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CHAPTER 10 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

§10-101 DEFINITIONS

For purposes of this Article, the definitions found in Neb. Rev. Stat. §53-103 shall be used.

§10-102 MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS

No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this Article and Nebraska Liquor Control Act. Nothing in this Article or the Act shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in this Article or the Act for the personal use of the possessor and his or her family and guests;

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

(3) 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 the 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 the compounding of prescriptions of licensed physicians;

(4) 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;

(5) 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;

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

(7) 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

(8) 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)

§10-103 ACQUISITION AND POSSESSION; RESTRICTIONS

(1) 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 this Article and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this Article or the Act.

(2) It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into the State of Nebraska for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of nine liters in any one calendar month.

(Neb. Rev. Stat. §53-175, 53-194.03)

§10-104 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON; PROHIBITED

No person shall sell, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors to or for any minor or to any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

§10-105 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS

(1) 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. (Neb. Rev. Stat. §53-186(1))

(2) It is unlawful for any person owning, operating, managing, or conducting any 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. It is unlawful for any person to consume alcoholic liquor in any 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. This subsection does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. Rev. Stat. §53-186.01)

(Am. by Ord No. 871, 5/18/00)

§10-106 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI- PUBLIC PROPERTY

(1) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and, in the judgment of the officer, dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a

reasonable effort to take 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 doctor 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 as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

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

(3) 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.

(4) 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.

(5) 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.

(6) For the purposes of this section, "quasi-public property" shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121)

§10-107 LICENSEE REQUIREMENTS

No license shall be issued to:

(1) A person who is not a resident of Nebraska, except in case of railroad, airline, or boat licenses;

(2) A person who is not of good character and reputation in the community in which he or she resides;

(3) A person who is not a citizen of the United States;

(4) A person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States;

(5) A person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant 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, except that any additional requirements imposed by this subdivision on May 18, 1983, shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to May 18, 1983;

(6) A person whose license issued under the Nebraska Liquor Control Act has been revoked for cause;

(7) A person who at the time of application for renewal of any license issued under the act would not be eligible for such license upon initial application;

(8) A partnership, unless one of the partners is a resident of Nebraska and unless all the members of such partnership are otherwise qualified to obtain a license;

(9) A limited liability company, unless one of the members is a resident of Nebraska and unless all the members of such company are otherwise qualified to obtain a license;

(10) A corporation, if any officer, manager, or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, except that a manager of a corporate licensee shall be a resident of Nebraska. This subdivision shall not apply to railroad licenses;

(11) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;

(12) A person who does not own the premises for which a license is sought or does not have a lease or combination of leases on such premises for the full period for which the license is to be issued;

(13) Except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the Nebraska Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated;

(14) A person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal;

(15) A law enforcement officer, except that this subdivision shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization; or

(16) A person less than 21 years of age.

When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent.

(Neb. Rev. Stat. §53-125)

§10-108 RETAIL ESTABLISHMENTS; LOCATION

It shall be unlawful for any person to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition shall not apply (1) to any location within such distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least two continuous years, and (2) to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where the selling of alcoholic liquors is not the principal business carried on, if the place of business was established for such purposes prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college or university within the City . (Neb. Rev. Stat. §53-177)

§10-109 RETAIL ESTABLISHMENTS; ACCESS TO DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which have any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between such premises and such other portion of the building or structure which is used only by the licensee, his family, or personal guests. (Neb. Rev. Stat. §53-178)

§10-110 LICENSES; CITY POWERS AND DUTIES

(1) The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, or craft brewery licensees carried on within the corporate limits of the City . (Neb. Rev. Stat. §53-134.03)

(2) During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery license, the City Council may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant. (Neb. Rev. Stat. §53-131(2))

(3) The City Council, with respect to licenses within the corporate limits of the City, has the following powers, functions, duties with respect to retail, bottle club, and craft brewery licenses:

(a) To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell

or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(b) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

(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 license fees, bottle club license fees, and craft brewery license fees as provided in Neb. Rev. Stat. §53-124 and pay the same, after the license has been delivered to the applicant, to the City Treasurer;

(e) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the 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 Section 10-127 of this code (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. 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. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133;

(g) (i) Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the 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.

