

## **CHAPTER 10: BUSINESS REGULATIONS**

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## **ARTICLE 1: SALES AND ADVERTISING**

### **§ 10-101 PEDDLERS AND HAWKERS; 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; and for the purpose of raising revenue, all peddlers, and hawkers shall, before doing business within the Municipality, make application for, and be issued a license. Application for a license shall be made to the Municipal Clerk upon blank forms supplied by the Municipality. Any person or persons granted a peddler and hawker license shall be subject to any fees, occupation taxes, and other rules and regulations which the Governing Body deems appropriate for the purposes stated herein. Any license so granted shall be subject to revocation for good and sufficient cause by the Municipal Police. (*Ref. 17-134, 17-525 RS Neb.*)

### **§ 10-102 PEDDLERS AND HAWKERS; HOURS OF SOLICITATION.**

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of six (6:00) o'clock P.M., and eight (8:00) o'clock 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 license on his person at all times. (*Ref. 17-134 RS Neb.*)

### **§ 10-103 PEDDLERS AND HAWKERS; EXCEPTIONS.**

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

### **§ 10-104 AUCTIONEERS; REGULATION.**

Any person, or persons who intend to act as an auctioneer, or sell any fashion merchandise outside of a regularly established place of business, shall first obtain a permit from the Municipal Clerk. Application for a license shall be made to the Municipal Clerk upon blank forms supplied by the Municipality, and shall contain all the necessary information required for the protection of the residents of the Municipality. Any person, or persons, granted an auctioneer's permit shall be subject to any fees, occupation taxes, and other rules and regulations which the Governing Body deems appropriate. Any license so granted shall be subject to revocation for good, and sufficient cause by the Municipal Police.

### **§ 10-105 VENDING MACHINES; REGULATION.**

Any person, or persons, who shall install, own, or display for public use any vending machine, except pay telephones, pay toilets, or postage stamp machines, shall secure a license for said machine from the Municipal Clerk. Such applications shall be supplied by the Municipality in blank form, and shall contain all the information, and documents required for the residents of the Municipality. Any person or persons granted a vending machine license shall be subject to any fees, occupation taxes, and other rules and regulations which the Governing Body may deem necessary. All machines

upon which a license is required shall be subject to inspection by the Municipal Police at all reasonable hours. Nothing herein shall be construed to authorize or legalize any machine, or device, prohibited by law. Any license so issued shall be subject to revocation for good and sufficient cause after proper notice, and hearing. *(Ref. 41-106 RS Neb.)*

#### **§ 10-106 SIGNS; REGULATION.**

It shall be unlawful for any person or persons to erect, or cause to be erected, any advertising display, sign, or other construction in the parkways, or on other Municipal property, without first obtaining a permit. *(Ref. 170-140 RS Neb.)*

#### **§ 10-107 SIGNS; PERMIT REQUIRED.**

Any person or persons wishing to erect, or cause to be erected, any advertising display, sign, or other construction for the purpose of advertising on any Municipal property shall make an application to the Municipal Clerk. Such application shall be furnished by the Municipality in blank form, and shall contain all the necessary information, and documents which the Governing Body deems appropriate. The Governing Body shall then assign to a sign committee they duty to consider such application, to visit the proposed location of the contemplated construction, and to recommend the acceptance or rejection of the proposed application. If the Governing Body accepts the application, they shall then direct the Municipal Clerk to issue the said permit. Any person or persons, granted a sign permit, shall be subject to any fees, taxes, or other rules and regulations which the Governing Body deems appropriate. Any permit so granted shall be subject to revocation for good and sufficient cause by the Governing Body.

#### **§ 10-108 SIGNS; SIZE.**

If shall be unlawful for any person or persons, to erect or cause to be erected, any signs, posts, awning posts, billboard advertisements, or mercantile displays upon any street or sidewalk; provided, signs may be erected and fastened to buildings at least eight (8') feet above the sidewalks if they are constructed in such a way as not to exceed three (3') feet in length. Electrical or illuminated signs may be erected not to extend beyond the building more than eight (8') feet, but must be fastened to the building at least twelve (12') feet above the sidewalks. Nothing herein shall be construed to apply to any sign or signs, erected prior to the passage of this ordinance that are not an immediate danger to the residents of the Municipality. *(Ref. 17-140 RS Neb.)*

#### **§ 10-109 HANDBILLS; PROHIBITION.**

It shall be unlawful for any person or persons, to give or hand to any other person or persons, passing through or upon the streets, alleys, or sidewalks any handbills, dodgers, advertising matter, or loose material without a permit from the Municipal Clerk, and it shall be unlawful for any person to scatter or throw, any handbills, dodgers, or other advertising matter on any public grounds. No person or persons may place or post any handbill, dodger, advertising papers, or advertising devices on any automobiles, trees, or fences standing upon the streets, alleys, or public grounds, and such practices are hereby declared to be a nuisance. *(Ref. 17-140 RS Neb.)*

## **ARTICLE 2: AMUSEMENTS**

### **§ 10-201 BOWLING; DEFINED.**

The term "bowling alley" shall be construed to mean any room, building, or structure in which a game consisting of rolling a heavy ball down a wooden lane in an attempt to knock over wooden pins set upright at the opposite end of the lane is played whether, or not, it is in connection with any other business.

### **§ 10-202 BOWLING; REGULATIONS.**

It shall be unlawful for any person or persons to own, maintain, or operate any bowling alley for profit without having first obtained a license from the Municipality. Any person desiring a license to operate, maintain, or own a bowling alley shall file a written application with the Municipal Clerk upon a blank application form supplied by the Municipality. Said application form shall contain such information and documents or copies thereof, as the Governing Body deems necessary to determine whether to grant or reject the application. Upon determination that the granting of the license would be beneficial to the Municipality, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of a fee set by resolution of the Governing Body. Said license shall be subject to revocation at any time for good and sufficient cause by the Governing Body 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 Governing Body for the benefit of the Municipality. (*Ref. 17-120, 17-525 RS Neb.*)

### **§ 10-203 - §10-205 RESERVED FOR FUTURE USE.**

### **§ 10-206 PUBLIC DANCE; DEFINED.**

The term "public dance" as used herein shall include any dance, masquerade, or ball given or conducted for which a fee, contribution, or collection for purposes of admission is charged; provided, the term public dance shall not be construed to include dances, masquerades, or balls, to which admission is limited strictly to persons expressly invited by the person, organization, or society giving or holding such dance, masquerade, or ball, and which is not given or conducted designedly for profit or gain to such person, organization, or society giving or conducting the same; and provided further that the provisions herein shall not apply to any dance conducted under the supervision and direction of the Governing Body of any college or school district within the Municipality.

