

## **CHAPTER 5 – BUSINESS REGULATIONS**

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## CHAPTER 5 – BUSINESS REGULATIONS

### Article 1 – Alcoholic Beverages

#### SECTION 5-101: DEFINITIONS

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

#### SECTION 5-102: ACQUISITION AND POSSESSION

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act. Nothing in this section shall prevent:

A. The possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, so long as the quantity of alcoholic liquor transported, imported, brought, or shipped into the State does not exceed nine liters in any one calendar month;

B. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains or the products thereof by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

C. Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for sick and diseased persons from possessing and using alcoholic liquor for the treatment of *bona fide* patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians;

D. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any *bona fide* rite or religious ceremony conducted by such church;

E. Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

F. Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

G. Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

H. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. Rev. Stat. §§53-168.06, 53-175, 53-194.03) (Am. Ord. Nos. 1189, 11/6/85; 1378, 5/8/96; 1468, 10/8/03)

**SECTION 5-103: CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS**

A. Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the State or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

B. It is unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act.

C. It is unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act.

D. This section does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages.

(Neb. Rev. Stat. §53-186.01) (Am. Ord. No. 1468, 10/8/03)

**SECTION 5-104: LICENSE REQUIRED**

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the City unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-168.06)

**SECTION 5-105: COUNCIL’S AUTHORITY, POWERS AND DUTIES**

The City Council shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The council, with respect to licenses within the corporate limits of the City, has the following powers, functions, and duties with respect to retail, bottle club, craft brewery, and microdistillery licenses:

A. To cancel or revoke for cause retail, bottle club, craft brewery, and microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission.

B. To enter or authorize any law enforcement officer to enter at any time upon

any premises licensed under the Nebraska Liquor Control Act (“the act”) to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Nebraska Liquor Control Act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated shall report such violation in writing to the executive director of the commission:

1. Within 30 days after determining that such violation has occurred;
2. Within 30 days after the conclusion of an ongoing police investigation; or
3. Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.

C. To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act.

D. To receive retail, bottle club, craft brewery and microdistillery license fees as provided in Neb. Rev. Stat. §§53-124 and 53-124.01 and pay the same to the city treasurer after the license has been delivered to the applicant.

E. To examine or cause to be examined any applicant or any retail, bottle club, craft brewery, or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf.

F. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within 30 days after the date of the order by filing a notice of appeal with the commission, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133.

G. To fix a time and place for a hearing at which the City Council shall receive

evidence bearing upon the propriety of the issuance of a license.

H. To review and authorize an application by a retail, bottle club, craft brewery or microdistillery licensee for a temporary expansion of its licensed premises within the City's jurisdiction to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley.  
(Neb. Rev. Stat. §53-134)

### **SECTION 5-106: LICENSEE REQUIREMENTS**

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person: (A) is a resident of the County; (B) is of good character and reputation; (C) is a citizen of the United States; (D) has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. Rev. Stat. Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; (E) has never had a liquor license revoked for cause; (F) is a person whose premises for which a license is sought meets standards for fire safety as established by the state fire marshal; or (G) has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms or where the request is limited to on-premises sale of beer only in a restaurant. (Neb. Rev. Stat. §§53-124.03, 53-125) (Am. Ord. Nos. 1079, 5/6/81; 1141, 10/5/83)

### **SECTION 5-107: LOCATION**

A. Except as otherwise provided in subsection (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor or for a bottle club within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (1) to any location within such distance of 150 feet for which a license to sell alcoholic liquor at retail or for a bottle club has been granted by the commission for two years continuously prior to making of application for license, or (2) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935.

B. If a proposed location for the sale at retail of any alcoholic liquor or for a bottle club is within 150 feet of any church, a license may be issued if the Liquor Control Commission gives notice to the affected church and holds a hearing as prescribed in Neb. Rev. Stat. §53-133 if the affected church submits a written request for a hearing.  
(Neb. Rev. Stat. §53-177)

### **SECTION 5-108: PREMISES ALSO USED AS DWELLING**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon



any premises having any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building that is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. §53-178)

### **SECTION 5-109: SANITARY CONDITIONS**

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the City Council or the city law enforcement may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

### **SECTION 5-110: LICENSE APPLICATION; NOTICE; HEARING**

A. Upon the City Council's receipt from the Liquor Control Commission of the notice and copy of new application as provided in Neb. Rev. Stat. §53-131, the council shall fix a time and place for a hearing at which evidence bearing upon the propriety of the issuance of a license shall be received, either orally or by affidavit, from the applicant and any other person.

B. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

C. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission. After such hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The city clerk shall mail to the commission by first-class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

(Neb. Rev. Stat. §§53-134, 53-134.02) (Ord. Nos. 1196, 5/7/86; 1265, 11/13/89)

### **SECTION 5-111: AUTOMATIC LICENSE RENEWAL; PROTESTS**

A. An outstanding retail license issued by the commission may be automatically renewed by the commission without formal application upon payment of the renewal

fee and license fee if payable to the commission prior to or within 30 days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the City Council. If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in Neb. Rev. Stat. §53-131.

B. The city clerk shall cause to be published in a legal newspaper in or of general circulation in the City one time between January 10 and January 30 each year individual notice of the right of automatic renewal of each retail liquor and beer license within the City in the form prescribed by law, except that Class C license renewal notices shall be published between July 10 and July 30 each year.

C. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the City on or before February 10, 20..., or August 10, 20..., in the office of the city clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.

(Neb. Rev. Stat. §§53-135, 53-135.01)

#### **SECTION 5-112: LICENSE; NEW OR RENEWAL; DELIVERY TO LICENSEE**

A. Retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses issued or renewed by the commission shall be mailed or delivered to the city clerk, who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (1) the license fee if by the terms of Neb. Rev. Stat. §53-124(6) the fee is payable to the City (Class J licenses), (2) any fee for publication of notice of hearing before the City Council upon the application for the license, (3) the fee for publication of notice of renewal as provided in Neb. Rev. Stat. §53-135.01, and (4) occupation taxes, if any, imposed by the City, except as otherwise provided in Neb. Rev. Stat. §53-132(6) regarding Class J licenses.

B. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

C. Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

(Neb. Rev. Stat. §53-132) (Am. Ord. Nos. 1080, 5/6/81; 1141, 10/5/83; 1468, 10/8/03)

**SECTION 5-113: DISPLAY OF LICENSE**

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

**SECTION 5-114: HOURS OF SALE**

A. For the purposes of this section, (1) "on-sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; (2) "off-sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be lawful for any licensed person or persons or their agents to sell any alcoholic beverages within the City only during the hours provided herein:

<b>Alcoholic Liquors (except Beer and Wine)</b>	
<i>Monday through Saturday</i>	
On and Off Sale	6:00 a.m. to 1:00 a.m.
<i>Sunday</i>	
On and Off Sale	12:00 noon to 1:00 a.m.
<b>Beer and Wine</b>	
<i>Daily</i>	
On and Off Sale	6:00 a.m. to 1:00 a.m.

C. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

D. No person(s) shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on said premises.

E. 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.  
(Neb. Rev. Stat. §53-179)

**SECTION 5-115: KEG SALES; REGISTRATION; KEG ID NUMBERS; PROHIBITED ACTS**

A. 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 and 92/100ths or more liters, the seller shall record (1) the date of sale, (2) the keg identification number, (3) the purchaser's name and address and (4) 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 (5) 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.

B. 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.

(Neb. Rev. Stat. §§53-167.02, 53-167.03)

### **SECTION 5-116: CATERING LICENSES**

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall process the application in the same manner as provided herein.

B. The City Council, with respect to catering licensees within its liquor license jurisdiction, may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

C. The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the council. The tax may not exceed double the license fee for a catering license.

D. For purposes of this section, the liquor license jurisdiction of the City Council, with respect to the holders of Class D-1 licenses, is the area outside the corporate limits of the City but within its extraterritorial zoning jurisdiction and, with respect to the holders of other licenses, is the corporate limits of the City.

