

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL PROVISIONS

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OCCUPATION TAXES

§ 110.01 TAX AND LEVIES AUTHORIZED; AMOUNTS.

(A) The city shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city and regulate such occupation or business by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space or kinds of transactions for purposes of imposing such tax; except that, no occupation tax shall be imposed on any transaction which is subject to tax under Neb. RS 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 or which is exempt from tax under Neb. RS 77-2704-24. The occupation tax shall be imposed in the manner provided in Neb. RS 18-1208; except that, Neb. RS 18-1208 does not apply to an occupation tax subject to Neb. RS 86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the city.

(B) The City Council shall have authority, by ordinance, to impose an occupation tax of not more than \$5 per annum on each fire insurance corporation, company or association, doing business in the city, for the use, support and benefit of volunteer fire departments, regularly organized under the laws of the state regulating the same. The City Clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax, the Clerk shall pay over the proceeds thereof to the City Treasurer who shall credit the same to a fund to be known as the "Special Occupation Tax Fund" for benefit of the Volunteer Fire Department. Upon proper claim filed by the Chief of the Fire Department and allowed by the City Council, the Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department, as hereinbefore provided.

(C) Notwithstanding any ordinance or charter power to the contrary, the city shall not impose an occupation tax on the business of any person, firm or corporation licensed under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 and doing business within the corporate limits of the city in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(D) For the purpose of raising revenue, occupation tax is hereby levied on the following licensee holders and business operations in the following amounts:

Alcoholic beverages	
Class A beer on sale	\$200
Class B beer off sale	\$200
Class D liquor/beer off sale	\$400
Class I bottle club	\$500
Class K catering	\$200
Designated permit	\$40
Fire insurance companies	\$5

(1976 Code, § 10-801) (Ord. 906, passed 8-4-1986; Ord. 1294, passed 8-20-2001; Ord. 1385, passed 4-24-2006; Ord. 1433A, passed 1-7-2013; Ord. 1455B, passed 2-9-2015)

Statutory reference:

Related provisions, see Neb. RS 17-525, 35-106, 53-132

§ 110.02 COLLECTION DATE.

All occupation taxes shall be due, and payable on May 1 of each year; except, in the event that said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, 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.

(1976 Code, § 10-803) (Ord. 562, passed 9-22-1977)

Statutory reference:

Related provisions, see Neb. RS 17-525

§ 110.03 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.

(1976 Code, § 10-804)

Statutory reference:

Related provisions, see Neb. RS 17-525

§ 110.04 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 1% per month until paid.

(1976 Code, § 10-805)

Statutory reference:

Related provisions, see Neb. RS 17-525

SPECIFIC BUSINESSES

§ 110.15 TOBACCO AND CIGARETTES.

(A) *License to sell; issuance.* Licenses for the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material to persons 19 years of age or over shall be issued to individuals, partnerships, limited liability companies, and corporations by the City Clerk upon application duly made as provided in Neb. RS 28-1422.

(B) *License application.* Every person, partnership, limited liability company or corporation desiring a license under Neb. RS 28-1420 to 28-1429 shall file with the City Clerk a written application

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 the amount of the license fee provided in this section. If the applicant is an individual, the application shall include the applicant's Social Security number.

(C) License term; fees.

(1) The term for which a license shall run shall be from the date of filing the application and paying the license fee to and including December 31 of the calendar year in which application for the license is made.

(2) The license fee for any person, partnership, limited liability company, or corporation selling at retail shall be \$10.

(3) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than 150,000 cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco in any form, at wholesale, shall pay a license fee of \$100, and if such combined annual sales amount to less than 150,000 cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco, the annual license fee shall be \$15. No wholesaler's license shall be issued in any year on a less basis than \$100 per annum unless the applicant shall file with the application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco in every form have not exceeded in the aggregate 150,000 annually and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of an offense, and such wholesaler's license shall be revoked until the full license fee is paid.

(4) If application for license is made after July 1 of any calendar year, the fee shall be one half of the fee provided in this section.

(D) Rights of licensee.

(1) The license provided for in Neb. RS 28-1421 and 28-1422 shall, when issued, authorize the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material by the licensee and employees, to persons 19 years of age or over, at the place of business described in the license for the term therein authorized, unless the license is forfeited as a result of court action as provided in Neb. RS 28-1425.

(2) If the license is revoked and forfeited pursuant to Neb. RS 28-1425, all rights under the license shall at once cease and terminate.

(E) *Disposition of fees.* Ten dollars of the funds collected as license fees under the provisions of this section shall be paid over by the City Clerk to the Treasurer of the School Fund for the city.

(F) *Transfer of license.* In case of the sale of a business where the owner has a licensee hereunder, the City Clerk may authorize such license to be transferred to the purchaser. In case of a change of location by any licensee hereunder, the Clerk may transfer such license to the new location.

(G) *Reissuance of revoked or forfeited license.* In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in Neb. RS 28-1425, no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture.
(1976 Code, § 10-801.01) (Ord. 1455B, passed 2-9-2015; Ord. 1483A, passed 12-23-2019)

Statutory reference:

Licenses required, see Neb. RS 28-1420

Prohibited sales, see Neb. RS 28-1421

Related provisions, see Neb. RS 28-1422, 28-1423, 28-1426, 28-1428, 28-1429

Sale to person under 19, see Neb. RS 28-1425

§ 110.16 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.
(1976 Code, § 10-802)

Statutory reference:

Related provisions, see Neb. RS 35-106

§ 110.17 GAMES OF CHANCE AND/OR LOTTERIES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISTRIBUTOR. Any person or organization which engages in the business of selling, leasing or delivering possession or custody of gambling devices for consideration to a person or organization which engages in the occupation of conducting games of chance and/or lotteries.