### **§ 10-207 PUBLIC DANCE; SUPERVISION.**

The Municipal Police shall be permitted to enter any public dance for the purpose of inspection at any time. The Governing Body is hereby empowered to appoint or designate a matron or inspector to be present at any and all public dances conducted within the Municipality. The matron or inspector shall take the oath required of the Municipal Police, and shall have all the powers and duties

conferred upon regularly appointed police. It shall be the duty of said matron or inspector to enforce the provisions herein. Said matron or inspector may call upon any policeman, or the person or persons conducting the said dance for assistance in ejecting any person from the dance if that person is offending against the decent and peaceful proprieties of a social gathering. The matron or inspector so appointed shall be entitled to charge for his services at each dance, and shall receive such fee as the Governing Body shall, by motion, designate. Said fee shall be paid by the person or persons conducting the public dance prior to the opening of said public dance. It shall be unlawful for any person or persons conducting a public dance to begin the said dance until a matron or inspector is present unless the Governing Body waives its right to make such an appointment. The said matron or inspector shall make a written report to the Governing Body concerning each dance attended. The Governing Body may, in its discretion, designate one or more additional peace officers to work with the matron or inspector during the hours of the public dance, and the compensation of any additional peace officer so appointed shall be equal to and paid in the same manner as the matron's or inspector's compensation. *(Ref. 17-134, RS Neb.)*

#### **§ 10-208 PUBLIC DANCE; MINORS.**

It shall be unlawful for any child under the age of fourteen (14) years to be present at any public dance unless accompanied by a parent or legal guardian. *(Ref. 17-134, RS Neb.)*

#### **§ 10-209 PUBLIC DANCE; RESPONSIBILITY OF SPONSOR.**

Any person or persons who sponsor or manage a public dance are hereby charged with the knowledge and notice of all the provisions herein as well as the responsibility of enforcing all Municipal and State laws. Any person or persons who fail to manage and control a dance in a lawful and peaceful manner shall be guilty of a misdemeanor. *(Ref. 17-134, RS Neb.)*

#### **§ 10-210 PUBLIC DANCE; PATRONS.**

It shall be unlawful for any sponsor or manager of a public dance to permit any person or persons to enter and participate in the said public dance if the sponsor or manager has reason to believe that the said patron is in an intoxicated or disorderly state, or intends to solicit and engage in prostitution. *(Ref. 17-134, RS Neb.)*

#### **§ 10-211 PUBLIC DANCE; HOURS.**

It shall be unlawful for any person or persons to manage, sponsor, or participate in a public dance later than the hour of twelve (12:00) o'clock midnight, except on Sunday when no public dance may be held. *(Ref. 28-940 RS Neb.)*

#### **§ 10-212 PUBLIC DANCE; PREMISE.**

It shall be unlawful to conduct a public dance in any hall or place which is not equipped with sufficient and adequate exits and rest room facilities, and no hall or building which is not equipped with at least two (2) such exits and rest rooms shall be used for the purpose of conducting a public dance.

#### **§ 10-213 BINGO; REGULATION.**

*(Repealed 2010)*

**§ 10-214 BINGO; TAX.**

*(Repealed by Ord. No. 797, 5/25/99)*

**§ 10-215 BINGO; QUARTERLY REPORT.**

*(Repealed by Ord. No. 797, 5/25/99)*

**§ 10-216 BINGO; INCORPORATED REGULATION.**

All applicable State statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this Article as if repeated verbatim herein, and violation of any State statute will be a distinct and separate offense against the Municipality as well as against the State. Violators thereof shall be separately prosecuted by the Municipality for each of such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. *(Ref. 9-101 through 9-123 RS Neb.)*

**§ 10-217 PIN BALL MACHINE; REGULATIONS.**

It shall be unlawful for any person or persons to display for public use, own, maintain, or operate any pin ball machine, game of other mechanical amusement device which, upon the insertion of a coin, may be operated for amusement, without first obtaining a license from the Municipality. Application shall be made to the Municipal Clerk upon blank forms supplied by the Municipality and shall require all information and documents which the Governing Body may deem necessary to determine whether to grant or reject said application. Upon the determination that it would be proper to grant such application, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of the appropriate fee. Nothing herein shall be construed to authorize or legalize any machine or device prohibited by law. Any license so granted shall be subject to revocation by the Governing Body for good cause after proper notice has been served and the licensee has been allowed a hearing. *(Ref. 17-134 RS Neb.)*

**§ 10-218 PIN BALL MACHINE; GAMBLING.**

It shall be unlawful for any person to allow any patron of his business, in which pin ball machines, or other mechanical devices used for amusement purposes are present, to use said machines for gambling purposes. *(Ref. 17-134 RS Neb.)*

**§ 10-219 POOL AND BILLIARDS; 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.

**§ 10-220 POOL AND BILLIARDS; 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 Municipality. Any person desiring a license to operate, maintain, or own a pool or billiard game or hall shall file a written application with the Municipal Clerk upon a blank application form supplied by the Municipality. Said application form shall contain such information and documents, or copies thereof, as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that the granting of the license would be beneficial to the Municipality, the Governing Body shall immediately direct the Municipal Clerk to issue the license to the applicant upon the payment of a fee set by resolution of the Governing Body. Said license shall be subject to revocation at any time for good and sufficient cause by the Governing Body 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 Governing Body for the benefit of the Municipality. (*Ref. 17-120, 17-524 RS Neb.*)

