

File with Your County Assessor on or Before December 31

# Exemption Application for Tax Exemption on Real and Personal Property by Qualifying Organizations

Read Instructions on reverse side.

FORM 451

Failure to properly complete or timely file this application will result in a denial of the exemption.

Name of Organization Midwest Dharma Wheel Contemplative & Healing Arts, Inc.		County Name Lancaster	Tax Year 2019
Name of Owner of Property Midwest Dharma Wheel Contemplative & Healing Arts, Inc.		State Where Incorporated Nebraska	
Street or Other Mailing Address of Applicant 1900 D Street		Total Actual Value of Real and Personal Property \$375,000.00	Parcel ID Number 10-25-316-007-000
City Lincoln	State NE	Zip Code 68516	Contact Name Cary Twomey
Phone Number 402-477-5101		Email Address cary.twomey@gmail.com	

Type of Ownership

Agricultural and Horticultural Society     Educational Organization     Religious Organization     Charitable Organization     Cemetery Organization

Name	Title of Officers, Directors, or Partners	Address, City, State, Zip Code
Cary Twomey	Officer	6435 Colfax Avenue, Lincoln, Nebraska 68507
Lee Willett	Officer	6435 Colfax Avenue, Lincoln, Nebraska 68507
Mike Hemmer	Director	4826 Montgomery Lane, Bethesda, MD 20814

Legal description of real property and general description of all depreciable tangible personal property, except licensed motor vehicles:

Capitol Addition, Block 6, Lots 7-9, & W 1/2 Lot 10, Lancaster County, Nebraska

1900 D St

RECEIVED

DEC 31 2018

NORMAN H. AGEHA  
LANCASTER COUNTY ASSESSOR/  
REGISTER OF DEEDS

Property described above is used in the following exempt category (please mark the applicable boxes):

Agricultural and Horticultural Society     Educational     Religious     Charitable     Cemetery

Give a detailed description of the use of the property:

The property is owned by Midwest Dharma Wheel Contemplative & Healing Arts, Inc., a Church (as defined by the IRS), and used exclusively for the practice, furtherance, and enrichment of the Buddhist faith for all people in the community who wish to so worship. Please see attached Narrative for a more detailed description.

All organizations, except for an Agricultural and Horticultural Society, must complete the following questions.

Is all of the property used exclusively as described above?  YES  NO

Is the property used for financial gain or profit to either the owner or owner or organization making exclusive use of the property?  YES  NO

Is a portion of the property used for the sale of alcoholic beverages?  YES  NO  
If Yes, state the number of hours per week \_\_\_\_\_

Is the property owned or used by an organization which discriminates in membership or employment based on race, color, or national origin?  YES  NO

Under penalties of law, I declare that I have examined this exemption application and, to the best of my knowledge and belief, it is correct and complete. I also declare that I am duly authorized to sign this exemption application.

sign here

Authorized Signature

Attorney for Applicant

Title

12-31-18

Date

Retain a copy for your records.

### For County Assessor's Recommendation

Approval    COMMENTS: \_\_\_\_\_

Approval of a Portion    \_\_\_\_\_

Denial    \_\_\_\_\_

Signature of County Assessor \_\_\_\_\_ Date \_\_\_\_\_

### For County Board of Equalization Use Only

I declare that to the best of my knowledge and belief, the determination made by the County Board of Equalization is correct pursuant to the laws of the State of Nebraska.

Approved    COMMENTS: \_\_\_\_\_

Approval of a Portion    \_\_\_\_\_

Denied    \_\_\_\_\_

Signature of County Board Member \_\_\_\_\_ Date \_\_\_\_\_

County Clerk: A legible copy of this form showing the final decision of the County Board of Equalization must be delivered electronically to the Nebraska Department of Revenue within seven days after the Board's decision.

**DESCRIPTION OF USE OF  
1900 D STREET, LINCOLN, NE**

**BY MIDWEST DHARMA WHEEL CONTEMPLATIVE & HEALING ARTS**

Under the Nebraska Administrative Code, Reg. 40-002.02, "Property tax exemptions may be allowed based on the inherent nature of the property, the ownership of the property, the use of the property, or a combination of these factors." Reg. 40-002.03C further states that property is exempt from property taxes if the property is owned by a religious organization or used exclusively for religious purposes.

