

**TITLE XI: BUSINESS REGULATIONS**

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## CHAPTER 110: ALCOHOLIC BEVERAGES

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**GENERAL PROVISIONS****§ 110.01 DEFINITIONS.**

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

**§ 110.02 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. (Neb. RS 53-180) Penalty, see § 10.99

***Statutory reference:***

*Authority, see Neb. RS 17-135*

**§ 110.03 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.**

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2) or as provided in Neb. RS 60-6,211.08, 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. RS 53-186)

(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 Neb. RS 60-6,211.08. (Neb. RS 53-186.01)

**§ 110.04 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 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. (Neb. RS 53-1,121) Penalty, see § 10.99

### ***LICENSES REQUIRED***

#### **§ 110.20 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 chapter and the Nebraska Liquor Control Act.

(B) Nothing in this chapter shall prevent:

**Hebron - Business Regulations**

(1) The possession of alcoholic liquor legally obtained as provided in this chapter 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 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. RS 53-168.06)

Penalty, see § 10.99

**§ 110.21 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 chapter and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act.

(Neb. RS 53-175)

(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 liters in any one calendar month.

(Neb. RS 53-194.03)

Penalty, see § 10.99

**§ 110.22 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 Neb. RS Chapter 28, art. 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 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 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 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 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 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.

(Neb. RS 53-125)

### **§ 110.23 LICENSES; CITY POWERS AND DUTIES.**

(A) The City Council 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 city.

(Neb. RS 53-134.03)

(B) During the period of 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 City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant.

(Neb. RS 53-131)

(C) The City Council, with respect to licenses within the corporate limits of the city, 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 City Council 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 local governing body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

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

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

(c) Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later;

(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 Neb. RS 53-124 and 53-124.01 and pay the same, after the license has been delivered to the applicant, to the City 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 City Council 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 in § 110.30, 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 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. RS 53-133; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 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 the 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. The 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 the license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the 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. RS 53-134)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the City 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 Neb. RS 53-124 the fee is payable to the City Treasurer;

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

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

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

(2) 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 that license. (Neb. RS 53-132)

#### **§ 110.24 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 chapter, 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.  
(Neb. RS 53-116.01)

**§ 110.25 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 60 days following the annexation date of the area, the license may be renewed by order of the Commission for not more than one year.  
(Neb. RS 53-135)

(B) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, one time between January 10 and January 30 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 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 Neb. RS 53-135.  
(Neb. RS 53-135.01)

**§ 110.26 CATERING LICENSES.**

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124, 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 Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in § 110.23.

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

(Neb. RS 53-124.12)

#### **§ 110.27 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.

(Neb. RS 53-148) Penalty, see § 10.99

#### **§ 110.28 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.

(Neb. RS 53-1,101) Penalty, see § 10.99

#### **§ 110.29 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.

(Neb. RS 53-1,102) Penalty, see § 10.99

#### **§ 110.30 CITIZEN COMPLAINTS.**

Any five residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the 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 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 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 Neb. RS 53-1,115.  
(Neb. RS 53-134.04)

***RETAIL ESTABLISHMENTS***

**§ 110.45 LOCATION.**

(A) Except as otherwise provided in division (B) of this section, no license shall be issued for the sale at retail of 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 does not apply to any location within such distance of 150 feet:

(1) For which a license to sell alcoholic liquor at retail has been granted by the Nebraska Liquor Control Commission for two 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 Neb. RS 53-177.01.

(B) If a proposed location for the sale at retail of any alcoholic liquor is within 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 Neb. RS 53-133.  
(Neb. RS 53-177)

(C) 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, 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 Neb. RS 53-124.15.

(Neb. RS 53-177.01) Penalty, see § 10.99

***Statutory reference:***

*State commission may waive 300-foot requirement, see Neb. RS 53-177.01*

**§ 110.46 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.

(Neb. RS 53-178) Penalty, see § 10.99

**§ 110.47 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.

Penalty, see § 10.99

***Statutory reference:***

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

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

**§ 110.48 HOURS OF SALE.**

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

(1) Require closing prior to 1:00 a.m. on any day;

(2) If adopted by a vote of at least two-thirds of the members of the City Council, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, later than 1:00 a.m. and prior to 2:00 a.m. on any day;

(3) If adopted by a vote of at least two-thirds of the members of City Council, permit retail sale of alcoholic liquor for consumption off the premises later than 1:00 a.m. and prior to 2:00 a.m. on any day; or

(4) If adopted by a vote of at least two-thirds of the members of City Council, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, and permit retail sale of alcoholic liquor for consumption off the premises later than 1:00 a.m. and prior to 2:00 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. This division (B) shall not apply after 12:00 p.m. 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 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

(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. (Neb. RS 53-179)

**§ 110.49 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 or distilled spirits from issuing tasting cards to customers.