(Neb. Rev. Stat. §53-124.12[1], [3], [4], [6]) (Ord. Nos. 1241, 9/7/88; 1299, 2/12/92; 1406, 11/12/97; 1468, 10/8/03)

### **SECTION 5-117: INSPECTIONS**

The Liquor Control Commission and City Council shall cause frequent inspections to be made on the premises of all retail and bottle club licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended,

canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. Rev. Stat. §53-116.01)

### **SECTION 5-118: EMPLOYER OR LICENSEE; VIOLATION**

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act by any officer, director, manager, or other agent or employee of any licensee, if such act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of such employer or licensee and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him or her personally. (Neb. Rev. Stat. §53-1,102)

### **SECTION 5-119: HIRING MINORS**

It shall be unlawful for any person to hire minors under the age of 19 years to serve or dispense alcoholic liquors, including beer, in the course of their employment. (Neb. Rev. Stat. §53-168.06)

### **SECTION 5-120: MINORS AND INCOMPETENTS**

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of, or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or any person who is mentally incompetent. (Neb. Rev. Stat. §53-180) (Am. Ord. No. 1081, 5/6/81)

### **SECTION 5-121: MINOR'S PRESENCE**

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the minor is accompanied by his or her parent or legal guardian and unless the minor remains seated with and under the immediate control of said parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

### **SECTION 5-122: MINOR IN POSSESSION; MISREPRESENTATION BY MINOR**

See Chapter 3, Article 1, Sections 3-127 and 3-128.

### **SECTION 5-123: CREDIT SALES**

No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered. If any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law. Nothing in this section shall prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of

members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and nothing in this section shall prevent (A) any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests, or (B) any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Neb. Rev. Stat. §53-183)

#### **SECTION 5-124: SALE FOR RESALE**

No retail licensee in this city shall engage, directly or indirectly, in any transaction including or conspiring as to the resale of any liquors owned by him or 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 5-125: ORIGINAL PACKAGE**

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184) (Am. Ord. No. 1299, 2/12/92)

#### **SECTION 5-126: ADVERTISEMENTS AND SALES; ALCOHOL AS PRIZE**

Advertising by licensees in this city 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 5-127: TRANSPORTATION OF LIQUOR OF RETAIL LICENSEES**

No retail licensee in this city shall permit the transportation of alcoholic liquor from his or 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 Liquor Control Commission.

#### **SECTION 5-128: CONDUCT PROHIBITED ON LICENSED PREMISES**

No licensee in this city 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 5-129: GAMBLING**

Unless sanctioned by Nebraska law, no licensee in this city holding a license covering any 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 or she permit the operation or possession of any payoff gambling device, slot machine or punch-board, mechanical or otherwise, whether payoff is in cash or merchandise, in, on or about the licensed premises.

**SECTION 5-130: CITIZENS' COMPLAINT**

A. Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based.

B. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115. (Neb. Rev. Stat. §53-134.04)

**SECTION 5-131: REVOCATION OF LICENSE**

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The City Council may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

**SECTION 5-132: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY**

A. City police, county sheriffs and deputies, officers of the Nebraska State Patrol, and any other such law enforcement officers with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her

home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only so long as is necessary to preserve life or to prevent injury and under no circumstances for longer than 24 hours.

B. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

C. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

D. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

E. For purposes of this section, "public property" shall mean any public right-of-way, street, highway, alley, park, or other state-, county-, or city-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121) (Ord. No. 1102, 3/24/82)



## Article 2 – Occupation Taxes

### SECTION 5-201: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation tax upon such occupations and businesses carried on within the corporate limits of this city in such amounts as set by the City Council by ordinance and kept on file with the city clerk; and every person, firm, association or corporation carrying on the occupation or business specified within the limits of said city shall pay to the city treasury the sum named as a tax upon such occupation or business. All money so collected shall be credited to the general fund, except as provided in Section 5-202(B) as to fire insurance companies. The said money shall be and remain under the control of the City Council for such use and purpose as other monies belonging to the general fund. (Neb. Rev. Stat. §17-525)

### SECTION 5-202: LEVY AUTHORIZED; FIRE INSURANCE; LIQUOR

A. The City shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the City and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under Neb. Rev. Stat. §§53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under Neb. Rev. Stat. §77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. Rev. Stat. §18-1208, except that Neb. Rev. Stat. §18-1208 does not apply to an occupation tax subject to Neb. Rev. Stat. §86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the City.

B. The City Council shall have authority, by ordinance, to impose an occupation tax of not more than \$5.00 per annum on each fire insurance corporation, company or association doing business in the City for the use, support and benefit of the volunteer Fire Department. The city clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax, the clerk shall pay over the proceeds thereof to the city treasurer, who shall credit the same to a fund to be known as “special occupation tax fund” for the benefit of the Fire Department. Upon proper claim filed by the fire chief and allowed by the City Council, the treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department as hereinbefore provided.

C. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.  
(Neb. Rev. Stat. §§17-525, 35-106, 53-132)

**SECTION 5-203: INTERSTATE OR GOVERNMENT BUSINESS**

The license tax levied by this ordinance is not levied upon any business or occupation which is interstate or which is done or conducted by any department of the government of the United States, the State of Nebraska, this city 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 5-204: 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 herein.

**SECTION 5-205: TAX FOR FRACTIONAL PERIODS**

No person engaging in any of the occupations taxed herein shall be required to pay for the then current city year an amount larger than one-twelfth of the annual tax for each month or fraction thereof remaining to the end of the city year.

**SECTION 5-206: COLLECTION DATE**

All occupation taxes shall be due and payable on the first day of each fiscal year except in the event that the said tax is levied daily or weekly. Upon the payment thereof by any person or persons to the city clerk, he or she shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class C liquor licenses shall be due and payable on November 1. The revenue collected shall then be immediately deposited into the general fund by the city treasurer, who shall keep an accurate account of the same. All forms and receipts herein mentioned shall be issued in duplicate and each party in the transaction shall then keep one copy. (Neb. Rev. Stat. §17-525)

**SECTION 5-207: CERTIFICATES**

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate, which shall specify the amount of the tax and the name of the person and business that paid the said tax. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

**SECTION 5-208: FAILURE TO PAY**

If any person, company, or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.

**SECTION 5-209: NO REFUND**

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



## **Article 3 – Solicitors and Peddlers**

### **SECTION 5-301: REGULATION; PERMIT REQUIRED; FEE**

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all solicitors and peddlers shall register with the city clerk and obtain a permit before doing business within the City. The registrant shall supply all the necessary information and documents required for the protection of the residents of the City. Every registrant shall be required to pay to the city clerk an annual registration fee as set by the City Council by resolution and kept on file in the office of the city clerk for public inspection. Said registrant shall be subject to other rules and regulations which the council deems appropriate for the purposes stated herein. (Neb. Rev. Stat. §§17-134, 17-525) (Am. Ord. No. 1357, 10/12/94)

### **SECTION 5-302: HOURS OF SOLICITATION; PERMIT ON PERSON**

It shall be unlawful for any solicitor or peddler to solicit any individual between the hours of 6:00 p.m. and 8:00 a.m. unless he or she has a previous appointment with the resident(s) of the premises solicited. It shall be unlawful at any hour for a solicitor or peddler to solicit without a proper permit on his or her person at all times. (Neb. Rev. Stat. §17-134)

### **SECTION 5-303: EXCEPTIONS**

Nothing herein shall be construed to apply to any person selling produce raised within the County, to wholesale salespeople soliciting merchants directly nor to residential route salespersons; nor shall this article pertain to nor apply to persons canvassing residents within the City for religious, political or other noncommercial purposes.



## Article 4 – Lotteries

### SECTION 5-401: VIDEO LOTTERIES; PROHIBITED

It shall be unlawful for any person, firm, corporation, organization, or association within the corporate limits of the City to engage in, conduct, or allow to be conducted upon the premises owned by him, her or them any gambling scheme which uses any mechanical gaming device, computer gaming device, electronic gaming device, or video gaming device which has a capacity of awarding monetary prizes, free games redeemable for monetary prizes, or tickets or stubs redeemable for monetary prizes. (Ord. No. 1153, 3/7/84)

### SECTION 5-402: LOTTERY; PARTICIPATION; RESTRICTIONS.

A. No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the City.

B. No owner or officer of a lottery operator with whom the City contracts to conduct its lottery shall play the lottery conducted by the City. No employee or agent of the City, lottery operator, or authorized sales outlet location shall play the city lottery for which he or she performs work during such time as he or she is actually working at such lottery while on duty.

C. Nothing shall prohibit the following persons from playing the lottery conducted by the City as long as such person is 19 years of age or older:

1. Any member of the City Council, a municipal official, or the immediate family member or official; or
2. An owner or officer of an authorized sales outlet location for the City.