**§§10-221, 10-222 RESERVED FOR FUTURE USE.**

**§ 10-223 POOL AND BILLIARDS; 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. (*Ref. 17-120 RS Neb.*)

**§ 10-224 POOL AND BILLIARDS; 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 twelve (12:00) o'clock midnight and seven (7:00) o'clock 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. (*Ref. 17-120 RS Neb.*)

**§ 10-225 JUKE BOX MACHINES; REGULATION.**

It shall be unlawful for any person or person, to own, maintain, or operate any juke box machine for profit or gain without first having obtained a license. Any person desiring a license shall file an application with the Municipal Clerk on a blank application form supplied by the Municipality requesting such information as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that the granting of the license would be beneficial and proper, the Governing Body shall immediately direct the Municipal Clerk to issue the license to the applicant upon the payment of a fee set by resolution of the Governing Body. Said license shall be subject to revocation at any time for good and sufficient cause by the Governing Body. Any person, or persons, so licensed shall be subject to any fees or other rules and regulations as the Governing Body may set for the benefit of the Municipality. (*Ref. 17-134 RS Neb.*)

## **ARTICLE 3: ALCOHOLIC BEVERAGES**

### **§ 10-301 DEFINITIONS.**

For purposes of this article, the definitions found in section 53-103.01 through 53-103.42 RS Neb. shall be used.

### **§ 10-302 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.**

No person shall sell, furnish, 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. (*Ref. 53-180 RS Neb.*)

***Statutory reference:***

*Authority, see section RS 17-135 RS Neb.*

### **§ 10-303 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 section 53-186(2) RS Neb. or as provided in section 60-6,211.08 RS Neb., 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. (*Ref. 53-186 RS Neb.*)

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, 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, café, 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 division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under section 60-6,211.08 RS Neb. (*Ref. 53-186.01 RS Neb.*)

### **§ 10-304 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.**

(A) 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 the intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then



place the 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 twenty-four (24) hours.

(B) The placement of the 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 the 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 these 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 the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PUBLIC PROPERTY.** Any public right-of-way, street, highway, alley, park, or other state, county, or City-owned property.

**QUASI-PUBLIC PROPERTY.** Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (*Ref. 53-1,121 RS Neb.*)

## **§ 10-305 MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.**

(A) 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 the Nebraska Liquor Control Act.

(B) Nothing in this article 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 or 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 that 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 alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

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

(7) Persons who are sixteen (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 nineteen (19) years old or older from serving or selling alcoholic liquor in the course of their employment. (*Ref. 53-168.06 RS Neb.*)

#### **§ 10-306 ACQUISITION AND POSSESSION; RESTRICTIONS.**

(A) 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. (*Ref. 53-175 RS Neb.*)

(B) It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into this State for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of nine (9) liters in any one (1) calendar month. (*Ref. 53-194.03 RS Neb.*)

#### **§ 10-307 LICENSEE REQUIREMENTS.**

(A) No license shall be issued to:

(1) A person who is not a resident of this state, 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 Chapter 28, Art. 3, 4, 7, 8, 10, 11, or 12 RS Neb., or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this division

on May 18, 1983, shall not prevent any person holding a license on that date from retaining or renewing that 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 that license upon initial application;

(8) A partnership, unless one (1) of the partners is a resident of this State and unless all the members of that partnership are otherwise qualified to obtain a license;

(9) A limited liability company, unless one (1) of the members is a resident of this State and unless all the members of that company are otherwise qualified to obtain a license;

(10) A corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than twenty-five percent (25%) of the stock of that corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in divisions (A)(1) and

(A)(3) of this section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This division shall not apply to railroad licenses;

(11) A person whose place of business is conducted by a manager or agent, unless that 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 the premises for the full period for which the license is to be issued;

(13) Except as provided in this division, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such an 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 the 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. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

(a) The licensed business will be the sole property of the applicant; and

(b) The 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 division 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 twenty-one (21) years of age.

(B) 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. *(Ref. 53-125 RS Neb.)*

### **§ 10-308 LICENSES; CITY POWERS AND DUTIES.**

(A) The Governing Body is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the Municipality. *(Ref. 53-134.03 RS Neb.)*

(B) During the period of forty-five (45) days after the date of receipt by mail or electronic delivery from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license, or a microdistillery license, the governing body may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant. *(Ref. 53-131 RS Neb.)*

(C) The Governing Body, with respect to licenses within the corporate limits of the Municipality, has the following powers, functions, and duties with respect to retail, craft brewery, and microdistillery licenses:

(1) To cancel or revoke for cause retail, craft brewery, or microdistillery 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;

(2) 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 Governing Body has been or is being violated, and at that time examine the premises of the licensee in connection with such determination. Any law enforcement officer who determines that 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 Governing Body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

(a) Within thirty (30) days after determining that such violation has occurred;

(b) Within thirty (30) days after the conclusion of an ongoing police investigation; or

(c) Within thirty (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;

(3) 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 these complaints in the manner provided in the Act;

(4) To receive retail, craft brewery, and microdistillery license fees as provided in sections 53-124 and 53-124.01 RS Neb. and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

(5) To examine or cause to be examined any applicant or any retail, 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 Governing Body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided for 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, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within thirty (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 section 53-133 RS Neb.; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in section 53-131 RS Neb., to fix a time and place for a hearing at which the Governing Body 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 the hearing shall be published in a legal newspaper in or of general circulation in the Municipality, one time not less than seven (7) and not more than fourteen (14) days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the Governing Body in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than forty-five (45) days after the date of receipt of the notice from the Commission, and after the hearing the Governing Body shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The Municipal 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. (*Ref. 53-134 RS Neb.*)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the Municipal Clerk a retail, craft brewery, or microdistillery license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

(a) The license fee if by the terms of section 53-124 RS Neb. the fee is payable to the Municipal Treasurer;

(b) Any fee for publication of notice of hearing before the Governing Body upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in section 53-135.01 RS Neb.; and