(ii) The hearing shall be held not more than 45 days after the date of receipt of

the notice from the Commission, and after such hearing the City Council shall cause to be recorded in the minute record of their 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)

(4) (a) When the Nebraska Liquor Control Commission mails or delivers to the City Clerk a license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon proof of payment of:

- (i) The license fee if by the terms of Neb. Rev. Stat. §53-124(5) the fee is payable to the City Treasurer;
- (ii) Any fee for publication of notice of hearing before the City Council upon the application for the license;
- (iii) The fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and
- (iv) Occupation taxes, if any, imposed by the City.

(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 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. §53-132(4))
(Am. by Ord. No. 872, 5/18/00)

§10-111 LICENSEES; INSPECTIONS

The City Council shall cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of this Article, the Nebraska Liquor Control Act, or the regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of this Article or the Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard in his or her defense by the City Council. (Neb. Rev. Stat. §53-116.01)

§10-112 LICENSE APPLICATIONS; CITY EXAMINATION.

(Repealed by Ord. No. 872, 5/18/00)

§10-113 LICENSE RENEWAL; CITY POWERS AND DUTIES

(1) Retail or bottle club licenses issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail or

bottle club premises located in an area which is annexed to the City shall file a formal application for a license and while such application is pending, the licensee may continue all license privileges until the original license expires, is canceled, or is revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year.

(2) The City Clerk, upon notice from the Commission, 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 of each year individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City, except that Class C license renewal notices shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by three or more residents of the City on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application.

(Neb. Rev. Stat. §53-135, 53-135.01)

§10-114 CATERING LICENSES

(1) The holder of a Class C, Class D, Class D-1, or Class I license issued under Neb. Rev. Stat. §53-124(5), a craft brewery license, or a farm winery license may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, or farm winery license. (Neb. Rev. Stat. §53-124.12(1))

(2) Any person desiring to obtain a catering license shall file with the Commission:

(a) An application in triplicate original upon such forms as the Commission prescribes; and

(b) A license fee of \$100.00 payable to the Commission, which fee shall be returned to the applicant if the application is denied.

(3) (a) When an application for a catering license is filed, the Commission shall notify the City Clerk by registered or certified mail, return receipt requested, with postage prepaid.

(b) The City Council and the Commission shall process the application in the same manner as provided in Neb. Rev. Stat. §53-132.

(4) The City Council, with respect to catering licensees within its liquor license jurisdiction as provided in Neb. Rev. Stat. §53-132(5), 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. (Neb. Rev. Stat. §53-124.12(4))

(5) The City Council may impose an occupation tax on the business of a catering li-

censee doing business within the liquor license jurisdiction of the City Council as provided in Neb. Rev. Stat. §53-132(5). The tax may not exceed double the license fee to be paid under this section. (Neb. Rev. Stat. §53-124.12(6))

(6) For purposes of this section, the liquor license jurisdiction of the City Council is, with respect to the holders of Class D-1 licenses, the area outside the corporate limits of the City but within its extraterritorial zoning jurisdiction and, with respect to the holders of other licenses, the corporate limits of the City .
(Am. by Ord. No. 932, 6/6/02)

§10-115 DISPLAY OF LICENSE

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

§10-116 RETAIL ESTABLISHMENTS; 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. The licensed premises shall be subject to any health inspections the City Council or the City Police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions and a report concerning the same shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

§10-117 RETAIL ESTABLISHMENTS; HOURS OF SALE

(1) For the purposes of this section:

(a) “On sale” shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment; and

(b) “Off sale” shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

(2) It shall be unlawful for any licensed person or his or her agent to sell any alcoholic beverages within the City except during the following hours:

Alcoholic Liquors (except Beer and Wine)	
Monday through Saturday	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.
Sunday	
Off Sale	12:00 Noon to 1:00 A.M.
On Sale	12:00 Noon to 2:00 A.M.

Beer and Wine	
Daily	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.

Such limitations shall not apply after 12:00 Noon on Sunday to a licensee which is a nonprofit corporation holding a Class C or H license issued pursuant to Neb. Rev. Stat. §53-124(5).

(3) No person shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed in this section for stopping the sale of alcoholic beverages on the premises.