Reg 40-005.01 puts forth a five part test to determine eligibility for a religious tax exemption. All five factors must be met. These factors are Ownership, Exclusive Use, No Financial Gain or Profit, Restricted Alcohol or Liquor Sales, and Prohibited Discrimination.

Midwest Dharma Wheel Contemplative & Healing Arts, Inc.'s use of the property satisfies the five-part statutory requirement set out in Section 005.01 of the Nebraska Administrative Code, which requires ownership, exclusive use, no financial gain or profit, restricted alcoholic sales, and prohibited discrimination.

**History of Midwest Dharma Wheel.**

Ms. Twomey started the organized endeavor that would eventually become Midwest Dharma Wheel over a decade ago when she opened "Haymarket Yoga and Pilates". Even then, the name was a misnomer for the scope and depth of the religious practices in her services. By way of example, Ms. Twomey's earliest yoga classes were not the kind of yoga classes one would find at a gym. The yoga she leads is an ancient form of spiritual meditation that involves mental training, physical postures, breath patterns, and education about the religious texts from which the practice has evolved. I personally helped Ms. Twomey with the legal aspects of setting up what was then, realistically, so much more than an exercise studio. I suggested at that time that Ms. Twomey consider a religious exemption, but Ms. Twomey had no intention to hold herself out to the public as a spiritual leader unless and until she obtained the education, experience, and credentials appropriate to the Buddhist traditions she applied in her practice. She now has that education, experience, and credentialing to do so.

Over the last decade, Ms. Twomey has naturally evolved as a spiritual leader with the training and certifications that are appropriate and customary to be the head of a temple representing her religion. The services she offers to the public have evolved as well, placing her firmly in the position of a religious leader with a congregation. Haymarket Yoga and Pilates Center has been closed and the spiritual practices that grew out of that business have been fully integrated into Midwest Dharma Wheel Contemplative & Healing Arts, Inc.

**Ownership by a Religious Organization.** Midwest Dharma Wheel Contemplative & Healing Arts, Inc. is the record title owner of the Property and is a religious organization. Reg. 40-005.02 Ownership means the property must be owned by a religious organization or any organization for the exclusive benefit of a religious organization.

Reg. 40-005.01B defines a religious organization as "an organization whose purpose is the dedication to, or profession of, a sectarian creed and belief in a divine or superhuman power, or powers, to be obeyed

or worshiped, or the furtherance and enrichment of spiritual faith involving a code of ethics and a spiritual philosophy.

Midwest Dharma Wheel qualifies as a "Church" as defined by Section 501(c)3 of the Internal Revenue Code for purposes of income tax exemption. By so qualifying, Midwest Dharma Wheel is not required to make a formal application to be granted and recognized as having 501(c)3 status as a Church by the IRS. IRS Publication 1828, explains that the IRS allows an "Automatic Exemption for Churches", as follows: Churches that meet the requirements of IRC Section 501(c)3 are automatically considered tax exempt and are not required to apply for and obtain recognition of tax-exempt status from the IRS. Although granted an "Automatic Exemption" from income tax, Midwest Dharma Wheel has chosen to apply for recognition of tax exemption, and is in the process of submitting its application with the IRS.

Churches qualify for exemption from federal income tax under IRC Section 501(c)3 and are generally eligible to receive tax-deductible contributions. To qualify as an Automatically Exempt Church, an organization must be organized and operated exclusively for religious purposes, net earnings may not inure to the benefit of any private individual or shareholder, no substantial part of its activity may be attempting to influence legislation, the organization may not intervene in political campaigns, and the organization's purposes and activities may not be illegal or violate fundamental public policy.

Publication 1828 further states that although there is no requirement to do so, many churches seek recognition of IRC Section 501(c)3 tax-exempt status from the IRS because this recognition assures church leaders, members and contributors that the church is recognized as exempt and qualifies for related tax benefits. For example, contributors to a church that has been recognized as tax exempt would know that their contributions generally are tax-deductible.

The IRS makes no attempt to evaluate the content of whatever doctrine a particular organization claims is religious, provided the particular beliefs of the organization are truly and sincerely held by those professing them and the practices and rites associated with the organization's belief or creed are not illegal or contrary to clearly defined public policy.

IRS Publication 1828, Page 1 explains: The term Church is found, but not specifically defined, in the Internal Revenue Code (IRC). The term is not used by all faiths; however, in an attempt to make this publication easy to read, we use it in its generic sense as a place of worship including, for example, mosques and synagogues.