(d) Occupation taxes, if any, imposed by the Municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the Municipality 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 Municipality in any sum which exceeds two (2) times the amount of the license fee required to be paid under the Act to obtain that license. *(Ref. 53-132 RS Neb.)*

#### **§ 10-309 LICENSED PREMISES; INSPECTIONS.**

The City Council shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this article, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of this chapter or 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. *(Ref. 53-116.01 RS Neb.)*

#### **§ 10-310 LICENSE RENEWAL; CITY POWERS AND DUTIES.**

(A) A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the City shall file a formal application for a license, and while the application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If that license expires within sixty (60) days following the annexation date of the area, the license may be renewed by order of the Commission for not more than one (1) year. *(Ref. 53-135 RS Neb.)*

(B) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, one (1) 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 notice of the right of automatic renewal of Class C licenses 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 (3) 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 as provided in section 53-135 RS Neb. *(Ref. 53-135.01 RS Neb.)*

#### **§ 10-311 CATERING LICENSES.**

(A) The holder of a license to sell alcoholic liquor at retail issued under section 53-124 RS Neb., a craft brewery license, a microdistillery license, or a farm winery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in section 53-124.12 RS Neb., the Governing Body shall process the application in the same manner as

provided for other alcoholic liquor retail licenses.

(C) The Governing Body, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which that catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

(D) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body. The tax may not exceed double the license fee for a catering license. (*Ref. 53-124.12 RS Neb.*)

#### **§ 10-312 DISPLAY OF LICENSE.**

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

#### **§ 10-313 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 the premises, or the agent of that owner or person, knowingly permits the licensee to use the licensed premises in violation of the terms of the Nebraska Liquor Control Act or any City ordinance, that owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as the licensee and be subject to the same punishment. (*Ref. 53-1,101 RS Neb.*)

#### **§ 10-314 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 the 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 the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally. (*Ref. 53-1,102 RS Neb.*)

#### **§ 10-315 CITIZEN COMPLAINTS.**

Any five (5) 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 City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. The 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 that belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within thirty (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 in section 53-1,115 RS Neb. (*Ref. 53-134.04 RS Neb.*)

### **§ 10-316 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 within one hundred fifty (150) feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition does not apply to any location within such distance of one hundred fifty (150) feet:

(1) For which a license to sell alcoholic liquor at retail has been granted by the Nebraska Liquor Control Commission for two (2) years continuously prior to making of application for license;

(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; or

(3) To a college or university in the state which is subject to section 53-177.01 RS Neb.

(B) If a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty (150) feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in section 53-133 RS Neb. (*Ref. 53-177 RS Neb.*)

(C) No alcoholic liquor, other than beer, shall be sold for consumption on the premises within three hundred (300) feet from the campus of any college or university within the Municipality, except that this section:

(1) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

(2) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to section 53-124.15 RS Neb. (*Ref. 53-177.01 RS Neb.*)

### **§ 10-317 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 the 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 the premises and such other portion of the building or structure which is used only by the licensee, his or her family, or personal guests. (*Ref. 53-178 RS Neb.*)

### **§ 10-318 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 sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

***Statutory reference:***

*Authority to regulate licensed premises, see section 53-134.03 RS Neb.*

*State sanitary rules and regulations authorized, see section 53-118 RS Neb.*

**§ 10-319 HOURS OF SALE.**

(A) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1:00 a.m. and 6:00 a.m. The City Council with respect to area inside the corporate limits of the City may by ordinance require closing prior to 1:00 a.m. on any day.

(B) Except as provided for and allowed by ordinance of the City Council, no alcoholic liquor, including beer, shall be sold at retail or dispensed inside the corporate limits of the City between the hours of 6:00 a.m. Sunday and 1:00 a.m. Monday. No such ordinance shall permit alcoholic liquor, other than beer and wine, to be sold at retail or dispensed between the hours of 6:00 a.m. Sunday and 12:00 noon Sunday. This division (B) shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

(C) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6:00 a.m. on any day. If the City Council provides by ordinance for an earlier closing hour, the provisions of this division (C) shall become effective fifteen (15) minutes after such closing hour instead of 1:15 a.m.

(D) 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 liquor is prohibited by this section. (*Ref. 53-179 RS Neb.*)

**§ 10-320 CREDIT SALES PROHIBITED.**

(A) 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, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

(B) Nothing in this section shall prevent the following:

(1) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(2) Any hotel or restaurant holding a retail license from permitting checks or statements for

liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(3) Any licensed retailer engaged in the sale of wine from issuing wine-tasting cards to customers. (*Ref. 53-183 RS Neb.*)

#### **§ 10-321 SPIKING BEER PROHIBITED.**

Section 53-174 RS Neb. was repealed in 2010.

#### **§ 10-322 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. (*Ref. 53-184 RS Neb.*)

#### **§ 10-323 MINOR'S PRESENCE RESTRICTED.**

It shall be unlawful for any person who owns, manages, or leases an establishment selling alcoholic beverages at retail to allow any minor under the age of eighteen (18) 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.

***Statutory reference:***

*Authority to regulate, see section 53-134.03 RS Neb.*

#### **§ 10-324 KEG SALES; REQUIREMENTS; 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 (5) or more gallons or 18.92 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 the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six (6) 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. (*Ref. 53-167.02 RS Neb.*)

(B) Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container or is in possession of a beer container described in division (A) with an altered or removed keg identification number after the container has been taken from the licensed premises pursuant to a retail sale and before its return to the licensed premises or other place where returned

kegs are accepted shall be guilty of an offense. (*Ref. 53-167.03 RS Neb.*)

## **ARTICLE 4: BUSINESS ENTERPRISES**

### **§ 10-401 JUNK; DEFINITION.**

The term "junk" as used in this Code shall include scrap metals, scrap materials, whether they are liquids, solids, or gases, branches of trees, and dismantled or wrecked automobiles, tractors, and machinery or parts thereof. (*Ref. 28-1035 RS Neb.*)

### **§ 10-402 JUNK YARD; DEFINITION.**

The term "junk yard" as used in this Code shall mean the use of any lot, tract of land, building, structure, or part thereof for the storage, collection, depositing, keeping, abandonment, barter, or sale of junk as herein defined.