(4) Nothing in this section shall 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) (Am. by Ord. Nos. 858, 3/2/00; 1085, 7/01/10)

§10-118 SALES PROHIBITED

No person shall sell or furnish alcoholic liquor at retail to any person on credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of such club; and nothing shall in this section shall prevent any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing in such hotel or eating at such restaurant and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

§10-119 SPIKING BEER PROHIBITED

It shall be unlawful for any person or for any licensee to sell or offer for sale in this city any beer to which there has been added any alcohol or to permit any person to add alcohol to any beer on the licensed premises of such person or licensee. (Neb. Rev. Stat. §53-174)

§10-120 ORIGINAL PACKAGE REQUIRED

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages. 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)

§10-121 RETAIL ESTABLISHMENTS; MINOR'S PRESENCE RESTRICTED

It shall be unlawful for any person who owns, manages, or leases an establishment selling al-

coholic beverages at retail to allow any minor under the age of 21 years of age to frequent or otherwise remain in the establishment unless the minor is accompanied by his or her parent or legal guardian and unless the minor remains seated with and under the immediate control of the parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

§10-122 RETAIL LICENSEE; WARNING SIGN

Any retail licensee shall post in a conspicuous place a sign available from the Nebraska Liquor Control Commission which clearly reads as follows: *Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.*

§10-123 ENTERTAINMENT ON PREMISES

It shall be unlawful for any licensee under the Nebraska Liquor Control Act to permit on premises where alcoholic liquors are consumed thereon entertainments other than television, keno, or music from instruments or from radios.

§10-124 KEG SALES; REQUIREMENTS; PROHIBITED ACTS

(1) When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18 and ninety-two hundredths or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

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

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

§10-125 OWNER OF PREMISES OR AGENT; LIABILITY

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises or the agent of such owner or person knowingly permits the licensee to use such licensed premises in violation of the terms of the Nebraska Liquor Control Act or any city ordinance, such owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as such licensee and be subject to the same punishment. (Neb. Rev. Stat. §53-1,101)

§10-126 LICENSEE; LIABILITY FOR ACTS OF OFFICER, AGENT, OR EMPLOYEE

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act or any city ordinance 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)

§10-127 CITIZEN COMPLAINTS

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club 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 to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the 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 shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Neb. Rev. Stat. §53-134.04)

Article 2 – Peddlers and Hawkers

§10-201 REGULATION

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers, and hawkers shall, before doing business within the City, make application for and be issued a permit. Application for said permit shall be made to the City Clerk and shall contain all the necessary information and documents required for the protection of the residents of the City. Any person or persons granted a peddlers and hawkers permit shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any permit so granted shall be subject to revocation for good and sufficient cause by the City Police. (Neb. Rev. Stat. §17-134, 17-525)

§10-202 HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M. unless they have a previous appointment with the resident or residents of the premises solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his person at all times. (Neb. Rev. Stat. §17-134)

§10-203 EXCEPTIONS

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale salesmen soliciting merchants directly, or to a representative of a non-profit or charity organization soliciting on behalf of that organization.

Article 3 – Pool and Billiards

§10-301 DEFINITION

The term "pool and billiards" shall mean a game played on a table in which the object is to drive balls into the pockets and which is conducted for profit or gain. All ordinances relating to pool and billiards shall apply to any such game whether or not it is conducted in connection with any other business.

§10-302 REGULATION

It shall be unlawful for any person or persons to own, maintain, or operate any game of pool or billiards for profit or gain without having first obtained a license from the City. Any person desiring a license to operate, maintain, or own a pool or billiards game or hall shall file a written application with the City Clerk. Said application form shall contain such information and documents or copies thereof as the City Council deems necessary to determine whether to grant or reject the application. Upon the determination that the granting of the license would be beneficial to the City, the City Council shall immediately direct the City Clerk to issue the license to the applicant upon the payment of a fee set by resolution of the Council. Said license shall be subject to revocation at any time for good and sufficient cause by the City Council upon the issuance of proper notice and a hearing if the licensee should make such a request. Any person or persons so licensed shall be subject to any bond, fees, or other rules and regulations as may be set by resolution of the City Council. (Neb. Rev. Stat. §17-120, 17-207, 17-524)