Midwest Dharma Wheel Contemplative & Healing Arts, Inc. is a Nebraska Non-Profit Corporation organized and incorporated by Cary Twomey and Lee Willet, a married couple, for the purpose of operating a religious organization known as Midwest Dharma Wheel. Through Midwest Dharma Wheel Contemplative & Healing Arts, Inc., Ms. Twomey and Mr. Willet purchased the real property with the address of 1900 D Street, Lincoln, Nebraska 68502 ("Property") in July of 2018, took immediate possession, and have been using the property to operate Midwest Dharma Wheel as a place of religious assembly, which is defined in Title 350, Chapter 40, Section 005.01B of the Nebraska Administrative Code as "...an organization whose purpose is the dedication to or profession to a sectarian creed and belief in a divine or superhuman power or powers to be obeyed or worshipped, or the furtherance and enrichment of spiritual faith involving a code of ethics and a spiritual philosophy.."

The primary purpose of the Midwest Dharma Wheel is the dedication to and profession of the Dharma, which is the creed of the Vajrayana sect of Buddhism. Vajrayana Buddhists believe divine power exists and can be known and experienced through adhering to or obeying the teachings of the Dharma. The Dharma includes a code of ethics governing thought, speech, and action as described below in the summary of the Eightfold Path.

To understand the purpose of Midwest Dharma Wheel, it is important to understand the organization's sectarian creed of Vajrayana Buddhism, which is referred to as "the Dharma". The Dharma consists of three primary texts: The Three Universal Truths, The Four Noble Truths, and The Noble Eightfold Path, which are summarized as follows:

The Three Universal Truths:

1. Everything is impermanent and changing;
2. Impermanence leads to suffering, making life imperfect;
3. The self is not personal and unchanging.

The Four Noble Truths:

1. All life involves suffering;
2. Suffering is caused by desire and attachment;
3. Desire and attachment can be overcome;
4. The way to overcome them is by following the Eightfold Path

The Eightfold Path:

1. Right seeing and understanding
2. Right thought or intention
3. Right speech
4. Right action
5. Right work or livelihood
6. Right effort
7. Right mindfulness
8. Right concentration

Other important texts that elaborate upon or inform the followers of the creed are also used by Midwest Dharma Wheel for promoting the ethical guidance and spiritual growth necessary to the practice of Vajrayana Buddhism. These texts include the following: Buddha's Holy Canon, The Buddhist Kangyur, Bomo Kangyur, Bodhisattvacharyavatara, Shatka and Shaiva Agamas, Devi Mahatmya, Shatka Upanishads, Devi Upandishad, Skakti and Shiva Sutras, Patanjali's Yoga Sutras, the Bhagavad Gita, Upanishads, Charak Samhita, Susruta Samhita, Ashtanga Hridayam, and Ashtanga Sangraha.

Congregants of Midwest Dharma Wheel believe that the spiritual lessons and practices of the Dharma will "liberate" them from the cycle of human suffering and connect them with the Buddha's divine or superhuman power, or powers.

The Buddhist code of ethics is found in The Noble Eightfold Path, which offers detailed and pointed guidance regarding a practitioner's thought, speech, and conduct.

The philosophy of Buddhism, also summarized by the Dharma, above, was derived from Hinduism and centers around the teachings of a young Hindu prince, Siddhartha, who leaves his sheltered and privileged life after discovering the suffering that existed outside of his palace gates. His teachings became the foundation for Buddhism. Buddhist practice is grounded in the "Three Jewels" of Buddhism, from which practitioners of Buddhism find peace or refuge from life's suffering. The Three Jewels of Buddhism are the Buddha (training the mind toward Buddha nature), the Dharma (the teachings of the Buddha), and the Sangha (the monastic community who provide guidance and support).

Midwest Dharma Wheel's primary purpose also includes the furtherance and enrichment of spiritual faith in the Dharma, which as stated above, includes a code of ethics and the spiritual philosophy of the Buddha. In summary, Midwest Dharma Wheel's purpose is to meet every spiritual practitioner of Buddhism where they are on the eightfold path toward liberation, enrich their journey with the Three Jewels of Buddhism, and guide them toward the divine power that is knowable through adherence to the Dharma.