GAMBLING DEVICE. Any and all machines or devices used in the occupation of conducting games of chance and/or lotteries.

GAMES OF CHANCE and/or LOTTERIES. Those forms of gambling authorized by the state, pursuant to Art. III, § 24, of the Constitution of the state.

PERSON ENGAGED IN THE OCCUPATION OF CONDUCTING GAMES OF CHANCE AND/OR LOTTERIES. Any person or organization which operates, owns or is the lessee of a place of business where any game of chance and/or lottery activity is conducted, whether or not any other type of business is conducted on the premises; or, any person or organization which either directly controls or manages the games of chance and/or lotteries, or owns any machine or device used to engage in the occupation of games of chance and/or lotteries, but does not sell, lease or deliver possession or custody of such a device to other persons.
(1976 Code, § 10-806)

(B) License required; occupation fee.

(1) Every person or organization to engage in the occupation of conducting games of chance or lottery activities without first obtaining a license to do so.

(2) Every person or organization desiring a license required by the provisions of this section shall make application to the Municipal Clerk. Accompanying each application shall be:

(a) A sworn statement by each designated supervising member that such member will be responsible for compliance with rules and regulations for each occasion of games of chance and/or lotteries which he or she supervises; and

(b) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, rent, seller profits, compensation, reward or recompense will be paid to any person or organization not sanctioned by the laws of the state and the city and that all profits will be spent for a lawful purpose.

(3) Every license under the provisions of this division (B) shall be conspicuously displayed at the place where the game of chance and/or lottery activity is conducted at all times during the conduct thereof.

(4) The license fee for engaging in the occupation of conducting games of chance and lotteries with the city shall be \$10 for each location wherein such activity is conducted.

(5) Non-profit organizations that desire to participate in games of chance and/or lotteries which comply with the Small Lotteries and Raffles Act, being Neb. RS 9-501 through 9-513 of the state are exempt from the provisions hereof.

(1976 Code, § 10-807)

(Ord. 1011, passed 10-22-1990; Ord. 1178, passed 10-24-1995)

§ 110.18 CABLE TELEVISION.

The city granted a cable television franchise to Cable USA, Inc., formerly known as Metro Enterprises, Inc. The franchise provisions are hereby adopted by reference and incorporated herein as if set out in full.

(1976 Code, Ch. 10, Art. 11) (Ord. 963, passed 11-7-1988; Ord. 1475, passed 12-4-2017)

§ 110.19 HOTELS.

(A) *Hotel accommodation.* Each person engaged in the business of operating a hotel in the city shall pay an occupancy tax in the amount of the 2% of the basic rental rates charged per occupied room per night.

(B) *Hotel defined.* **HOTEL** shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term shall include hotels, motels, tourist hotels, campgrounds, courts, lodging houses, inns and nonprofit hotels; but **HOTEL** shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, or dormitories or facilities operated by an educational institution and regularly used to house students.

(C) *Occupied room defined; exceptions.*

(1) **OCCUPIED ROOM** shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed 30 contiguous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include function room such as a ballroom, banquet room, reception room, or meeting room provided it is not used as temporary sleeping accommodations.

(2) The term **OCCUPIED ROOM** shall not mean, and no tax imposed by this section shall be measured by or collected for:

(a) Complimentary or other sleeping accommodations for which no consideration is charged;

(b) Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or

(c) Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than 30 consecutive days, and consideration is actually paid for use during at least 30 consecutive days.

(D) *Collection.* The tax imposed by this section shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for the occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed whether the taxes are collected from the guests.

(E) *Records.* It shall be unlawful for any hotel operator subject to this section to fail to maintain or fail to make available to the city, upon 72 hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the amount of occupations tax due to or paid under this section, and such other information as is required by the City Treasurer. Such records shall be maintained for a period of three years after the occupation tax is due.

(F) *Due date.* Notwithstanding any contrary provisions of this chapter, the tax imposed by this section shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the 25th day of the month in which they are due and payable shall be deemed to be delinquent. The operator shall be assessed a penalty of 10% on all delinquent amounts as well as interest of 1% per month of fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

(G) *Penalty.* Any person, partnership, firm, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon convictions, shall be punished in accordance with this code. Each distinct act or violation of the terms of this section shall constitute a separate offense.

(Ord. 1495, passed 10-5-2020)

§ 110.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this title, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 10-1201) (Ord. 1449, passed 12-23-2013)

CHAPTER 111: AMUSEMENTS

Section

111.01 Bowling

111.02 Pool and billiards

§ 111.01 BOWLING.

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. 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 \$10 license fee per bowling lane set by ordinance 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.

(1976 Code, § 10-301) Penalty, see § 110.99

§ 111.02 POOL AND BILLIARDS.