§10-303 MINORS

It shall be unlawful for any person or persons operating any pool and billiards game to allow any minor under the age of 18 years to play any game of pool or billiards or to loiter on the premises. (Neb. Rev. Stat. §17-120, 17-207)

§10-304 OPERATOR'S RESPONSIBILITY

It shall be unlawful for the owner or operator of a pool and billiards establishment to allow or permit any disturbance of the peace, fighting, gambling, drunkenness, use of profanity, or obscene books and pictures. (Neb. Rev. Stat. §17-120, 17-207)

§10-305 UNOBSTRUCTED VIEW

It shall be unlawful for the owner or operator of a pool or billiards establishment to obstruct the view from the outside into the said establishment by the use of screens, blinds, paint, or other means. It shall further be unlawful for the owner or operator of a pool or billiards establishment to close or lock any room or rooms, except rooms used for storage purposes only, while the said pool or billiards establishment is open and available for public use. (Neb. Rev. Stat. §17-120, 17-207)

§10-306 HOURS

It shall be unlawful for the owner or operator of a pool and billiards establishment to open or make available for public use said establishment between the hours of 12:00 midnight and 7:00 A.M. on any day of the week, except Sunday, when the said pool and billiards establishments shall not be open or available to the public from 12:00 midnight until 1:00 P.M. (Neb. Rev. Stat. §17-120, 17-207)

Article 4 – Railroad Companies

§10-401 SAFE CROSSING

It shall be the duty of every railroad company doing business in or traveling through the City to keep in a suitable and safe condition the crossings and rights-of-way in the City. If any such crossing shall at any time fall into disrepair and become unsafe or inconvenient for public travel, the City Council may by resolution call upon the said company to make whatever repairs that it may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail or neglect to repair and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein. (Neb. Rev. Stat. §17-143, 17-144, 17-551, 17-552, 75-414)

§10-402 LIGHTING

It shall be the duty of all railroad companies owning, operating, and maintaining a railroad through the City to sufficiently light all crossings and to install as many signal systems as the City Council shall deem necessary at the expense of the said company. (Neb. Rev. Stat. §17-561)

§10-403 OBSTRUCTING TRAFFIC

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the City to obstruct traffic on any public street, except in the event of an emergency, for a longer period at one time than five minutes. (Neb. Rev. Stat. §17-552)

§10-404 SPEED LIMIT ORDINANCE, PROCEDURE

No speed limitation ordinance which would directly affect the operations of an interstate railroad shall be valid or enforceable unless its adoption is in compliance with this section. Before the first reading of the proposed ordinance, the railroad whose operations would be directly affected by the ordinance shall be given written notice by United States mail of the proposed ordinance and the date, time and place of such reading. Such notice shall be given at least ten days prior to the reading. The affected railroad or railroads shall have an opportunity to be heard at the first reading. After enactment, the railroad or railroads whose operations would be directly affected shall be provided a written or printed copy of the ordinance by United States mail.

Article 5 – Franchises

§10-501 NATURAL GAS

The City Council has granted to People's Natural Gas Company, Inc. the authority to construct, maintain, and operate a gas transmission and distribution system within the City . Actual details of the agreement and the present gas rates, charges, and fees are available at the City Clerk's office. (Neb. Rev. Stat. §17-528.02)

§10-502 TELEPHONE

The City Council has granted to the Aliant Communications, Inc. the authority to maintain and operate a telephone system within the City. Actual details of the agreement and the present telephone rates, charges, and fees are available at the City Clerk's office. (Neb. Rev. Stat. §17-525)

§10-503 ELECTRICITY

The City Council has granted to the Omaha Public Power District the authority to maintain and operate the light and power system in the City for the purpose of furnishing electric energy to the City and fixing the charges for such services. Actual details of the agreement and the present electrical rates, charges, and fees are available at the City Clerk's office. (Neb. Rev. Stat. §17-528.03)

§10-504 CABLE TELEVISION

The City Council has granted to Harmon Cable Investments, Inc. the authority to construct, operate, and maintain a community antenna television system in the City. Actual details of the agreement and the charges, rates, and fees are available at the City Clerk's office.

Article 6 – Lottery

§10-601 SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS

(1) The lottery operator which the City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior approval of the sales outlet location by the Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in subsection (2).

