm Village Code is amended as follows

**10-907 Permit Fee; Payment Required**

The applicant for any special event shall, at the time of making application, pay to the Village a permit fee of ~~\$50.00~~ set by the Village Board for each permit per special event, which permit fee shall be used to defray the costs related to the issuance of such permit and which shall be in addition to such further and additional special event fees as may be imposed at the discretion of the Village Board. Such permit fee includes the use of the Village's barricades and any other safety devices for traffic control and barricading.

**Section 21.** Section 10-910 of the Malcolm Village Code is amended as follows

**10-910 Security Deposit**

~~A \$500.00~~ check or draft for cleaning and damage shall be received and held without depositing as a security deposit for the completion of tasks to clean and repair damage, and such deposit shall be returned if tasks are completed as required at the discretion of the Village Board. If tasks are not completed by the permittee, then the check or draft shall be deposited and used towards the cost of the Village completing the tasks. The unused portion of the proceeds shall be returned to the permittee within thirty (30) days of the event. If the cost to the Village exceeds the proceeds, then the Village Clerk shall invoice the permittee for the additional costs, which must be paid to the Village by the permittee within thirty (30) days of the date of the invoice. The Village Board shall set the amount of the security deposit by separate ordinance.

**Section 22.** Section 10-1005 of the Malcolm Village Code is amended as follows

**10-1005 License Fee And Renewal**

- a) An application for a daily or annual license under this article shall be accompanied by a nonrefundable processing fee, which shall be set by the Village Board by separate ordinance. ~~of \$100.00 for an annual license or \$25.00 per day for a daily license.~~



- b) An annual license issued under this article shall expire on December 31 of each year, unless renewed for the following year by the licensee. The licensee shall renew the license for the following year by filing with the Village Clerk, on or before December 31, a registration updating or confirming the information provided in the immediately preceding license application or registration. The registration shall be on a form provided by the Village Clerk.

**Section 23.** Section 11-308 of the Malcolm Village Code is amended as follows

**11-308 Subdivision Regulations; Processing Subdivision; Preliminary Plat Fee**

The Village Board shall establish preliminary plat fees by separate ordinance that following fees ~~to the Village~~ shall be incorporated into a mandatory Subdivision Development Agreement signed by the subdivider and the Village, and such fees shall accompany the filing of the preliminary plat before any review of the preliminary plat will take place by the Planning Commission, an engineer, the Village Attorney, the Village Board and/or all consultants deemed necessary to ascertain compliance of the preliminary plat with the Comprehensive Plan and Zoning:

- ~~a) Filing Fee of \$400.00; any requests by the subdivider for a modification of the requirements for subdivision approval require an addition Filing Fee of \$400.00 which shall accompany any such request;~~
- ~~b) Unit Fee of \$250.00 per lot, chargeable only once;~~
- ~~c) Notification Fee of \$100.00 for every Public Hearing required, not including the continuation of a Public Hearing~~

**Section 24.** Section 11-315 of the Malcolm Village Code is amended as follows

**11-315 Subdivision Regulations; Processing Subdivisions; Final Plat Fee**

The Village Board shall establish final plat fees by separate ordinance that the subdivider shall ~~pay at~~ At the time of filing the final plat for processing, ~~the subdivider shall pay the following fees:~~

- ~~a) Filing fee of \$100.00~~
- ~~b) Unit fee of \$4,000.00 per lot.~~

**Section 25.** Section 11-324 of the Malcolm Village Code is amended as follows

**11-324 Subdivision Regulations; Processing Subdivisions; Survey Errors**

In the event that a survey error is found at any time after the filing of the final plat with the Register of Deeds, the subdivider shall be notified by the Board. Thereafter, the subdivider shall immediately proceed to cause the survey error to be corrected. Building permits on any or all of the lots within the subdivision may be withheld and the village may take such other action is deems appropriate to obtain the correction of the survey error. The subdivider shall submit to the Board a corrected final plat, an explanation letter setting forth the corrections, and a fee, which shall be set by the Village Board by separate ordinance of \$100.00. The Board shall review the information and prepare a report and recommendations. Thereafter, a copy of the corrected plat, the letter of explanation, the report and recommendations of the Board shall be



transmitted to the Village Attorney and the Village Clerk. The Village Attorney shall prepare a resolution approving and accepting the corrected final plat and voiding the plat with the survey error. The Board may then approve and accept the corrected final plat. After such approval, the Village Clerk shall then file the resolution approving and accepting the corrected final plat and the approved and corrected final plat in the office of the Register of Deeds. The recording fee shall be paid in advance by the subdivider and submitted to the Village Clerk. The name of the corrected final plat shall be "A corrected plat of (the name of the said subdivision)." The word "replat" shall not be used. The corrected plat shall comply with Section Final Plat of this code, and the conditions of the original plat as approved by the Village.