D. No person or employee or agent of any person or of the City shall knowingly permit an individual under 19 years of age to play or participate in any way in the lottery conducted by the City.

E. For purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. "Immediate family of a member of the City Council or a municipal official" shall mean:

1. A person who is related to the member of official by blood, marriage, or adoption and resides in the same household; or
2. A person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes.

(Neb. Rev. Stat. §9-646)





## **Article 5 – Junk and Salvage Dealers**

### **SECTION 5-501: DEFINITION**

A “junk and salvage dealer” shall be defined as any person or firm which is engaged in the business of buying, selling, receiving, storing, collecting or dealing in scrap metal, secondhand parts of motor vehicles or machinery which are being kept for the purpose of being dismantled or discarded, bottles, scrap rubber, rags, paper, bones or junk in general. This article shall not apply to bona fide secondhand automobile dealers but the mere fact that the owner or operator of said establishment reconditions or sells some secondhand cars shall not eliminate the establishment from the effects of the provisions of this article.

### **SECTION 5-502: LICENSE REQUIRED**

Every person, firm or corporation now or hereafter engaged in the business of dealing in junk and salvage within the corporate limits of the City shall obtain a license to engage in said business.

### **SECTION 5-503: APPLICATION FOR LICENSE; RENEWAL**

A. Each applicant for an original license under this article shall file a written application for such license with the clerk and with said application pay to the City a fee set by the City Council and filed in the office of the city clerk for public inspection during office hours. Said application shall state the name of the owner and operator of said business and the location of the proposed business. The clerk shall submit said application to the mayor and council, who shall make such investigation as they deem necessary of the proposed location set forth in said application and shall grant such license only if they deem that the operation of the business in said location will not be injurious to the public health, safety and welfare and that they are reasonably satisfied that the premises meets the requirements of this article. If the application is granted, the clerk shall forthwith issue a license authorizing the applicant to engage in business as a junk and salvage dealer to April 30 of the following year.

B. All licenses so issued shall continue in force, unless sooner revoked or suspended, to April 30 after the date of issuance thereof. Licenses may be renewed by the mayor and council upon application being made for renewal with the clerk for a period beginning May 1 of the year of such application for renewal and ending April 30 of the following year. A license fee as provided in subsection (A) shall be paid to the City for said annual renewal, which shall be paid at the time of making application.

### **SECTION 5-504: REGULATIONS**

A. Every junk and salvage dealer shall keep and confine the goods and materials received or held within the limits of the premises for which the license is granted and none of the same shall be placed or be allowed to remain upon any adjoining

property, sidewalk, street or alley only except as may be necessary in the loading or unloading of the same and, in any event, the same shall be promptly removed therefrom.

B. All areas of junk and salvage yards wherein junk and salvage is piled, kept or stored adjacent to or abutting a public street, sidewalk or alley shall have erected thereon upon or near the boundary line nearest such public street, sidewalk or alley a suitable fence or wall of board, metal, mesh wire or masonry construction of sufficient height, in all cases at least 8 feet high, and of sufficient strength to keep and confine in said area all junk which may be placed thereon so that said junk will not encroach or be upon such public street, sidewalk or alley or endanger persons or property thereon or passing along the same. Every entrance to such area from the public street or alley shall be equipped with a suitable door or gate.

C. All junk and salvage shall be kept or stored in such a manner as to make possible control and eradication of rats and vermin and to minimize the danger of fire. Owners and operators of junkyards and salvage yards shall use reasonable measures to the end that the junk and salvage yards shall not become or be infested with rats and vermin to the extent that public health, safety and welfare are endangered.

#### **SECTION 5-505: LOCATION OF BUSINESS**

No person or firm shall establish or engage in the business of a junk and salvage dealer within any residential district of the City; provided, any junk and salvage dealer actually engaged in such business in a residential district of the City as of the time of passage of this article may continue said business in such location upon compliance with all other provisions of this article.