(2) Any individual, sole proprietorship, partnership, limited liability company, or corporation which seeks to have its location approved as an authorized sales outlet location shall:

(a) First obtain a retail liquor license for consumption on the premises pursuant to Neb. Rev. Stat. Chapter 53, Article 1;

(b) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether felony or misdemeanor, involving gambling activity or moral turpitude;

(c) Not have had a gaming license revoked or canceled under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska County and City Lottery Act; and

(d) Be fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the Act.

(3) If the person seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company, or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation, and stockholder owning more than ten percent of the stock of such corporation.

(4) The City Council shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.
(Neb. Rev. Stat. §9-642.01)

§10-602 PARTICIPATION; RESTRICTIONS

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

(2) 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 lottery of the City for which he or she performs work during such time as he or she is actually working at such lottery or while on duty.

(3) Nothing shall prohibit (a) any member of the City Council, a city official, or the immediate family of such member or official or (b) an owner or officer of an authorized sales outlet location for the City from playing the lottery conducted by the City as long as such person is 19 years of age or older.

(4) No person, or employee or agent of any person or 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.

(5) For purposes of this section, "immediate family" of a member of the City Council or a city official shall mean (a) a person who is related to the member or official by blood, marriage, or adoption and resides in the same household or (b) 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 7 – Occupation Taxes

§10-701 AMOUNTS

For the purpose of raising revenue, an occupation tax may be levied on certain businesses within the City. The businesses so taxed and the amount of the tax shall be set by resolution of the City Council and filed in the office of the City Clerk. (Neb. Rev. Stat. §17-525)

§10-702 FIRE INSURANCE COMPANIES

For the use, support, and maintenance of the Fire Department, all revenue realized from the occupation tax on fire insurance companies shall be appropriated to the Fire Department Fund. (Neb. Rev. Stat. §35-106)

§10-703 COLLECTION DATE

All occupation taxes shall be due and payable on the first day of May of each year, except in the event that the said tax is levied daily. 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 licensees 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 all revenue turned over to him. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Neb. Rev. Stat. §17-525)

§10-704 CERTIFICATES

The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate 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. (Neb. Rev. Stat. §17-525)

§10-705 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. (Neb. Rev. Stat. §17-525)

§10-706 FILING FEE; NATURAL GAS COMPANIES

The City shall charge and collect a filing fee from natural gas companies for a rate filing. The fee amount shall be filed in the office of the City Clerk and available for public inspection during office hours..

Article 8 – Salvage Dealers and Collectors

(Article adopted by Ord. No. 1033, 1/23/07)

§10-801 DEFINITIONS

“City” shall mean the City of Ashland, Nebraska, and its zoning jurisdiction, as defined by the zoning ordinances for the City.

“Fence” shall mean a structure permanently affixed to the ground and built specifically for the purpose of being a barrier or means of protection, confinement, or screening.

“Person” shall mean a person, firm, association, partnership, or corporation.

“Permittee” shall mean the person applying for or holding a salvage permit.

“Permit year” shall be from August 1 to July 31.

“Salvage collector” shall mean a person not having a fixed place of business within the City, who goes from house to house and/or from place to place, both for profit and for non-profit, gathering, collecting, buying, selling, or otherwise dealing in any salvage material.

“Salvage dealer” shall mean any person, having a fixed place of business within the City, who buys, sells, exchanges, stores, bales, packs, disassembles, or handles salvage material.

“Salvage material” shall mean waste or scrap materials (including, but not limited to, scrap iron, copper, aluminum and other metals, paper, rags, rubber tires, and bottles), junked autos, or auto parts.

§10-802 PERMIT REQUIRED

No person shall engage in, carry on, or operate as a salvage dealer or salvage collector within the City without first having obtained a written permit from the City for such activities.

(1) Application for such permit must contain:

- (a) The name and address of the applicant;
- (b) The location of the premises;
- (c) The nature of the activities related to the permit;
- (d) The location and dimensions of any buildings on the premises, including any building to be used, in whole or in part, in the permitted activities;
- (e) Such other pertinent information as requested on the application forms.