### **§ 10-403 JUNK YARD; REGULATION.**

It shall be unlawful for any person or persons, to own, operate, or hold open for public use any junk yard as herein defined without first obtaining a license to do so from the Municipality. Application for a license to own, operate, or hold open for public use any junk yard shall be made in writing to the Municipal Clerk upon blank forms supplied by the Municipality, and shall require such information and documents, or copies thereof, that the Governing Body deems necessary to determine whether to grant or reject the said application. Upon the determination to approve the application, the Governing Body shall direct the Municipal Clerk to issue the said license upon the payment of a fee set by resolution of the Governing Body. The licensee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the Governing Body may determine to be beneficial to the Municipality. Any such bond shall be set by resolution of the Governing Body and will be conditioned upon the faithful observance of the provisions of this Code, and shall be held for the benefit of any person or persons, who suffer damage by the improper management of the said junk yard. (*Ref. 69-202 RS Neb.*)

### **§ 10-404 JUNK YARD; OWNER'S RESPONSIBILITY.**

The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director, or employee thereof to see that the provisions of this Code will not be violated, and in the event the provisions of this Code are violated, he shall be equally liable with the operator, director, or employee for the said violation of the provisions herein.

### **§ 10-405 JUNK YARD; INSPECTIONS.**

The Municipal Police, health officials, and the Governing Body shall have the power and authority to inspect and examine the premises on which a junk yard is located; provided, that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director, or employee has allowed a health hazard to develop, the Governing Body shall give notice to the owner by certified, or registered mail to remove the said health hazard within thirty (30) days. (*Ref. 69-204 RS Neb.*)

**§ 10-406 JUNK YARD; NUISANCE.**

Any junk yard that becomes a danger to the public health, or is not operated in the manner herein provided, shall be deemed to be a public nuisance after the said thirty (30) day period of grace. The Governing Body shall then request the Municipal Attorney to prosecute the owner, operator, director, or employee of the said nuisance for violation of the provisions of this ordinance. *(Ref. 18-1720 RS Neb.)*

**§ 10-407 JUNK YARD; RECORDS.**

Any person or persons who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles, the time the same was received and the name, residence, and description of the person selling the same. The said book, as well as the article purchased, shall be at all reasonable times open to the inspection of the Governing Body or any member of the Municipal Police. *(Ref. 69-204 RS Neb.)*

**§ 10-408 JUNK YARD; PREMISE.**

Any area or parcel of land used as a junk yard shall not have more than two (2) entrances and two (2) exits each which shall not exceed fifteen (15') feet in width at the perimeter of the premises. Such premises or parcel of land shall be enclosed with either a solid nontransparent wall or fence or link-weave steel wire, or combination thereof, with a minimum height of seven (7') feet from the ground level, except for entrances and exits. The fence or wall shall not contain any poster or advertising of any kind excepting one (1) sign of the licensee not exceeding one hundred (100) square feet.

**§ 10-409 JUNK YARD; RODENTS.**

Any person who owns, operates, directs, or is employed by a junk yard shall make a diligent and continuous effort to exterminate all rats, mice, and other harmful rodents frequenting the said junk yard. *(Ref. 18-1720 RS Neb.)*

**§ 10-410 SLAUGHTERHOUSE; PROHIBITION.**

It shall be unlawful for any person or persons to own, operate, or maintain a slaughterhouse within the Municipality.

**§ 10-411 PLUMBERS; REGULATION.**

It shall be unlawful for any person or persons to engage in the business of plumbing as a master or contracting plumber, or do any work connected with the laying of drain pipe until such person or persons shall have first obtained from the Municipal Clerk a master plumber's license, or the case of a non-resident, shall first have obtained a job permit. Application for a master plumber's license or job permit shall be in writing upon blanks furnished by the Municipal Clerk and shall require such information as the Governing Body deems necessary to ascertain the propriety of granting the said license. Upon the satisfaction of the Utilities Superintendent and Governing Body of the applicant's competence, the Governing Body will direct the Municipal Clerk to grant the license or permit after the payment of a fee set by resolution of the Governing Body. The licensee shall be subject to any

occupation taxes, bond requirements, and other rules and regulations which the Governing Body shall determine to be beneficial to the Municipality. Any license so issued may be revoked at any time by the Governing Body. (*Ref. 18-1901 through 18-1919 RS Neb.*)

#### **§ 10-412 ELECTRICIANS; REGULATION.**

It shall be unlawful for any person to engage in the business of installing electric wiring or apparatus within any building in the Municipality without first obtaining from the Municipal Clerk a master electrician's license or job permit if the applicant holds a State license. Application for a master electrician's license or job permit shall be in writing upon forms furnished by the Municipal Clerk and shall require such information and documents, or copies thereof, as the Governing Body deems necessary to ascertain the propriety of granting the said license. Upon the satisfaction of the Municipal Clerk and the Governing Body of the applicant's competence, the Governing Body shall direct the Municipal Clerk to grant the license or permit after the payment of a fee set by resolution of the Governing Body. All licensees whether licensed by the State or Municipality shall be subject to any occupation taxes, bond requirements, and other rules and regulations which the Governing Body may determine to be beneficial to the Municipality; provided, State licenses shall not be subject to any Municipal regulations pertaining to workman qualifications. Any license issued by the Municipal may be revoked at any time by the Governing Body.

