

CHAPTER 10 - BUSINESS REGULATIONS

Article 1. Alcoholic Beverages

§10-101. ALCOHOLIC BEVERAGES; DEFINITIONS. All words and phrases herein used are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska. (*Ref. 53-103 RS Neb.*)

§10-102. ALCOHOLIC BEVERAGES: LICENSE REVOKED. 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 Nebraska Liquor Control Act. (*Ref. 53-102 RS Neb.*)

§10-103. ALCOHOLIC BEVERAGES: LOCATION. (1) Except as otherwise provided in subsection (2) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition does not apply to any location within such distance of 150 feet:

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

(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 May 24, 1935; or

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

(2) 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.

(3) 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:

(a) 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

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

(*Ref 53-177 and 53-177.01 RS Neb.*) (*Amended by Ord. No. 612, 6/5/12*)

§10-104. ALCOHOLIC BEVERAGES; DWELLINGS. Except in the case of hotels and clubs no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with such premise, and such other portion of the building which is used only by the licensee, his family, or personal guests. *(Ref. 53-178 RS Neb.)*

§10-105. ALCOHOLIC BEVERAGES; LICENSE DISPLAYED. Every licensee under the Nebraska Liquor Control Act shall cause his license to be framed and hung in plain public view in a conspicuous place on the licensed premise. *(Ref. 53-148 RS Neb.)*

§10-106. ALCOHOLIC BEVERAGES; LICENSEE REQUIREMENTS. It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12 Reissue Revised Statutes of Nebraska, 1943, or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, meets standards for fire safety as established by the State Fire Marshal; or a person who has not acquired a beneficial interest in more than two (2) alcoholic beverage retail establishments since March 4, 1963; Provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least twenty-five (25) sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant. *(Ref. 53-124.03, 53-125 RS Neb.)*

§10-107. ALCOHOLIC BEVERAGES; 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 section 53-131, RS Neb., 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 forty-five (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 (1) time not less than seven (7), nor more than fourteen (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 subsection (1), approve or deny the application within forty-five (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 (10) 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. (*Ref. 53-131, 53-132, 53-134 RS Neb.*) (*Amended by Ord. Nos. 333, 7/1/86; 400, 6/16/92*)

§10-108. ALCOHOLIC BEVERAGES; LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES. (A) A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the Governing Body to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the Municipality shall file a formal application for a license, and while such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within sixty (60) days following the annexation date of such area, the license may be renewed by order of the commission for not more than one (1) year. (*Ref. 53-135 RS Neb.*)

(B) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the Municipality, one (1) time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the 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 Municipal Clerk by three (3) or more residents of the Municipality on or before February 10, or August 10 for Class C licenses, the Governing Body 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 Governing Body may request a licensee to submit an application as provided in section 53-135 RS Neb. (*Ref. 53-135.01 RS Neb.*) (*Amended by Ord. No. 574, 1/4/05*)

§10-109. ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL POWERS AND DUTIES. (A) The Governing Body is authorized to regulate by ordinance, not

inconsistent with the Nebraska Liquor Control Act, the business of all retail or craft brewery licensees carried on within the corporate limits of the Municipality. (*Ref. 53-134.03 RS Neb.*)

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

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

(1) To cancel or revoke for cause retail or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

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

(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 such complaints in the manner provided in the Act;

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

(5) To examine or cause to be examined any applicant or any retail licensee or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Governing Body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 10-124 (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within thirty (30) days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in section 53-133 R.S Neb.;

(7) Upon receipt from the Commission of the notice and copy of application as

provided in section 53-131 RS Neb., to fix a time and place for a hearing at which the Governing Body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the Municipality, one time not less than seven (7) and not more than fourteen (14) days before the time of the hearing. 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. The hearing shall be held not more than forty-five (45) days after the date of receipt of the notice from the Commission, and after such hearing the Governing Body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The Municipal Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (*Ref. 53-134 RS Neb.*)

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

(a) The license fee if by the terms of section 53-124(5) RS Neb. the fee is payable to the Municipal Treasurer;