(A) 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 the municipality, stating his or her willingness to be governed by the rules and regulations now or to be hereafter adopted by the City Council concerning his or her business. Before receiving a license, he or she shall also file in the office of the City Clerk a bond with two or more sureties, to be approved by the City Council in the sum of \$1,000, which bond shall be renewed annually, conditioned that he or she will indemnify and keep harmless the city and the City Clerk from all liability from accidents and damages arising from any negligence or unskillfulness in doing or protecting his or her work, or from any unfaithful or inadequate work done in pursuance of his or her license; and that he or she will pay all fines imposed upon him or her for the violation of any rules and

regulations in force during the term of his or her license. The license herein mentioned shall be issued by the Clerk, on a calendar year basis, under the seal of the city, when ordered by the Council. The annual fee for obtaining said license shall be \$10. The obligee in said bond shall be the city and an action may be maintained on said bond by anyone injured by a breach of its conditions.
(1976 Code, § 10-306)

(B) 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. 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 \$10 license fee, per table, set by ordinance 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.

(1976 Code, § 10-307)

Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 17-120

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

- 112.01 Definitions
- 112.02 License required; city powers and duties
- 112.03 Location
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§ 112.01 DEFINITIONS.

For purposes of this chapter, words shall be defined as in Neb. RS 53-103.01 through 53-103.42. (1976 Code, § 10-101) (Ord. 1418, passed 12-20-2010)

§ 112.02 LICENSE REQUIRED; CITY POWERS AND DUTIES.

(A) It shall be unlawful for any person to manufacture for sale, sell, keep for sale or to barter any alcoholic liquors within the municipality unless said person shall have in full force and effect a license as provided by the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122. (1976 Code, § 10-102)

(B) (1) The City Council is authorized to regulate by ordinance, not inconsistent with the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122, the business of all retail, craft brewery and microdistillery licenses carried on within the corporate limits of the city.

(2) During the period of 45 days after the date of receipt by mail or electronic delivery from the state's Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery 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.

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

(a) 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 state's Liquor Control Commission;

(b) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 to determine whether any provisions of the Act, any rule or regulation adopted and promulgated 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 license 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 or the Commission:

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

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

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

(e) To examine or cause to be examined any applicant or any retail, craft brewery or microdistillery license 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 purpose of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;

(f) To cancel or revoke, on its own motion, any license if, upon the same notice and hearing as provided in division (B)(3)(e) above, it determines that the licensee has violated any of the provisions of the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 or a valid and subsisting ordinance, resolution, rule or regulation duly enacted, adopted and promulgated relating to alcoholic liquor. The order of cancellation or revocation maybe 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

(g) 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 the seven and not more than 14 days before the time of the hearing. The notice shall include, but not 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 license, the cost of publication of notice shall be paid by the Commission from the security for costs.

(4) (a) When the state's Liquor Control Commission mails or delivers to the City Clerk a retail, craft brewery or microdistillery license or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

1. The license fee of by the terms of Neb. RS 53-124 the fee is payable to the City Treasurer;
2. Any fee for publication of notice of hearing before the City Council upon the application for the license;
3. The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.01; and

4. Occupation taxes, if any, imposed by the city, except that Class J retail licensees shall not be subject to occupation taxes.

(b) Notwithstanding any ordinance or charter power to the contrary, the city shall not impose an occupation tax on the business of any person, firm or corporation licensed under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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.

(Ord. 1468, passed 2-6-2017)

Statutory reference:

Related provisions, see Neb. RS 53-102, 53-131, 53-132, 53-134, 53-134.03

§ 112.03 LOCATION.

(A) (1) Except as otherwise provided in division (B) below, 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 indigent persons or for veterans and their wives or children.

(2) This prohibition does not apply to any location within such distance of 150 feet:

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

(b) 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 5-24-1935; or

(c) To a college or university in the state which is the 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 if the affected church submits a written request for a hearing.

(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 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 non-public 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.

(1976 Code, § 10-103) (Ord. 1418, passed 12-20-2010; Ord. 1426B, passed 12-5-2011; Ord. 1461, passed 2-8-2016) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-177, 53-177.01

§ 112.04 DWELLINGS; ACCESS.

Except in the case of hotels and clubs, no alcoholic liquor shall be manufactured or sold at retail or wholesale 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 permitted to be used or kept accessible for use by the public. This section does 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.

(1976 Code, § 10-104) (Ord. 1468, passed 2-6-2017) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-178

§ 112.05 LICENSE DISPLAYED.

Every licensee under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises.

(1976 Code, § 10-105) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-148

§ 112.06 LICENSE, LICENSEE REQUIREMENTS.

(A) No license shall be issued to:

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

(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 resident of the state and legally able to work in the state;

(4) A person who has been convicted of or has pleaded guilty to a felony under the laws of the 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 Ch. 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 (A)(5) on 5-18-1983, 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 5-18-1983;

(6) A person whose license issued under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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 the 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 the 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) above, or if a manager of a corporate license would be ineligible to receive a license under this section for any reason. This division (A)(10) 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 (A)(13), an applicant whose spouse is ineligible under this section to receive and hold a liquor license shall be ineligible for a liquor license. Such an applicant shall become eligible for a liquor license only if the state's 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. The prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

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

(b) The license 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's Fire Marshal;

§ 110.18 CABLE TELEVISION.

The city granted a cable television franchise to Cable USA, Inc., formerly known as Metro Enterprises, Inc. The franchise provisions are hereby adopted by reference and incorporated herein as if set out in full.

(1976 Code, Ch. 10, Art. 11) (Ord. 963, passed 11-7-1988; Ord. 1475, passed 12-4-2017)

§ 110.19 HOTELS.

(A) *Hotel accommodation.* Each person engaged in the business of operating a hotel in the city shall pay an occupancy tax in the amount of the 2% of the basic rental rates charged per occupied room per night.