#### **§ 10-413 BUILDING MOVING; REGULATION.**

It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without written permit to do so. Application may be made to the Municipal Clerk, and the said application shall include the location of the building to be moved, the proposed route. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Police Chief for his approval of the proposed route over which the said building is to be moved. Upon his approval or the approval of the Governing Body, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. No moving permit shall be required to move a building that is ten (10') feet wide, or less, and twenty (20') feet long, or less, and when in a position to move, fifteen (15') feet high or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the Utilities Superintendent who shall proceed in behalf of the Municipality and at the expense of the mover, to make such disconnections and do such work as is necessary. (*Ref. 17-142, RS Neb.*)

## **§ 10-414 BUILDING MOVING; DEPOSIT.**

At such time as the building moving has been completed, the Municipal Police shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal ordinances have been violated during the said operation. Upon a satisfactory report from the Municipal Police, the Municipal Clerk shall then return the corporate surety bond, cash, or check deposited by the applicant. In the event that the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law. (*Ref. 17-142, RS Neb.*)

## **§ 10-415 GARBAGE COLLECTION; REGULATION.**

It shall be unlawful for any person or persons to own, operate, or participate in the removal of garbage for a fee until and unless the said person or persons has contracted with, or has received a license from the Governing Body. Application for a license may be made at the office of the Municipal Clerk upon a blank form supplied by the Municipality. Said application shall require all information and documents which the Governing Body deems necessary to determine whether or not to grant a license. If the Governing Body decides to grant the license, the Municipal Clerk will issue to the applicant the said license which will entitle him to collect, remove, and transport any garbage for a fee in, over, or upon any street or public way in the Municipality. Any license so issued shall be subject to revocation by the Governing Body after proper notice and a hearing if requested by the licensee. The said licensee shall be liable for all bonds, fees, and other rules and regulations set by resolution of the Governing Body. (*Ref. 19-2105, 71-4102 RS Neb.*)

### **§ 10-415.01 LICENSURE STANDARDS FOR GARBAGE COLLECTION.**

The following requirements shall be satisfied by any person applying for a garbage haulers license:

(1) Applicant shall own, lease, or have available to applicant, satisfactory equipment to enable applicant to collect, remove and transport garbage from the City of Stromsburg to the licensed landfill as designated by the Governing Body. Such equipment shall be owned, operated and maintained in a safe and efficient manner and shall be fully enclosed to prevent garbage, trash or other waste from being accidentally displaced during the transportation process.

(2) Applicant shall have and maintain in full force and effect motor vehicle liability insurance policy covering all transportation equipment with minimum limits of \$100,000 per occurrence or \$300,000 aggregate. Satisfactory evidence of said policy shall be supplied to the Governing Body upon request.

(3) Applicant shall have in full force and effect a policy of workers' compensation covering all employees of applicant.

(4) Applicant shall charge reasonable rates to persons generating waste within the Municipality.

(5) Applicant shall under no circumstances accept toxic waste or any other waste which shall be unacceptable to the licensed landfill that the Governing Body has contracted with to accept the waste generated within the Municipal limits.

(6) Pay an annual licensing fee of twenty-five dollars (\$25.00) which shall be effective for one (1) year from the date of issuance. (*Ord. No. 620, 3/22/94*)

#### **§ 10-416 FIREWORKS VENDOR; REGULATION.**

(A) It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks without first obtaining a license from the State Fire Marshal for that calendar year. (*Ref. 28-1246 RS Neb.*)

(B) Licensees shall only sell fireworks that have been approved by the State Fire Marshal. (*Ref. 28-1247 RS Neb.*)

(C) Permissible fireworks may be sold at retail only between June 24 and July 5 of each year. (*Ref. 28-1249 RS Neb.*) (*Amended by Ord. No. 930, 1/11/05*)

(D) It shall be unlawful for any person to sell, hold for sale or offer for sale as distributor, jobber or retailer any fireworks without having obtained a permit from the City Clerk. Such persons shall pay a permit fee of \$25.00 annually and as a condition of obtaining said permit shall provide a copy of the license issued from the State Fire Marshal's Office.

(E) Fireworks may only be sold between the hours of 9:00 a.m. and 9:00 p.m. on such days as are lawfully permitted by the State of Nebraska.

(F) Fireworks may only be sold in the Town Center (TC) zoning district. (*Amended by Ord. No. 930, 1/11/05; Ord. No. 1009 6/8/2009*)

#### **§ 10-417 NURSING HOME; REGULATIONS.**

It shall be unlawful for any person or persons to own or operate a nursing home within the Municipality without first obtaining a license from the Governing Body. The application shall be presented to the Municipal Clerk and shall request such information and documents as may be required by the Governing Body to ascertain the propriety of granting the said application. No license shall be granted to any person who has not been duly licensed by the State Director of Health in the manner prescribed by law. Upon the satisfaction of the Governing Body that the granting of a license will be beneficial to the Municipality, the Municipal Clerk shall convey to the said applicant a license which will permit him to own or operate a nursing home. The said licensee shall be subject to any bond, fee, and other rules and regulations which the Governing Body in their discretion may designate. Any license so issued shall be subject to revocation by the Governing Body after proper notice and a hearing, if one is requested by the licensee. (*Ref. 17-964, 17-965, 71-2042 RS Neb.*)

#### **§ 10-418 RAILROAD COMPANIES; SAFE CROSSING.**

It shall be the duty of every railroad company doing business in, or traveling through, the



Municipality to keep in a suitable, and safe condition the crossings and right-of-way in the Municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the Governing Body 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 forty-eight (48) hours, neglect for each twenty-four (24) hours thereafter shall be deemed, and is hereby made a separate, and distinct offense against the provisions herein. *(Ref. 17-143, 17-144, 17-551, 17-552, 75-414 RS Neb.)*

#### **§ 10-419 RAILROAD COMPANIES; SPEED.**

It shall be unlawful for any railroad company, its employees, agents, or servants to operate a railroad engine, locomotive, or other vehicle on its tracks within or through the Municipality at a speed in excess of twenty-five (25) miles per hour. *(Ref. 17-551, 17-552 RS Neb.)*

#### **§ 10-419.01 RAILROADS; 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 (1st) 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 (10) days prior to the reading. The affected railroad or railroads shall have an opportunity to be heard at the first (1st) 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. *(Ord. No. 374, 10/13/81)*

#### **§ 10-420 RAILROAD COMPANIES; LIGHTING.**

It shall be the duty of all railroad companies owning, operating, and maintaining a railroad through the Municipality to sufficiently light all crossings and to install as many signal systems as the Governing Body shall deem necessary at the expense of the said company. *(Ref. 17-561 RS Neb.)*

#### **§ 10-421 RAILROAD COMPANIES; OBSTRUCTING TRAFFIC.**

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the Municipality to obstruct traffic on any public street, except in the event of an emergency, for a longer period at one time than five (5) minutes. *(Ref. 17-552 RS Neb.)*

#### **§ 10-421.01 RAILROAD COMPANIES; OBSTRUCTING VIEW AT CROSSINGS PROHIBITED.**

(1) It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within one hundred (100') feet of the crossing of any such railroad track and a public road within the corporate limits of the Municipality.