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

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

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

(2) Notwithstanding any ordinance or charter power to the contrary, the Municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the Municipality in any sum which exceeds two (2) times the amount of the license fee required to be paid under the Act to obtain such license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. No. 572, 1/4/05*)

§10-110. ALCOHOLIC BEVERAGES; OWNER OF PREMISES. 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 premise in violation of any Municipal Code section or Nebraska statute. (*Ref. 53-1,101 RS Neb.*)

§10-111. ALCOHOLIC BEVERAGES; EMPLOYER. 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 or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, 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 personally. (*Ref. 53-1,102 RS Neb.*)

§10-112. ALCOHOLIC BEVERAGES; MINORS AND INCOMPETENTS. It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent. (*Ref. 53-180 RS Neb.*)

§10-113. ALCOHOLIC BEVERAGES; CREDIT SALES. (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 from issuing wine-tasting cards to customers.

(*Ref 53-183 RS Neb.*) (*Amended by Ord. No. 613, 6/5/12*)

§10-114. ALCOHOLIC BEVERAGES; SPIKING BEER. 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 serve or offer for sale any beer to which there has been added any alcohol, or permit any person or persons to add alcohol to any beer on the licensed premise of such licensee. (*Ref. 53-174 RS Neb.*)

§10-115. ALCOHOLIC BEVERAGES; 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 liquors contained in bottles, casks, or other containers except in the original package. (*Ref. 53-184 RS Neb.*)

§10-116. ALCOHOLIC BEVERAGES; MINOR'S PRESENCE. (*Repealed by Ord. No. 381, 11/5/90*)

§10-117. ALCOHOLIC BEVERAGES; HOURS OF SALE. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

HOURS OF SALE

Alcoholic Liquors (except beer and wine)

Secular Days

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Sundays

Off Sale 12:00 Noon to 1:00 A.M.

On Sale 12:00 Noon to 1:00 A.M.

Beer and Wine

Secular Days

Off Sale 6:00 A.M. to 1:00 A.M.

On Sale 6:00 A.M. to 1:00 A.M.

Sundays

Off Sale 12:00 Noon to 1:00 A.M.

On Sale 12:00 Noon to 1:00 A.M.

Provided, that such limitations shall not apply after twelve (12:00) o'clock noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to §53-124(5)(C) or (H) Reissue Revised Statutes of Nebraska 1943.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. 53-179 RS Neb.) (Amended by Ord. Nos. 361, 11/3/87; 396, 1/14/92; 577, 1/4/05; 580, 7/11/06)

§10-118. ALCOHOLIC BEVERAGES; 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 premise 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.(Ref. 53-118 RS Neb.)

§10-119. ALCOHOLIC BEVERAGES; HIRING MINORS. It shall be unlawful for any person to hire a minor regardless of sex under the age of nineteen (19) years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (*Ref. 53-102 RS Neb.*)

§10-120. ALCOHOLIC BEVERAGES; CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS. (1) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), or as provided in Neb. RS 60-6,211.08, it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

(2) (a) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. (b) It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. Subsection (2) 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. (*Ref 53-186 and 53-186.01 RS Neb.*) (*Amended by Ord. No. 553, 3/5/02, Ord. No. 614, 6/5/12*)

§10-120.01 ALCOHOLIC BEVERAGES; DRINKING ON PUBLIC PROPERTY; OPEN BEVERAGE CONTAINER. (1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ALCOHOLIC BEVERAGE:

- (a) 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;
- (b) Wine of not less than 0.5% alcohol by volume; or
- (c) 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.
- (d) 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 5 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:

- (a) contains any amount of alcoholic beverage; and
- (b)(i) is open or has a broken seal; or
- (ii) 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 this municipality.

(3) Except as provided in § 111.03 or subsection (4) of this section, it is unlawful for any person to consume an alcoholic beverage:

- (a) In a public parking area or on any highway in this municipality; or
- (b) Inside a motor vehicle while in a public parking area or on any highway in this municipality.