(B) *Hotel defined.* **HOTEL** shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term shall include hotels, motels, tourist hotels, campgrounds, courts, lodging houses, inns and nonprofit hotels; but **HOTEL** shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, or dormitories or facilities operated by an educational institution and regularly used to house students.

(C) *Occupied room defined; exceptions.*

(1) **OCCUPIED ROOM** shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed 30 contiguous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include function room such as a ballroom, banquet room, reception room, or meeting room provided it is not used as temporary sleeping accommodations.

(2) The term **OCCUPIED ROOM** shall not mean, and no tax imposed by this section shall be measured by or collected for:

(a) Complimentary or other sleeping accommodations for which no consideration is charged;

(b) Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or

(c) Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than 30 consecutive days, and consideration is actually paid for use during at least 30 consecutive days.

(D) *Collection.* The tax imposed by this section shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for the occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed whether the taxes are collected from the guests.

(E) *Records.* It shall be unlawful for any hotel operator subject to this section to fail to maintain or fail to make available to the city, upon 72 hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the amount of occupations tax due to or paid under this section, and such other information as is required by the City Treasurer. Such records shall be maintained for a period of three years after the occupation tax is due.

(F) *Due date.* Notwithstanding any contrary provisions of this chapter, the tax imposed by this section shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the 25th day of the month in which they are due and payable shall be deemed to be delinquent. The operator shall be assessed a penalty of 10% on all delinquent amounts as well as interest of 1% per month or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

(G) *Penalty.* Any person, partnership, firm, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon convictions, shall be punished in accordance with this code. Each distinct act or violation of the terms of this section shall constitute a separate offense.

(Ord. 1495, passed 10-5-2020)

§ 110.99 PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this title, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1976 Code, § 10-1201) (Ord. 1449, passed 12-23-2013)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

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§ 112.01 DEFINITIONS.

For purposes of this chapter, words shall be defined as in Neb. RS 53-103.01 through 53-103.42. (1976 Code, § 10-101) (Ord. 1418, passed 12-20-2010)

§ 112.02 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, bottle club, craft brewery, and micro distillery licenses carried on within the corporate limits of the city.

(B) During the period of 45 days after the date of the 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 micro distillery 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.

(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, bottle club, craft brewery, and micro distillery licenses:

(1) To cancel or revoke for cause retail, craft brewery, or micro distillery licenses to sell or dispense alcohol, liquor or bottle club licenses issued to persons or 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 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, bottle club, craft brewery, and micro distillery 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, bottle club, craft brewery, or micro distillery 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, except as otherwise provided for bottle club licensees under state law, and to hear testimony and to take proof for its information in the performance of its duties. For purpose 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 this code or Neb. RS 53-134.04, it determines that the license 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 15-133; 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.

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

(a) The license fee if by the terms of Neb. RS 53-124 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, except that Class J retail licensees shall not be subject to occupation taxes.

(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.

(1976 Code, § 10-102) (Ord. 1468, passed 2-6-2017; Ord. 1483, passed 2-4-2019)

Statutory reference:

Related provisions, see Neb. RS 53-102, 53-131, 53-132, 53-134, 53-134.03

§ 112.03 LOCATION RESTRICTIONS.

(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 or for a bottle club within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. The prohibition does not apply to any location within such distance of 150 feet:

(1) For which a license to sell alcoholic liquor at retail or for a bottle club 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 services, 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 exempt 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 or for a bottle club 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 if the affected church submits a written request for a hearing.

(C) Unless otherwise exempted by Neb. RS 53-177.01, 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, and no bottle club shall be operated within 300 feet from the campus of any college, 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.

(1976 Code, § 10-103) (Ord. 1418, passed 12-20-2010; Ord. 1426B, passed 12-5-2011; Ord. 1461, passed 2-8-2016; Ord. 1483, passed 2-4-2019) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-177, 53-177.01

§ 112.04 DWELLINGS; ACCESS.

Except in the case of hotels and clubs, no alcoholic liquor shall be manufactured or sold at retail or wholesale 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 permitted to be used or kept accessible for use by the public. This section does 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.

(1976 Code, § 10-104) (Ord. 1468, passed 2-6-2017) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-178

§ 112.05 LICENSE DISPLAYED.

Every licensee under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises.

(1976 Code, § 10-105) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-148

§ 112.06 LICENSE, LICENSEE REQUIREMENTS.

(A) No license shall be issued to:

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

(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 resident of the state and legally able to work in the state;

(4) A person who has been convicted of or has pleaded guilty to a felony under the laws of the 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 Ch. 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 (A)(5) on 5-18-1983, 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 5-18-1983;

(6) A person whose license issued under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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 the 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 the 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) above, or if a manager of a corporate license would be ineligible to receive a license under this section for any reason. This division (A)(10) 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 (A)(13), an applicant whose spouse is ineligible under this section to receive and hold a liquor license shall be ineligible for a liquor license. Such an applicant shall become eligible for a liquor license only if the state's 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. The prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

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

(b) The license 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's Fire Marshal;

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

(16) A person less than 21 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.

(1976 Code, § 10-106) (Ord. 724, passed 9-1-1983; Ord. 1418, passed 12-20-2010; Ord. 1468, passed 2-6-2017)

Statutory reference:

Related provisions, see Neb. RS 53-125

§ 112.07 EXAMINATIONS; MUNICIPAL POWERS AND DUTIES.

(A) Liquor application; municipal examination.