(2) There is hereby created a pedestrian crossing of the Union Pacific Railroad right-of-way within the limits of the City of Stromsburg, Nebraska. Such pedestrian crossing is located in the six foot (6') wide tract of land reserved to the City of Stromsburg by Ordinance No. 616 which vacated

the balance of the Central Street crossing and is located in the center of the former Central Street crossing of the Union Pacific Railroad right-of-way from the north right-of-way boundary to the south right-of-way boundary of the Union Pacific Railroad right-of-way. Such pedestrian crossing shall be known as the "Central Street Pedestrian Crossing."

(3) The Central Street Pedestrian Crossing created hereafter shall be open to pedestrians only and the use of any vehicular traffic over and across said pedestrian crossing is strictly prohibited.

(4) At the Central Street Pedestrian Crossing, it shall be unlawful for any railroad company, person or other legal entity, to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within twenty-five feet (25') feet of the crossing of such railroad track and the pedestrian crossing within the corporate limits of the Municipality, unless there are more than twenty-five (25) railroad cars located on the load out facility between Highway 81 and the former Central Street crossing, in which case, the pedestrian crosswalk may be blocked by said railroad cars. (*Ref. 74-1323 RS Neb.*) (*Ord. No. 462, 12/9/86*) (*Amended by Ord. No. 662, 11/22/94*)

#### **§ 10-422 SERVICE STATIONS; REGULATION.**

It shall be unlawful to conduct, operate, or own a service station where gasoline and oil are stored, and sold at retail without first having obtained a Municipal license. Application may be made to the Municipal Clerk and shall contain such information, and documents, or copies thereof, that the Governing Body may deem to be necessary to determine whether, or not to grant the said application. After the determination to grant the application, the Governing Body shall direct the Municipal Clerk to issue the applicant a license upon the payment of a fee set by resolution of the Governing Body which will enable the licensee to conduct, operate, or own a service station for the purpose of storing, and selling at retail oil, and gasoline. Any person, or persons, granted a license as provided herein shall be subject to any bond, fee, occupation tax, and other rules, and regulations which the Governing Body may deem beneficial to the Municipality. Any license so granted may be revoked for good, and sufficient cause by the Governing Body after proper notice, and a hearing, if the licensee should request that one be held. (*Ref. 17-525 RS Neb.*)

#### **§ 10-423 SERVICE STATIONS; STORAGE TANKS.**

It shall be unlawful for any person, or persons, to store any amount of gasoline in excess of sixty (60) gallons in tanks above ground, except when the service station has been storing gasoline above ground since before May 29, 1959, in which case the tanks still in existence may continue to be used to store gasoline above ground. Any tank, or tanks, used for the storage of gasoline, or oil below ground shall not be located nearer the surface of the ground than fifteen (15") inches. (*Ref. 66-324 RS Neb.*)

#### **§ 10-424 TOBACCO; SALE TO MINORS.**

It shall hereafter be unlawful for any person or persons to sell cigars, cigarettes, cigarette material, or other tobacco in any form to any person under the age of eighteen (18) years. (*Ref. 28-1021 RS Neb.*)

**§ 10-424.01 TOBACCO; LICENSE FOR SALE; APPLICATION; CONTENTS; FEE.**

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall file with the Municipal Clerk a written application on forms provided by the Municipality, stating the name of the person, partnership, limited liability company or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application a license fee in the amount of ten dollars (\$10.00). If the applicant is an individual, the application shall include the applicant's social security number. *(Ref. 28-1422, 28-1423 RS Neb.) (Ord. No. 777, 9/22/98) (Amended by Ord. No. 992, 11/26/07)*

**§ 10-424.02 TOBACCO; DISPENSING OF TOBACCO PRODUCTS FROM VENDING MACHINES PROHIBITED; EXCEPTIONS.**

(1) Except as provided in subsection (2) of this section, it shall be unlawful to dispense cigarettes or other tobacco products from a vending machine or similar device.

(2) Cigarettes or other tobacco products may be dispensed from a vending machine or similar device when such machine or device is located in an area, office, business, plant, or factory which is not open to the general public or on the licensed premises of any establishment having a license issued under the Nebraska Liquor Control Act for the sale of alcoholic liquor for consumption on the premises when such machine or device is located in the same room in which the alcoholic liquor is dispensed. *(Ref. 28-1429.02 RS Neb.) (Ord. No. 609, 3/23/93)*

**§ 10-425 FIREARMS VENDOR; SALE TO MINORS.**

It shall be unlawful for any person or persons to sell, convey, or deliver any firearm, except toy cap pistols which explode caps that contain less than twenty-five hundredths of a gram of explosive materials, to a minor under the age of eighteen (18) years without oral, or written permission from the parents, or legal guardian. It shall be further unlawful for any person, or persons, to sell, convey, or deliver to any minor under the age of eighteen (18) years a pistol, except as herein provided. *(Ref. 28-1011.10 RS Neb.)*

## **ARTICLE 5: UTILITIES FRANCHISES**

### **§ 10-501 FRANCHISE; TELEPHONE.**

The Governing Body has granted to the Lincoln Telephone and Telegraph Company, Inc. the authority to maintain, and operate a telephone system within the Municipality. Actual details of the agreement, and the present telephone rates, charges, and fees are available at the Municipal Clerk's office. (*Ref. 17-525 RS Neb.*)