(2) If such operation is or will be in compliance with all the requirements of this chapter and all other applicable city ordinances and regulations, and if the permit fee and occupation tax are paid, the City Clerk shall issue such permit within a reasonable time, not to ex-

ceed 60 days. Such permit may be revoked by the City Council if any of the provisions of this article are violated by the person granted the permit. Permits shall be valid for the permit year for which they are issued, and shall not be prorated. No more than one permit shall be granted to the same person during one permit year. Permits may be renewed after review by the Zoning Administrator. No person to whom a permit shall have been granted under the provisions of this article, shall do business in more than one place under one permit.

§10-803 PLACE OF BUSINESS

Every permit shall state the place and legal description of the real estate where such salvage business is to be carried on, which shall be the place where salvage material is to be stored either inside or outside of any building located thereon. The storage of salvage material or doing business upon any real estate other than that described in the permit shall be considered a violation of the terms of this article. Storing, loading, unloading, and all other work usually performed in connection with a salvage business shall be done and performed upon the premises of said business and not upon any sidewalks, streets, alleys, or rights of way. In case a person at the time of the issuance of the permit shall have any salvage material stored upon any real estate other than the particular real estate described in the permit, the person shall remove the same therefrom within 30 days after the issuance of the permit.

§10-804 PERMIT; FEE AND OCCUPATION TAX

(1) Each applicant shall pay to the City Clerk a non-refundable permit fee with each permit application. There is hereby levied upon every salvage dealer and salvage collector an occupation tax per permit year and such occupation tax shall not be prorated.

(2) Every salvage collector and salvage dealer shall pay the Clerk the above occupation tax as follows:

(a) All applicants for new or renewal permits shall pay such occupation tax at the time of application or renewal. If the tax remains unpaid after expiration of any permit required for the continuing operation of such salvage business, such business shall pay a late fee.

(b) If the tax remains unpaid for 90 days or more after expiration of any permit required for the continuing operation of such salvage business, such business shall pay a penalty in addition to any late fees.

(3) Such taxes, fees, and penalties shall be set by separate resolution or ordinance of the City Council.

§10-805 PERMIT; REVOCATION AND SUSPENSION

(1) The Zoning Administrator shall revoke or suspend any permit granted under this chapter if he/she determines:

(a) The permittee has failed to comply with this chapter or any provision of law applicable to the premises, equipment, or operation of the salvage business; or

(b) The permittee has obtained his permit through any fraud or misstatement; or

(c) The salvage business is being conducted in a manner detrimental to the health, safety, and general welfare of the public; is a nuisance; or is being operated in any unlawful manner; or

(d) The salvage business is no longer being operated by the permittee.

(2) Such suspension or revocation shall state in writing the reasons for the same and shall notify the permittee of the opportunity for hearing provided in this chapter. Such suspension or revocation may be delivered in person or by mail to the address provided in the application or by any other suitable and effective means.

§10-806 PERMIT; HEARING

Any person aggrieved by the Zoning Administrator granting, denying, renewing, or revoking a permit for a proposed or existing salvage business subject to the provisions of this article may file a written request for a hearing before the said Administrator within ten days after such action. The Administrator shall give notice of a public hearing upon this request to be held within 30 days after service on the person requesting the hearing. He or she may also give notice of the hearing to other interested persons. At such hearing, the Zoning Administrator shall determine whether the granting, denial, renewal, or revocation of the permit was in accordance with the provisions of this chapter and shall issue written findings of fact, conclusions of law, and a written order. These findings of fact, conclusions of law, and order shall be filed by the Zoning Administrator and served upon all parties appearing or represented at said hearing.

§10-807 OPERATING REQUIREMENTS

All salvage dealers and salvage collectors shall:

(1) Plainly display on the premises the permit issued pursuant to this chapter;

(2) Arrange material so as to permit easy access to all such material for firefighting purposes;

(3) Store salvage materials within a fence designed and maintained to prevent unauthorized entry;

(4) Store all flammable material properly to reduce fire hazards;

(5) Not cause or permit any mechanical, chemical, or electrical processing that changes the shape or appearance of salvage material other than cutting, crushing, breaking,

baling, and shredding;

(6) Comply with all applicable local, state, and federal laws, ordinances, rules, and regulations.