(1) Any person or persons desiring to obtain a license to sell alcoholic liquor at retail shall file an application with the Liquor Control Commission. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. RS 53-131, the governing body shall fix a time and place at which a hearing will be held, and at which time the governing body shall receive evidence, under oath, either orally, or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of notice from the commission. The governing body may: examine, or cause to be examined, under oath, any applicant; examine or cause to be examined, the books and records of any such applicant; 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, the Municipal Clerk or the Municipal Attorney, to act on its behalf.

(2) Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the municipality one time not less than seven, nor more than 14, days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the governing body in support of or in protest against the issuance of such license may do so at the time of the hearing.

(3) The governing body shall, after the hearing provided in division (A)(1) above, approve or deny the application within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such

application. The Municipal Clerk shall thereupon mail or deliver to the Commission a copy of the resolution within ten days of the decision to approve or deny the application.

(4) Any resolution denying an application rendered by the governing body shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

(1976 Code, § 10-107)

(B) License renewal; powers and duties.

(1) A retail or bottle club 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 cancelled or revoked. If that license expired 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.

(2) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the municipality, 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 and each bottle club license within the municipality, 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 municipality on or before February 10, or August 10 for Class C licensees, 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.

(1976 Code, § 10-108)

(C) Municipal powers and duties.

(1) The governing body is authorized to regulate by ordinance, not inconsistent with the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122, the business of all retail, craft brewery and microdistillery licensees carried on within the corporate limits of the municipality.

(2) During the period of 45 days after the date of receipt by mail or electronic delivery from the state's 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.

(3) 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:

(a) 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 state's Liquor Control Commission;

(b) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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:

1. Within 30 days after determining that such violation has occurred;

2. Within 30 days after the conclusion of an ongoing police investigation; or

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

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

(d) 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 Municipal Treasurer;

(e) 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;

(f) 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 state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 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

(g) 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 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.

1. 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 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 governing body in support of or in protest against the issuance of the license may do so at the time of the hearing.

2. 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 governing body shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license.

3. 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.

(4) (a) When the state's 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:

1. The license fee if, by the terms of Neb. RS 53-124, the fee is payable to the Municipal Treasurer;

2. Any fee for publication of notice of hearing before the governing body upon the application for the license;

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

4. Occupation taxes, if any, imposed by the municipality.

(b) 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 state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 and doing business within the corporate limits of the municipality in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain that license.

(1976 Code, § 10-109)

(Ord. 635, passed 12-6-1979; Ord. 724, passed 9-1-1983; Ord. 762, passed 9-6-1984; Ord. 915, passed 10-20-1986; Ord. 960, passed 9-26-1988; Ord. 994, passed 12-18-1989; Ord. 1055, passed 3-23-1992; Ord. 1362, passed 11-8-2004; Ord. 1364, passed 11-8-2004; Ord. 1418, passed 12-20-2010; Ord. 1426B, passed 12-5-2011; Ord. 1483, passed 2-4-2019)

Statutory reference:

Related provisions, see Neb. RS 53-131, 53-132, 53-134, 53-134.03, 53-135, 53-135.01

§ 112.08 OWNER OF PREMISES; EMPLOYER.

(A) The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or state statute.

(1976 Code, § 10-110)

(B) The employer of any officer, director, manager or employees working in a retail liquor establishment shall be held to be liable and guilty of any act of omission or violation of any law or ordinance, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him or her personally.

(1976 Code, § 10-111)

Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-1,101, 53-1,102

§ 112.09 CLEAR VIEW.

It shall be unlawful to use any screen, blind, curtain, partition, article or other device in the windows or upon the doors of any retail liquor establishment, other than restaurants, hotels and clubs, which will have the effect of preventing a clear view into the interior of such licensed premises from the street, road or sidewalk at all times. All licensed premises shall be continuously lighted during business hours by natural or artificial white lights to ensure the clear visibility into said establishment. Any licensee who willfully violates the provisions of this section shall be subject to a revocation of his or her license by the municipality, as provided herein.

(1976 Code, § 10-112) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-167

§ 112.10 SALES.

(A) *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.
(1976 Code, § 10-113)

(B) *Credit sales prohibited.*

(1) 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.

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

(a) 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;

(b) 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

(c) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.
(1976 Code, § 10-114)

(C) *Original package.* It shall be unlawful for any person or persons who own, manage or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquor contained in casks or other containers, except in the original package. Nothing in this division (C) shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.
(1976 Code, § 10-116)

(D) *Hours of sale.*

(1) 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.

(2) 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.

(3) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

(1976 Code, § 10-117)

(Ord. 581, passed 9-21-1978; Ord. 582, passed 9-21-1978; Ord. 626, passed 8-23-1979; Ord. 673, passed 9-17-1981; Ord. 681, passed 2-18-1982; Ord. 723, passed 9-1-1983; Ord. 1050, passed 3-16-1992; Ord. 1053, passed 3-23-1992; Ord. 1069, passed 12-21-1992; Ord. 1392, passed 11-20-2006; Ord. 1418, passed 12-20-2010; Ord. 1426B, passed 12-5-2011; Ord. 1433A, passed 1-7-2013; Ord. 1455B, passed 2-9-2015; Ord. 1457, passed 4-20-2015) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-180, 53-183, 53-184

§ 112.11 SANITARY CONDITIONS.

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the governing body or the municipal 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 said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license.

(1976 Code, § 10-118) Penalty, see § 110.99

§ 112.12 HIRING MINORS.