(Neb. RS 53-183) Penalty, see § 10.99

#### **§ 110.50 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. RS 53-184) Penalty, see § 10.99

#### **§ 110.51 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 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.

Penalty, see § 10.99

***Statutory reference:***

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

#### **§ 110.52 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 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 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.

(Neb. RS 53-167.02)

(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.

(Neb. RS 53-167.03) Penalty, see § 10.99



## **CHAPTER 111: PEDDLERS AND SOLICITORS**

### Section

- 111.01 Regulation
- 111.02 Hours of solicitation
- 111.03 Exceptions

### **§ 111.01 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 municipality, register with the Municipal Clerk. The registration forms, supplied by the Clerk shall contain all the necessary information required for the protection of the residents of the municipality. All peddlers and hawkers shall be subject to any fees, occupation taxes and other rules and regulations which the governing body deems appropriate for the purposes stated herein.

(Neb. RS 17-134, 17-525) (1999 Code, § 10-201)

### **§ 111.02 HOURS OF SOLICITATION.**

It shall be unlawful for any solicitor, salesperson 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, salesperson or peddler to solicit without a proper permit on his or her person at all times.

(Neb. RS 17-134) (1999 Code, § 10-202) Penalty, see § 10.99

### **§ 111.03 EXCEPTIONS.**

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

(1999 Code, § 10-203)



## CHAPTER 112: BINGO

### Section

112.01 Regulation

112.02 Incorporated regulation

### § 112.01 REGULATION.

(A) Games of bingo shall be conducted within the municipality in accordance with all laws of the municipality and the state if the said game of bingo is played for or involves profit or gain.

(B) Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the governing body before commencing operation of said game.

(C) Application shall be made to the Municipal Clerk for such permit. 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.

(D) Upon the determination that granting the application would be proper, the governing body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of an annual permit fee of \$10. Said license shall be subject to revocation at any time for good cause.

(E) Any person or persons, so licensed, shall be subject to any other fees, rules and regulations which the governing body may designate.

(F) All permits so issued will automatically expire on September 30, following its issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted.

(1999 Code, § 10-301)

### § 112.02 INCORPORATED REGULATION.

(A) All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this chapter 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.

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(B) Violators thereof shall be separately prosecuted by the municipality for each of such offenses, and if convicted, shall be deemed to be guilty of an offense.  
(Neb. RS 9-201 through 9-265) (1999 Code, § 10-302)

## CHAPTER 113: LOTTERY

### Section

113.01 Participation; restrictions

113.02 Sales outlet locations; approval required; qualification standards

### § 113.01 PARTICIPATION; RESTRICTIONS.

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

(B) No owner or officer of a lottery operator with whom the municipality contracts to conduct its lottery shall play the lottery conducted by the municipality. No owner or officer of an authorized sales outlet location for the municipality shall play the lottery conducted by the municipality. No employee or agent of the municipality, lottery operator or authorized sales outlet location shall play the lottery of the municipality for which he or she performs work during such time as he or she is actually working at such lottery or while on duty. No member of the governing body, municipal official or immediate family of such member or official shall play in the lottery conducted by the municipality.

(C) No person, or employee or agent of any person or the municipality, shall knowingly permit an individual under 19 years of age to play or participate in any way in the lottery conducted by the municipality.

(D) For purposes of this section, ***IMMEDIATE FAMILY OF A MEMBER OF THE GOVERNING BODY OR A MUNICIPAL OFFICIAL*** shall mean: a person who is related to the member or official by blood, marriage or adoption and resides in the same household; or 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. RS 9-646) (1999 Code, § 10-401) Penalty, see § 10.99

### § 113.02 SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS.

(A) The lottery operator whom the governing body 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 governing body. The governing body shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership or corporation which desires to

conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in division (B) below.

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

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

(2) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, wilful 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;

(3) 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

(4) 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.

(C) If the person seeking to have its location approved as an authorized sales outlet location is a partnership or corporation, the qualification standards shall apply to every partner of such partnership, every officer of such corporation, and stockholder owning more than 10% of the stock of such corporation.

(D) The governing body shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.

(Neb. RS 9-642.01) (1999 Code, § 10-402)



## CHAPTER 114: OCCUPATION TAXES

### Section

- 114.01 Purpose
- 114.02 Retail liquor licenses; amounts
- 114.03 Collection dates
- 114.04 Gas and telephone companies
- 114.05 Receipt
- 114.06 Non-refundable
- 114.07 Failure to pay

### § 114.01 PURPOSE.

For the purpose of raising revenue there is hereby levied an occupational tax upon certain occupations, businesses and services carried on within the corporate limits of the municipality, as herein specified and enumerated; every person, firm, occupation or corporation carrying on the occupation or business or services hereinafter specified within the corporate limits of the municipality, shall pay to the Municipal Clerk on the dates herein specified, the sum or sums hereinafter set forth as a tax upon such occupation or business. All money so collected shall be paid over forthwith by the Municipal Clerk to the Municipal Treasurer, who will credit the same to the General Fund of the municipality; and said money shall remain under the control of the governing body and used for such purposes as are permitted in cases of other monies belonging to the General Fund.