§10-808 RECORD OF RECEIPTS

(1) Any person who shall engage in a salvage business within the City shall keep a book, ledger, computer, or other record of all used, wrecked or abandoned automobiles or major parts or accessories readily identifiable by vehicle identification number or other distinctive markings or characteristics that are purchased, received or deposited. Such record shall be legibly written or typed, shall be in the English language and shall contain the following information:

(a) An accurate, detailed description of the vehicle or part;

(b) The quantity received;

(c) The amount paid, if any;

(d) The date and time the vehicle or part was received;

(e) The name, address, date of birth, and driver's license number or other state-issued photo identification number of the person delivering such automobiles, parts or accessories;

(f) The license plate number and/or make, model, and year of the vehicle(s) used to transport the material to the salvage dealer, if any; and

(g) The identification and signature of the individual who handled the transaction on behalf of the salvage dealer.

(2) Such record need not be kept for any purchase for which the salvage dealer or salvage collector receives and holds a certificate of title or other legal instrument evidencing title to the salvage dealer or salvage collector.

(3) Any person who shall engage in a salvage business within the City shall keep a book, ledger, computer, or other record of all ferrous and nonferrous metal which is purchased, received or deposited. Such record shall be legibly written or typed, shall be in the English language and shall contain the following information:

(a) An accurate, detailed description of the metal;

(b) The quantity received;

(c) The price paid for the metal, if any;

(d) The date and time the metal was received;

(e) The name, address, date of birth, and driver's license number or other person delivering such state-issued photo identification number of the metal;

(f) The license plate number and/or make, model, and year of the vehicle(s) used to transport the material to the salvage dealer, if any; and

(g) The identification and signature of the individual who handled the transaction on behalf of the salvage dealer or salvage collector.

§10-809 DRIVER'S LICENSE NUMBER OR OTHER STATE-ISSUED PHOTO ID NUMBER

(1) No salvage dealer or salvage collector shall accept any material, article or property or purchase any of the same unless he or she shall record on the form provided by the City the number of the driver's license or some other state-issued photo identification issued to the person making the delivery, deposit or sale.

(2) Each salvage dealer or salvage collector shall display in a prominent place a notice to his or her customers to the effect that he or she is required by city ordinance to see the driver's license or some other state-issued photo identification issued to the person making the delivery, deposit, or sale, and record the number of such license or photo identification.

(3) This section shall not apply to metal beverage or food cans or to city-contracted or sponsored recycling or neighborhood cleanup programs.

§10-810 MAINTENANCE OF RECORD OF RECEIPTS

(1) The record of receipts maintained by the salvage dealer or salvage collector shall be kept current at all times, in a form required by this article, which record shall include all receipts, and shall be made available for inspection at any time by the chief of police or his or her designee. It shall be a separate violation of this section to fail to keep the record of receipts current and in the form prescribed by this section, and/or to fail to make such record available for inspection at any time by the chief of police or his or her designee.

(2) The record shall include all information required by Section 10-808.

(3) No person shall be required to furnish such description of any property purchased from manufacturers or wholesale dealers having an established place of business or of goods purchased at open sale from any bankrupt stock, or from any other person doing business and having an established place of business, but such goods must be accompanied by a bill of sale or other evidence of open and legitimate purchase, and must be shown to the chief of police, or some person under his direction, when demanded by the same.

(4) This section shall not apply to metal beverage or food cans or to city-contracted or sponsored recycling or neighborhood cleanup programs.

§10-811 PENALTY

Any salvage dealer or salvage collector found in violation of any provision of this chapter 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 with Sections 10-801 through 10-807, and Section 10-810(1). A new violation shall be deemed to have been committed for each instance of non-compliance with Sections 10-808 through 10-810(2), (3), and (4).

Article 9 – Sidewalk Cafes

§10-901 SIDEWALK CAFES PERMITTED

The City Council may permit the public streets and sidewalks within the city limits to be occupied and used under a lease, license, or other permission by a person, business, or others for the sale of services or goods and to permit the placement of nonpermanent sidewalk cafes, tables, chairs, benches, and other temporary improvements from which such sales can be transacted on the public streets and sidewalks. (Neb. Rev. Stat. §19-4301)

Article 10 – Penal Provision

§10-1001 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. (Am. by Ord. No. 870, 5/3/00)