**Section 26.** Section 11-369 of the Malcolm Village Code is amended as follows:

**11-369 Subdivision Regulations; Enforcement; Penalty**

Any person upon whom a duty is placed by the provision of this title who fails, neglects, or refuses to perform such duty or who shall violate any of the provisions of this title, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed ~~\$100.00~~ the amount set by the Village Board by separate ordinance. Each day that a violation of this chapter continues shall constitute a distinct offense and shall be punishable as such.

**Section 27.** Section 12-209 of the Malcolm Village Code is amended as follows:

**12-209 Medium Density, R-1 Residential District; Nuisance Regulations**

In addition to the nuisance provisions detailed in Chapter 4 of the Malcolm Municipal Code, the following provisions shall apply to the Residential District:

1. Building without a building permit;
2. Special use of the District without a special use permit;
3. Violations of the noise ordinance;
4. Violation of special use permit;
5. Water and/or sewer usage in excess of allowable limits.

Violations of the nuisance regulations shall be fined against the user of the plat, ~~not to exceed three hundred (300) dollars~~ for each day of such violation. The fine amount shall be set by the Village Board by separate ordinance.

**Section 28.** Section 12-210 of the Malcolm Village Code is amended as follows:

**12-210 Medium Density, R-1 Residential District; Curb Cut Regulations**

The maximum width of a curb cut for a driveway or other access to a residential lot shall be no greater than one-half of the width of the property line facing the street or alley, with no more than two curb cuts not adjoining for the same access on any frontage, and with a minimum separation between the two curb cuts of no less than twenty feet (20'). A curb cut shall require a permit and payment of a fee set by the Village Board by separate ordinance.

**Section 29.** Section 12-220 of the Malcolm Village Code is amended as follows:



## **12-220 High Density, R-2 Residential District; Curb Cut Regulations**

The maximum width of a curb cut for a driveway or other access to a residential lot shall be no greater than one-half of the width of the property line facing the street or alley, with no more than two curb cuts not adjoining for the same access on any frontage, and with a minimum separation between the two curb cuts of no less than twenty feet (20'). A curb cut shall require a permit and payment of a fee set by the Village Board by separate ordinance.

**Section 30.** Section 12-711 of the Malcolm Village Code is amended as follows:

### **12-711 Abandonment**

If any tower shall cease to be used or fail to start operation for a period of one year, the Village Board, through the Village Attorney, shall notify the tower owner that the site will be subject to a determination by the Village Board that the site has been abandoned. Said tower owner will then have thirty days (30) to make a sufficient showing that the tower has been in use or under repair during the period of the apparent abandonment.

If the tower owner has made no showing or failed to make sufficient showing of use or repair the Village Board shall issue a final determination of abandonment of the site. The tower owner shall then have ninety (90) days thereafter to dismantle and move all semblance of the tower or tower materials to prevent the site from becoming an attractive nuisance. In the event the tower owner has failed to comply with the dismantle and removal of the tower, the tower will be declared a public nuisance by the Village and the tower owner will be assessed a daily fine in an amount set by the Village Board by separate ordinance ~~fined \$100.00 per day~~ until said tower is removed. If said abandoned tower has not been removed by the tower owner within a period of 30 days after the tower has been declared a public nuisance, the Village shall hire an engineering firm of good repute who will remove the tower and dispose of the tower materials. The costs of such removal will then be assessed against the real estate on which the tower was located or the owner of record of the said real estate.

**Section 31.** Section 12-904 of the Malcolm Village Code is amended as follows:

### **12-904 Penalty**

Any person upon whom a duty is placed by the provisions of this article who fails, neglects, or refuses to perform such duty, or who violates any provision hereof, shall be deemed guilty of a misdemeanor and subject to a fine, which shall be set by the Village Board by separate ordinance ~~not to exceed one hundred dollars (\$100.00)~~. Each day that a violation of this article continues shall constitute a separate and distinct offense.

**Section 32.** Any conflicting provisions in the Malcolm Village Code or other ordinances are hereby repealed.

**Section 33.** This ordinance shall be published in book or pamphlet form and posted in three (3) public locations in the Village of Malcolm. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication as provided by law.



SUSPEND  
READINGS  
(3/4 VOTE)

9/7/2022

FIRST READING

SECOND READING

THIRD READING

PASSED AND APPROVED THIS 2022 DAY OF SEPTEMBER 2022

  
Jerad Little, Chairperson, Board of Trustees

ATTESTED AND PUBLISHED IN BOOK OR PAMPHLET FORM AND BY POSTING IN THE VILLAGE HALL, POST OFFICE, AND FIRE STATION PER § 1-405 AND § 1-410 OF THE MALCOLM MUNICIPAL CODE WITHIN FIFTEEN (15) DAYS OF PASSAGE ON THE 7<sup>TH</sup> DAY OF SEPTEMBER 2022.

  
Nadine Link, Village Clerk