The philosophy of Buddhism is grounded in the "Three Jewels" of Buddhism in which practitioners of Buddhism find refuge from life's suffering. The Three Jewels of Buddhism are at the heart of every activity that takes place in the Property. The Three Jewels are The Buddha (practices designed to train the mind toward awakening the spiritual Buddha nature); The Dharma (studying the spiritual teachings of the Buddha); and The Sangha (the Buddhist community gathering for guidance, support, and spiritual growth).

#### **Status of Midwest Dharma Wheel as a Non-Profit Entity.**

Under subsection (1)(d) of section 77-202 of Nebraska Statutes, a property owner's organization must be "qualified" as an organization designated as property tax exempt under Neb. Rev. Stat. 70-202 and that a 501(c)3 determination from the IRS does not automatically qualify the organization as property tax exempt. "Before an application for exemption of property from taxation can be granted there must be a determination that the property is held by a qualified organization and that the exclusive use of the property is for a qualified purpose. *Nebraska State Bar Found. v. Lancaster Cty. Bd. of Equal.*, 237 Neb. 1, 465 N.W.2d 111 (1991). The first question is therefore whether the Taxpayer is an organization designated in subsection (1)(d) of Nebraska Statutes section 77-202.

An organization that meets the Internal Revenue Code's definition of a Church is specifically excluded from the requirement of applying for formal recognition as a 501(c)3 before operating as income tax exempt. Nonetheless, many Churches make the application for formal recognition of federal income tax exemption for purposes of providing evidence of the exemption to donors and to local and state entities that incorporate the federal exemption into determinations of entitlement to other tax exemptions. For these reasons, Midwest Dharma Wheel is in the process of applying for recognition as a 501(c)3 Church with the IRS.

**Exclusive Use.** Under Section 005.03, Midwest Dharma Wheel Contemplative & Healing Arts, Inc.'s primary use of the property is the furtherance and enrichment of practice of Buddhism.

Reg. 40-005.03 Exclusive Use means the property must be used exclusively for religious, educational, charitable, or cemetery purposes. The property need not be used solely for one of the four categories of exempt use, but may be used for a combination of exempt uses. For purposes of this regulation, the

term exclusive use shall mean the predominant or primary use of the property as opposed to incidental use. The exemption will not be lost if the property is used in an incidental manner as long as the predominant or primary use of the property is for one or more of the exempt uses.

Reg. 40-005.03B An organization claiming a property tax exemption shall have the burden of establishing that the property is used exclusively for exempt purposes. The following is a list of factors to be considered in determining if the organization shall be allowed the tax exemption in whole or in part.

Reg. 40-005.03B(4) Use of the property includes ongoing construction of a building or improvement that, when complete will be used exclusively for exempt purposes. The future use of the completed building or improvement may be ascertained by the actions of the organization owning the property, including but not limited to resolutions of an organization's board of directors, or the amendment of the organization's articles of incorporation or bylaws, that indicate a clear intent to use the parcel for an exempt purpose. For ongoing construction to be sufficient to render the property exempt from tax, such construction must prevent other, nonexempt uses of the property.

Nebraska Revised Statute § 77-202(1)(c) contains a two-tier approach to tax exemption for property. At the first tier is the particular nature, character, or status of a property owner as an organization which is one of the types designated in § 77-202(1)(c). At the second tier is use of the property.

Midwest Dharma Wheel Contemplative & Healing Arts, Inc.'s primary use of the Property is the furtherance and enrichment of the spiritual faith in the practice of Buddhism and teachings of the Buddha.

1. Meditation
2. Dharma teaching/scripture teaching
3. "Sacred Space" a more integral/integrated space where all aspects of a person could be met and worked with-physical, mental/emotional, spiritual.
4. Ayurveda, health, healing, yoga, psyche, dharma, etc.
5. Dharma and meditation
6. Jungian Analysis
7. spiritual guide and
8. Mentoring groups group and retreats/classes about Dharma, spiritual development, and meditation.
9. Sunday practice group