**ARTICLE 6: OCCUPATION TAXES**

**§ 10-601 OCCUPATION TAX; AMOUNTS.**

For the purpose of raising revenue an occupation tax is hereby levied on the following businesses:

|   |   |
|---|---|
| Class A retailer's license, beer only, (on sale only), per year .....   | \$ 100.00   |
| Class B retailer's license, beer only, (off sale only), per year .....  | \$ 100.00   |
| Class C retailer's license, alcoholic liquor for consumption on premises.....   | \$300.00  |
| Class D retailer's license, alcoholic liquors, including beer, (off sale only),<br>per year .....                                   | \$ 200.00   |
| Class I retailer's license, alcoholic liquor<br>For consumption on premises, except for winery or craft brewery sales outlets ..... | \$250.00  |
| Catering license .....  | \$100.00  |
| Special designated permit for liquor license holders .....  | \$40.00 per day<br>(Except those liquor license holders having a valid catering license)                          |
| Vendor trucks, per year.....  | \$100.00  |
| Salesmen, door-to-door, per year .....  | \$100.00  |
| Fire insurance companies, per year .....  | \$5.00  |
| Sale of tobacco, per year .....   | \$15.00   |
| Telephone companies, per year .....   | 3% of gross annual revenue based on revenue<br>for the period of May 1 through April 30 of<br>the preceding year. |

Nothing herein shall be construed to apply to any person or business that sells directly to merchants or that is permanently located within the Municipality, with the exception of alcoholic liquor licenses. (Ref. 17-525 RS Neb.) (Amended by Ord. Nos. 514, 4/11/89; 712, 5/14/96; 757, 8/25/98; 993, 11/26/07)

**§ 10-602 OCCUPATION TAX; FIRE INSURANCE COMPANIES.**

For the use, support, and maintenance of the Municipal Fire Department all revenue realized from the occupation tax on Fire Insurance Companies shall be appropriated to the Fire Department Fund. (Ref. 35-106 RS Neb.)

### **§ 10-603 OCCUPATION TAX; COLLECTION DATE.**

All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk 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 the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. (*Ref. 17-525 RS Neb.*) (*Amended by Ord. No. 283, 4/26/77*)

### **§ 10-604 OCCUPATION TAX; 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. (*Ref. 17-525 RS Neb.*)

### **§ 10-605 OCCUPATION TAX; FAILURE TO PAY.**

If any person, company, or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due, and payable, the Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one (1%) percent per month until paid. (*Ref. 17-525 RS Neb.*)

### **§ 10-606 ELECTRIC AND GAS DISTRIBUTION COMPANIES; TAX.**

There is hereby assessed an occupation tax against all persons distributing natural gas and electricity for sale in an amount equal to twelve percent (12%) of the gross receipts derived from the business of distributing and selling electricity or natural gas within the City. Payment shall be made to the Clerk semiannually on or before May 31 of each year for the preceding six (6) month period ending April 30, and on or before November 30th of each year for the preceding six (6) month period ending October 31. If the tax is not paid when due, nine percent (9%) per annum on the amount in default shall be added to the tax. Any person subject to the tax imposed by this Article shall file with the Clerk a verified statement covering such tax period. The statement shall show the gross receipts derived from the distribution and sales of electricity and natural gas within the City. The duly authorized representative of the City, may, upon request and during business hours, inspect the books and records of any person subject to the tax imposed by this Article for the purpose of verifying such statement or statements filed with the Clerk. Nothing herein shall prohibit said payments being made on a quarterly or monthly basis by agreement of the parties. (*Ord. No. 979, 3/26/07*)

### **§ 10-607 TELECOMMUNICATIONS SERVICES COMPANIES;**

(A) Commencing January 1, 2010 there is hereby levied upon every person, firm, partnership, corporation, limited liability company or association engaged in the business of offering or providing

telecommunication services to the public for hire in the City of Stromsburg, an occupation tax as follows:

(1) Three percent (3%) of the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services, and other telecommunication services, as follows:

(a) Basic local exchange services shall include the access and transmission of two (2)-way switched communications within the City, including local telephone and telecommunication services;

(b) Inter-exchange services shall mean the access and transmission of communications between two (2) or more local exchange areas, provided that such inter-exchange service either:

1. Originates from an end user within the City;

2. Terminates with an end user within the City, and is charged to a service address within the City regardless of where the charges are actually paid;

(c) Mobile services shall include any radio or similar communications services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the City regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services; and

(d) Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City of Stromsburg, regardless of where the charges are actually paid.

(2) Gross receipts shall not include any toll services and charges as follows:

(a) For interstate telecommunications between persons in this City and persons outside of this State;

(b) For local carrier access charges, transmission facilities and switching services provided to telecommunications companies;

(c) From accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions or departments.

(B) Payment shall be made to the Clerk semiannually before May 31, of each year for the preceding six (6)-month period ending April 30 and on or before November 30 of each year for the preceding six (6)-month period ending October 31. If the tax is not paid when due nine percent (9%) per annum on the amount in default shall be added to the tax. Any persons subject to the tax imposed by this section shall file with the Clerk a verified statement covering such tax period. The statement shall show the gross receipts derived from the telecommunications services as defined herein. The duly authorized representative of the City may upon request and during business hours inspect the books and records of any persons subject to the tax imposed by this section for the purpose of verifying such statement or statements filed with the Clerk. Nothing herein shall prohibit said

payments from being made on a quarterly or more frequent basis by agreement of the parties. (*Ord. No. 1013, 11/9/09*)



## **ARTICLE 7: SUNDAY SALES**

### **§ 10-701 SUNDAY; BUSINESS AND AMUSEMENTS.**

The Governing Body shall have the power to prevent any desecration of the Sabbath Day, commonly called Sunday, and to prohibit public amusements, shows, exhibitions, or ordinary business pursuits upon the said day. All amusements or businesses so ordered to be abstained from, or closed on Sunday shall be on file at the office of the Municipal Clerk. *(Ref. 17-128 RS Neb.)*

## ARTICLE 8: PENAL PROVISION

### § 10-801 VIOLATION; PENALTY.

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 17-505, 18-1720, 18-1722 RS Neb.) (Amended by Ord. No. 817, 6/13/00)*