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers.

(1976 Code, § 10-119) Penalty, see § 110.99

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

(A) (1) 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 alcohol 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.

(2) It is unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person

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

(1976 Code, § 10-120)

(B) (1) For the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGE.

1. Beer, ale, porter, stout and other similar fermented beverages, including sake or similar products, of any name or description, containing 0.5% or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
2. Wine of not less than 0.5% alcohol by volume;
3. Distilled spirits, which is that substance known as ethyl alcohol, ethanol or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; and
4. ***ALCOHOLIC BEVERAGE*** does not include trace amounts not readily consumable as a beverage.

HIGHWAY. A road or street including the entire area within the right-of-way.

LIMOUSINE. A luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than 14 persons behind the driver with a physical partition separating the driver seat from the passenger compartment. ***LIMOUSINE*** does not include taxicabs, hotel or airport buses or shuttles or buses.

OPEN ALCOHOLIC BEVERAGE CONTAINER. Except as provided in Neb. RS 53-123.04(3) and 53-123.11(1)(c), any bottle, can or other receptacle that:

1. Contains any amount of alcoholic beverage; and
2. a. Is open or has a broken seal; or
b. The contents of which are partially removed.

PASSENGER AREA. The area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in the area. **PASSENGER AREA** does not include the area behind the last upright seat of the motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(2) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in the municipality.

(3) Except as provided in division (A) above or division (B)(4) below, it is unlawful for any person to consume an alcoholic beverage:

(a) In a public parking area or on any highway in the municipality; or

(b) Inside a motor vehicle while in a public parking area or on any highway in the municipality.

(4) This division (B) does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state's Public Service Commission and subject to Neb. Admin. Code Ch. 75, Art. 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in the municipality if:

(a) The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and

(b) Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

(1976 Code, § 10-128)

(Ord. 1065, passed 8-24-1992; Ord. 1426B, passed 12-5-2011; Ord. 1483, passed 2-4-2019) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-186, 53-186.01, 60-6,211.08

§ 112.14 ACQUISITION, POSSESSION AND MANUFACTURE.

(A) (1) It shall be unlawful for any person or 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 state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122 unless within specific exemptions provided in this chapter or the Act, being Neb. RS 53-101 through 53-1,122.

(2) (a) Except as otherwise provided in this section, it shall be unlawful for any person to transport, import, bring or cause to be transported, imported, brought or shipped into the 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.

(b) Division (B)(1) above does not apply to a person importing alcoholic liquor from a holder of a retail direct sales shipping license or its equivalent, which alcoholic liquor is for personal use or for use by such person's family or guests, if the total amount imported by such person in any one calendar year does not exceed 108 liters.

(1976 Code, § 10-121)

(B) (1) 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 state's Liquor Control Act, being Neb. RS 53-101 through 53-1,122.

(2) Nothing in this chapter shall prevent:

(a) 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;

(b) 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;

(c) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for 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;

(d) 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;

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

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

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

- (d) Examination of applicant, witnesses or citizens by City Attorney, governing body or duly appointed agent;
- (e) Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;
- (f) Presentation of evidence and witnesses by opposition;
- (g) Testimony of any other citizens in opposition to such proposed license;
- (h) Presentation of evidence by the city and law enforcement personnel;
- (i) Cross-examination by applicant;
- (j) Rebuttal evidence by both parties and by city administration and agent; and
- (k) Summation by applicant and opposition spokesperson, if any.

(5) In all cases, the burden of proof and persuasion shall be on the party filing the application. Any member of the governing body and the City Attorney may question any witness, call witnesses or request information. All witnesses shall be sworn. The governing body may make further inquiry and investigation following the hearing. The said governing body or the applicant may order the hearing to be recorded by the City Clerk, at the expense of the applicant(s).

(1976 Code, § 10-124) (Ord. 916, passed 10-20-1986; Ord. 996, passed 12-18-1989)

Statutory reference:

Related provisions, see Neb. RS 53-134

§ 112.18 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 state's 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 governing body shall process the application in the same manner as provided for other alcoholic liquor retail licenses.

(C) (1) 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.

(2) 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.

(1976 Code, § 10-125) (Ord. 961, passed 9-26-1988; Ord. 1054, passed 3-23-1992; Ord. 1159, passed 2-6-1995; Ord. 1365, passed 11-8-2004; Ord. 1418, passed 12-20-2010)

Statutory reference:

Related provisions, see Neb. RS 53-124.12

§ 112.19 KEG SALES.

(A) When any person licensed to sell alcoholic liquor at retail sells alcohol 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 state's 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.

(B) Any person who unlawfully tampers with, alters or removes the keg identification number from a container described in division (A) above or is in possession of a contained described in division (A) above 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.

(1976 Code, § 10-126) (Ord. 1481, passed 12-20-2010; Ord. 1461, passed 2-8-2016) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 53-167.03

§ 112.20 LICENSE PREMISES; INSPECTIONS.

The City Council shall cause frequent inspections to be made on the premises of all retail licensees and bottle club 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 purpose 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.

(Ord. 1483, passed 2-4-2019)

Statutory reference:

Related provisions, see Neb. RS 53-116.01

§ 112.21 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 or bottle club 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 purpose of appeal to the Nebraska Liquor Control Commission as provided in Neb. RS 53-1,115.

(Ord. 1483, passed 2-4-2019)

Statutory reference:

Related provisions, see Neb. RS 53-134.04

CHAPTER 113: ITINERANT SALES AND VENDORS

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ITINERANT SALES

§ 113.01 DEFINITION.