Much like the Property's prior owner, First Church of Christ Scientist, Midwest Dharma Wheel Contemplative & Healing Arts, Inc. uses the chapel weekly for large and small group religious practices. These religious practices include teachings based on Buddhist scripture, guided Buddhist meditations, and the practice of yogic body work designed to open the flow of spiritual energy through Asana (physical postures and movements), Pranayama (structured practices of breathwork), Mudra (gestures made with the hands or body), Mantra (the chanting and repetition of Sacred Sound), Meditation (mind training) and Purification (cleansing practices to prepare the body for deeper states of awareness). Smaller areas of the building are used for individual spiritual teaching sessions, one on one energy work, and private spiritual counseling. These large group, small group, and individual Buddhist practices serve as the predominant or primary use of the property. Midwest Dharma Wheel Contemplative & Healing

Arts, Inc. does not provide any services to the public or to the members of the Sangha that would be considered unrelated to the furtherance and enrichment of the Buddhist faith.

Midwest Dharma Wheel Contemplative & Healing Arts, Inc. uses the property in substantially the same manner as the prior owners used the property—large and small religious gatherings, sermons and teachings, personal and small-group religious activities, and other non-primary uses that are consistent with the exempt purpose.

**No Financial Gain or Profit.** Midwest Dharma Wheel Contemplative & Healing Arts, Inc. provides Ms. Twomey, Mr. Willett, and her employees with reasonable salaries for the work they do within the organization, with any and all profits being reinvested into the organization's mission. Midwest Dharma Wheel, the sole owner and the user of the Property, does not use the Property for its own Financial Gain or Profit.

Under Section 005.05, "reasonable salaries paid to employees of the owner or user shall not constitute a distribution of financial gain or profit."

Reg. 40-005.05 No Financial Gain or Profit--The property must not be used for financial gain or profit to either the owner or user. There is no financial gain or profit if no part of the income from the property is distributed to the owner's or user's, members, directors, or officers, or to private individuals. Reasonable salaries paid to employees of the owner or user shall not constitute a distribution of financial gain or profit. The following are examples illustrative of the above principles. These examples are provided as general guidelines to be used in particular cases. In utilizing these examples, all relevant factors of each particular case must be considered.

Property is not used for financial gain or profit to either the owner or the user if no part of the income from the property is distributed to the owner's or user's members, directors, or officers, or to private individuals. *United Way v. Douglas Co. Bd. of Equal.*, 215 Neb. 1, 337 N.W.2d 103 (1983).

**Restricted Alcoholic Liquor Sales.** Midwest Dharma Wheel never has and never will sell alcohol. The use of intoxicants, including alcohol, is against the main tenets of the philosophy of the Dharma and practitioners or followers of Buddhism are encouraged to refrain from use.

005.06 Prohibited Alcoholic Liquor Sales--The property must not be used for the sale of alcoholic liquors for more than twenty (20) hours per week. The sale of liquor is deemed not to be a use for educational, religious, charitable, or cemetery purposes. Property or portions of property used for selling alcoholic liquors include all areas in which alcoholic liquors are normally sold, served, or consumed. For purposes of determining whether alcoholic liquor is sold in excess of twenty (20) hours per week, a reasonable average for the tax year may be used.

**Prohibited Discrimination.** Midwest Dharma Wheel never has and never will discriminate against people based on race, color, or ethnic origin. All persons are welcome to explore membership, employment, or participation with Midwest Dharma Wheel.

005.07 Prohibited Discrimination--The property must not be owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. Such discrimination is contrary to public policy and may not be subsidized through a tax exemption. There

must be some actual formal or informal policy of discrimination present, which denies or otherwise abridges membership or employment to disallow an exemption. An organization is not deemed to be discriminatory even though all of its members or employees are of the same race, color, or national origin, if it is willing to admit and employ on a nondiscriminatory basis. Similarly, an organization may be deemed to be discriminatory even though it may have "token" members or employees, if it has a discriminatory policy towards prospective new members or employees.

**Conclusion:**

Midwest Dharma Wheel must be the owner of recorded title to the Property. It is also a qualified owner, which means it meets the requirements to be a "religious organization" under the laws of the state of Nebraska, the nature, character, and status of which are described in detail above.

Because Midwest Dharma Wheel Contemplative & Healing Arts, Inc.'s use of the property comports with the IRS 501(C)3 exemptions for churches and with the relevant provisions of the Nebraska Administrative Code, it should be granted a Property Tax Exemption.

Finally, Midwest Dharma Wheel is not disqualified by any of the forbidden activities enumerated in Neb. Rev. Stat. 77-202(1)(d)I-iii.