#### **SECTION 5-506: REVOCATION OR SUSPENSION OF LICENSE**

Every junk and salvage dealer, employee or operator of such junk yard and salvage yard who shall violate or neglect or refuse to comply with any of the provisions of this article shall be deemed guilty of a misdemeanor. Each day of said violation shall be deemed to be a separate and distinct offense. In addition to the penalty imposed, the mayor and council, after giving three days' notice to said licensee either in person or by registered mail addressed to the last known address of such licensee, may revoke and cancel or suspend said license to operate a junk and salvage yard upon the conviction of any such junk and salvage dealer of violation of this article or in the event that such junk and salvage dealer habitually or persistently fails, refuses or neglects to comply with this article. Any such revocation or suspension of license shall remain in effect until said junk and salvage dealer brings the junkyard and salvage yard and operation thereof into compliance with this article.

## Article 6 – Fair Housing

(Neb. Rev. Stat. §§20-301 through 20-344)

### SECTION 5-601: PURPOSE

The purpose of this article is to promote the general welfare of city residents by endorsing the provisions of the Nebraska Fair Housing Act, Neb. Rev. Stat. §§20-301 through 20-344, to the effect that there shall be no discrimination in the City in the acquisition, ownership, possession, or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska.

### SECTION 5-602: DEFINITIONS

As used in this article, unless the context otherwise requires:

“Aggrieved person” shall include any person who:

- A. Claims to have been injured by a discriminatory housing practice; or
- B. Believes that he or she will be injured by a discriminatory housing practice that is about to occur.

“Commission” shall mean the Nebraska Equal Opportunity Commission.

“Dwelling” shall mean any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

“Familial status” shall mean one or more minors being domiciled with:

- A. A parent or another person having legal custody of such individual; or
- B. The designee of a parent or other person having legal custody, with written permission of the parent or other person.

“Handicap” shall mean, with respect to a person:

- A. A physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401, which substantially limits one or more of such person's major life activities;
- B. A record of having such an impairment; or
- C. Being regarded as having such an impairment.

“Person” shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

“Rent” shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

“Restrictive covenant” shall mean any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status, or ancestry.

### **SECTION 5-603: UNLAWFUL ACTS**

A. Except as exempted by Section 5-607, it shall be unlawful to:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex;
2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status, or sex;
3. Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, handicap, familial status, or sex or an intention to make any such preference, limitation, or discrimination;
4. Represent to any person because of race, color, religion, national origin, handicap, familial status, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status, or sex of a person seeking to purchase, rent, or lease any housing;
6. Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor, exercise, or attempt to honor or exercise any restrictive covenant pertaining to housing;

7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article on the Nebraska Fair Housing Act; and
8. Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status, or sex.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

**SECTION 5-604: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS**

A. Except as exempted by Section 5-607, it shall be unlawful to:

1. Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
  - a. The buyer or renter;
  - b. Any person associated with the buyer or renter; or
  - c. A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or
2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:
  - a. Such person;
  - b. Any person associated with such person; or
  - c. A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

B. For purposes of this section, "discrimination" shall include:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;
2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the

handicapped person equal opportunity to use or enjoy a dwelling; and

3. In connection with the design and construction of covered multi-family dwellings, a failure to design and construct the dwellings in such manner that:
  - a. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
  - b. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
  - c. All premises within the dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and (iv) kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

C. Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (B)(3)(c) of this section.

D. For purposes of this section, "covered multi-family dwellings" shall mean:

1. Buildings consisting of four or more units if such buildings have one or more elevators; and
2. Ground floor units in other buildings consisting of four or more units.

E. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

#### **SECTION 5-605: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED**

A. It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.

B. For purposes of this section, “transaction related to residential estate” shall mean any of the following:

1. The making or purchasing of loans or providing other financial assistance:
  - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - b. Secured by residential real estate; or
2. The selling, brokering, or appraising of residential real property.

C. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status, or sex.

**SECTION 5-606: MULTIPLE LISTING SERVICE; OTHER SERVICE;  
DISCRIMINATORY PRACTICES PROHIBITED**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status, or sex.

**SECTION 5-607: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE  
CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING  
USE NOT PROHIBITED**

A. Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of a dwelling which it owns or operates, for other than commercial purposes, to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status, or sex.

B. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

C. Nothing in this article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often

as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her home.

D. Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, "housing for older persons" shall mean housing:

1. Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;
2. Intended for and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by at least one person 55 years of age or older per unit.

#### **SECTION 5-608: INFORMATION**

The city clerk, upon request, shall make available to an aggrieved person or any other person information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual.



## **Article 7 – Penal Provision**

### **SECTION 5-701: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.