A *TRANSIENT MERCHANT*, *ITINERANT MERCHANT* or *ITINERANT VENDOR* is defined as any non-resident of the municipality and either a person, firm or corporation, whether as owner,

agent, consignee or employee, who engages temporarily within the city in the business of peddling, hawking, selling or delivering goods, wares and merchandise or selling advertising, magazine subscriptions or taking orders for goods, wares, merchandise, advertising or magazine subscriptions, or soliciting donations for personal gain or for a firm or corporation; provided, non-resident organizations formed for charitable, education or religious purposes, and farmers' markets or flea markets sponsored and supervised by the local Chamber of Commerce shall not be included in this definition of a transient merchant, itinerant merchant or itinerant vendor.

(1976 Code, § 10-201) (Ord. 1003, passed 6-25-1990)

Statutory reference:

Related provisions, see Neb. RS 17-134, 75-323

§ 113.02 LICENSE REQUIRED.

(A) It shall be unlawful for a transient merchant, itinerant merchant or itinerant vendor to engage in such business within the municipality without first obtaining a license therefor.

(B) It shall be unlawful for any farmer, truck grower or others who produce, hawk or peddle products of the farm, fruit or other staples of food, or who peddle, sell or offer to sell any commodity or article of commerce or trade to park their conveyances or erect a place of business for the purpose of selling said products upon any street within the city zoned for residential or commercial use, unless such sales are sponsored and supervised by the local Chamber of Commerce as a farmers' market or flea market.

(1976 Code, § 10-202) (Ord. 1003, passed 6-25-1990) Penalty, see § 110.99

Statutory reference:

Related provisions, see Neb. RS 17-134, 75-323 through 75-335

§ 113.03 APPLICATION.

Applicants for a license shall file a written sworn application signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the Municipal Clerk, showing:

(A) The name or names of the person or persons having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the municipality; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and, if a corporation, under the law of what state the same is incorporated;

(B) The place or places in the municipality where it is proposed to carry on applicant's business, and the length of time during which it is proposed that such business shall be conducted;

(C) A statement of the nature of merchandise to be sold or offered for sale by the applicant;

(D) A brief statement of the nature of the advertising done or proposed to be done in order to attract customers;

(E) Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative; and

(F) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the Municipal Clerk may deem proper.

(1976 Code, § 10-203)

Statutory reference:

Related provisions, see Neb. RS 17-134

§ 113.04 FEE.

The applicant shall pay a license fee of \$50 to cover the cost of processing the application and issuing the license.

(1976 Code, § 10-201) (Ord. 1169, passed 8-21-1995; Ord. 1294, passed 8-20-2001)

Statutory reference:

Related provisions, see Neb. RS 17-134, 17-525

§ 113.05 BOND.

(A) Before any license shall be issued for engaging in an itinerant business, such applicant shall file with the Municipal Clerk a bond running to the municipality in the sum of \$10,000 and executed by the applicant as principal, and one corporate surety, or two individual sureties upon whom service of process may be had in the county, such bond to be approved by the Municipal Attorney, conditioned that such applicant shall comply fully with all the provisions of this code, and the statutes of the state, regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against the applicant for any violation of this code or the statutes, or any of them, together with all judgments and costs that may be recovered against him or her by any person for damage growing out of any misrepresentation or deception practiced on any person transacting business with such applicant, either at the time of making the sale or through any advertisement of any character whatsoever with reference to the merchandise sold or any part thereof.

(B) Action on the bond may be brought in the name of the municipality to the use of the aggrieved person.

(C) Nothing herein shall be construed to apply to any itinerant vender required to file a bond under the provisions of the statutes of the state as a prerequisite of doing business within the state.

(1976 Code, § 10-205)

Statutory reference:

Related provisions, see Neb. RS 17-134, 75-329

§ 113.06 APPOINTMENT OF AGENT.

(A) Before any license shall be issued, such applicant shall file with the Municipal Clerk an instrument nominating and appointing the Municipal Clerk, or the person performing the duties of such position, his or her true and lawful agent with full power and authority to acknowledge service of notice or process in respect to any matters connected with or arising out of the business transacted under such license.

(B) (1) Immediately upon being served with process, the Municipal Clerk shall send to the licensee at his or her last known address, by registered mail, a copy of such process.

(2) Nothing herein shall be construed to apply to any itinerant vendor required to appoint a state official as an agent for the purpose of receiving service of process as a prerequisite for doing business within the state.

(1976 Code, § 10-206)

Statutory reference:

Related provisions, see Neb. RS 17-134, 75-325

§ 113.07 LICENSE EXPIRATION.

All licenses issued shall expire seven days after the date of issuance thereof unless a prior date is fixed therein.

(1976 Code, § 10-206) (Ord. 1169, passed 8-21-1995)

Statutory reference:

Related provisions, see Neb. RS 17-134

§ 113.08 APPEAL.

(A) Any person aggrieved by the decision of the Municipal Clerk in regard to the denial of an application for a license or in connection with the revocation of a license, shall have the right to appeal to the governing body.

(B) Such appeal shall be taken by filing with the City Clerk within seven days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal.

(C) The governing body shall set the time and place for a hearing on such appeal and notice shall be given to such person by registered mail, postage prepaid, at his or her last known address.

(D) The order of the governing body on such appeal shall be final.
(1976 Code, § 10-206)

Statutory reference:

Related provisions, see Neb. RS 17-134

§ 113.09 POLICE ENFORCEMENT.