(1999 Code, § 10-501)

### § 114.02 RETAIL LIQUOR LICENSES; AMOUNTS.

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

(A) Class B; off sale beer only: \$25;

(B) Class C; on and off sale alcoholic liquor: \$250; and

(C) Class D; off sale alcoholic liquor and beer: \$150.

(1999 Code, § 10-502) (Ord. 805, passed 5-5-2008)

**§ 114.03 COLLECTION DATES.**

All occupation taxes shall be due, and payable on May 1 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 November 1. 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 or her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.

(Neb. RS 17-525) (1999 Code, § 10-503)

**§ 114.04 GAS AND TELEPHONE COMPANIES.**

(A) *Amounts.* There is hereby levied a tax upon the following occupations, businesses and services carried on within the corporate limits of the municipality.

(1) *Gas companies.* All persons, firms or corporations distributing gas (either natural or manufactured), and selling the same to the inhabitants of the municipality shall pay to the municipality an occupation tax of 3% of the gross receipts from such business. The 3% provided for in this section only increases the occupational tax presently being paid by any gas company to a total of 3%, and does not enlarge the occupational tax presently being paid by an additional 3%.

(2) *Telephone companies.* All telephone companies doing business in the municipality are required to pay an occupational tax to the municipality in an amount equal to 3% of the gross receipts, from the local monthly service charges collected for local exchange telephone service and intrastate charges to subscribers within the municipality. There shall be excepted from the provisions of this subsection all receipts for telephone service to the United States government or any of its departments and all receipts from the state or any of its departments, and no part or portion of the tax provided for in this section shall be levied upon or assessed against or taken from the United States government, the government of the state, or either of their departments.

(1999 Code, § 10-504)

(B) *Procedures.*

(1) Payment of the occupation tax herein levied under division (A) above shall be in semi-annual payments using the calendar half-year ending June 30 and December 31, each year as a basis for determining and computing the amount of tax payable. Each half-year payment shall be due 45 days after the termination of each calendar half-year. All payments of tax made after the due date shall draw interest at the rate of 0.75% per month and, after payment has been in default for six months, a penalty of 5% shall be added thereto in addition to the interest charges and shall be paid by the company or companies subject to the occupation tax. Each succeeding payment may make such adjustment to be

shown on the report hereinafter provided for as may be necessary for uncollectibles or any other matters which may have resulted in either an excess or deficiency in the amount of tax paid in any previous period.

(2) All such companies at the time as they make such half-year payments of tax shall file with the Municipal Clerk a full, complete and detailed statement of the gross receipts subject to the occupation tax provided for in division (A) above, and said statement shall be duly verified and sworn to by the manager in charge of the business of the particular company in the municipality, or by a higher managerial employee of such company, and the municipality shall have the right at any time to inspect through its officers, agents and representatives, the books and records of such company for the purpose of verifying such report or reports; provided, however, that in case any company shall refuse, fail or neglect to furnish or file such report or reports at the time required by this chapter, or shall fail or refuse to permit the municipality to inspect the books and records of such company for the purpose of verifying such report or reports, then and in that event, the occupation tax for the preceding half-year shall be estimated by the governing body and said amount so estimated shall be paid within 45 days following the end of the half-year as required by this chapter, and said amount shall draw interest and penalties as further provided in this section.

(1999 Code, § 10-505)

#### **§ 114.05 RECEIPT.**

All occupation taxes levied by this chapter shall be paid on the dates herein provided. Upon the payment thereof by any person or persons to the Municipal Clerk, the Municipal Clerk shall give a receipt, properly dated and specifying the person paying the tax, and the amount paid. 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 or her. All forms and receipts herein mentioned shall be issued in duplicate, one copy shall then be kept by each party in the transaction. The Municipal Clerk's receipt shall constitute proper authority for any person to carry on and conduct the business specified in said receipt.

(1999 Code, § 10-506)

#### **§ 114.06 NON-REFUNDABLE.**

Every occupation tax levied by this chapter must be paid as herein provided and no person or firm paying such occupation tax shall be entitled to a refund of any of the tax so paid.

(1999 Code, § 10-507)

#### **§ 114.07 FAILURE TO PAY.**

(A) 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.

(B) All delinquent taxes shall bear interest at the rate of 1% per month until paid.  
(1999 Code, § 10-508)