It shall be the duty of the municipal police to examine all places of business and persons subject to the provisions of this subchapter and to enforce the provisions herein against any person found to be violating the same.

(1976 Code, § 10-207)

Statutory reference:

Related provisions, see Neb. RS 17-134, 75-334

VENDORS

§ 113.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC STREET OR SIDEWALK. Includes all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys and any other public way.

STAND. Any newsstand, table bench, booth, rack handcart, pushcart or any other fixture or device that is not required to be licensed and registered by the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

VENDOR.

(1) Any person, including an employee or agent of another, who sells or offers to sell food, beverages, foods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his or her person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, goods or merchandise.

(2) In addition, the term shall not mean or include, and there shall be exempt from the provisions of this subchapter those residents of the county who are selling or delivering for sale fruits and vegetables.

(1976 Code, § 10-210) (Ord. 1397, passed 9-24-2007)

§ 113.21 LICENSE REQUIRED.

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise without first obtaining a license from the city.

(1976 Code, § 10-211) (Ord. 1397, passed 9-24-2007) Penalty, see § 110.99

§ 113.22 APPLICATION.

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued, including, but not limited to:

(A) Proof of the identity and business of the applicant;

(B) A brief statement of the nature, character and quality of the food, beverages, goods or merchandise to be sold;

(C) If employed by another, the name and business address of the person;

(D) If a motor vehicle is to be used in the vending business, a description of the vehicle together with the motor vehicle registration number and the license number and a certificate of insurance on the vehicle;

(E) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted; and

(F) A sales tax permit as required by Neb. RS 77-2705.

(1976 Code, § 10-212) (Ord. 1397, passed 9-24-2007)

§ 113.23 LICENSE FEE.

(A) The applicant for a vendor's license shall pay a license fee to cover the costs of processing the application and issuing the license and enforcing the provisions of this subchapter.

(B) The license fee shall be such amount as established by the Council by resolution.

(1976 Code, § 10-213) (Ord. 1397, passed 9-24-2007)

§ 113.24 OCCUPATION TAX.

(A) The applicant for a vendor's license shall also pay an occupation tax in such amounts as established by Council by resolution.

(B) All license fees and occupation taxes shall be paid for each licensed therefor.
(1976 Code, § 10-214) (Ord. 1397, passed 9-24-2007)

§ 113.25 INSURANCE.

No license shall be issued to an applicant unless the applicant furnishes proof to the city of a public liability bond or insurance policy in an amount not less than \$300,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business.
(1976 Code, § 10-215) (Ord. 1397, passed 9-24-2007)

§ 113.26 LICENSE AND IDENTIFICATION BADGES.

(A) The license issued to a vendor shall be carried with the vendor while he is engaged in the business of vending.

(B) In addition to the license, the city shall issue an identification badge to every vendor. Vendors shall wear their badges in such a way that the badges may be easily read while doing business. If a badge becomes damaged or obscured, the vendor shall return it to the city and receive another badge.

(C) Licenses and identification badges shall be used only by the person to whom they were issued and may not be transferred to any other person.
(1976 Code, § 10-216) (Ord. 1397, passed 9-24-2007)

§ 113.27 RESTRICTIONS APPLICABLE TO ALL VENDORS.

(A) *Stands.* Vendor stands shall not:

(1) Impede access to the entrance of any adjacent building or driveway; and/or

(2) Locate within 50 feet of a fire hydrant, fire escape, bus stop, loading zone or driveway of a fire station or police station.

(B) *Hours of operation.* Vendors shall be allowed to engage in the business of vending only between 7:00 a.m. and 10:00 p.m.; except that, those vendors who conduct their business by going door to door shall be allowed to operate only between 8:00 a.m. and 9:00 p.m.

(C) *Removal of trash.* All trash or debris accumulating within 50 feet of any vending stand shall be collected by the vendor and deposited in a trash container.

(1976 Code, § 10-217) (Ord. 1397, passed 9-24-2007) Penalty, see § 110.99

§ 113.28 LICENSE SUSPENSION OR REVOCATION.

(A) A vendor's license issued may be revoked by the City Council after notice and hearing for any of the following causes:

- (1) Fraud or misrepresentation in the application for a license;
- (2) Fraud or misrepresentation in the course of conducting the business of vending;
- (3) Conducting the business of vending contrary to the conditions of the license; and

(4) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(b) Upon suspension or revocation the city shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.

(1976 Code, § 10-218) (Ord. 1397, passed 9-24-2007)

§ 113.29 APPEAL.

Any person aggrieved by the decision of the City Clerk in regard to the denial of an application for a vendor's license or in connection with the suspension or revocation of a license shall have the right to appeal to the City Council. Such appeal shall be taken by filing a written statement setting forth the grounds for appeal with the City Council within seven days after notice of the decision has been mailed to such person's last known address. The City Council shall set the time and place for a hearing on such appeal and notice shall be given to such person by certified or registered mail, postage prepaid, at his or her last known address. The order of the City Council on such appeal shall be final.

(1976 Code, § 10-219) (Ord. 1397, passed 9-24-2007)

§ 113.30 POLICE ENFORCEMENT.

It shall be the duty of the police to examine all places of business and persons subject to the provisions of this subchapter and to enforce the provisions of this section against any person found to be violating this subchapter.

(1976 Code, § 10-220) (Ord. 1397, passed 9-24-2007)