(4) This section 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 Public Service Commission and subject to Neb. Admin. Code, Chapter 75, Article 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 this 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. (*Ref 60-6,211.08 RS Neb.*)

§10-121. ALCOHOLIC BEVERAGES; ACQUISITION AND POSSESSION. It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act; provided, nothing in this section shall prevent (1) the possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, or shipped into the State does not exceed nine liters in any one calendar month; (2) the making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests; (3) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in

the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians; (4) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; (5) persons who are sixteen years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor; (6) persons who are sixteen years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment; (7) persons who are sixteen years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or (8) persons who are nineteen years old or older from serving or selling alcoholic liquor in the course of their employment. (*Ref. 53-168.06, 53-175, 53-194.03 RS Neb.*) (*Amended by Ord. Nos. 326, 11/5/85: 474, 11/5/96*)

§10-122. ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than twenty-four (24) hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or municipally-owned property.

For the purposes of this section, quasi-public property shall mean and include private

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

§10-123. ALCOHOLIC BEVERAGES; LICENSED PREMISES; INSPECTIONS.

The Governing Body shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this Article, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of this Article or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (*Ref. 53-116.01 RS Neb.*) (*Amended by Ord. No. 573, 1/4/05*)

§10-124. ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS.

Any five (5) residents of the Municipality shall have the right to file a complaint with the Governing Body stating that any retail licensee subject to the jurisdiction of the Governing Body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the Governing Body 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 Governing Body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the Governing Body within thirty (30) days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in section 53-1,115 RS Neb. (*Ref. 53-134.04 RS Neb.*) (*Amended by Ord. No. 576, 1/4/05*)

§10-125. ALCOHOLIC BEVERAGES: LIQUOR APPLICATION; NOTICE:

PROCEDURE. A. Notice. Notice of a hearing held pursuant to Neb. Rev. Stat. section 53-134 shall be given to the applicant by the Municipal Clerk and shall contain the date, time, and location of the hearing. Two (2) or more proceedings which are legally or factually related may be heard and considered together unless any party thereto makes a showing sufficient to satisfy the Governing Body that prejudice would result therefrom.

B. Procedure. Hearings will be informal and conducted by the Mayor. The intent is an inquiry into the facts, not an adversarial action. Each witness may present their testimony in narrative fashion or by question and answer.

The Governing Body or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s).

The Governing Body and its representatives shall not be bound by the strict rules of evidence, and shall have full authority to control the procedures of the hearing including the admission or exclusion of testimony or other evidence. The Governing Body may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The Mayor may limit testimony where it appears incompetent, irrelevant, or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to perform such function who shall notify the Mayor of his/her representation prior to the start of the hearing.

The order of the proceeding is as follows:

1. Exhibits will be marked in advance by the Clerk and presented to the Mayor during the presentation;
2. Presentation of evidence, witnesses, and arguments by applicant;
3. Testimony of any other citizens in favor of such proposed license;
4. Examination of applicant, witnesses or citizens by Municipal Attorney, City Manager/Administrator, Governing Body, or duly appointed agent;
5. Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;
6. Presentation of evidence and witnesses by opposition;
7. Testimony of any other citizens in opposition to such proposed license.
8. Presentation of evidence by Municipality and law enforcement personnel;
9. Cross-examination by applicant;
10. Rebuttal evidence by both parties, and by Municipality administration and agent;
11. Summation by applicant and opposition spokesperson, if any.

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 Municipal 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 Governing Body or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s). (*Ref. 53-134 RS Neb.*)(*Ord. No. 332, 7/1/86*)

§10-126. LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS. The City Council shall consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the Governing Body to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

1. The adequacy of existing law enforcement resources and services in the area.
2. The recommendation of the Police Department or any other law enforcement agency.

3. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking.

4. Zoning restrictions and the Municipality's zoning and land-use policies.

5. Sanitation or sanitary conditions on or about the proposed licensed premises.

6. The existence of a citizen's protest and any other evidence in support of or in opposition to the application.

7. The existing population, and projected growth, both Municipality-wide and within the area to be served.

8. The existing liquor licenses, the class of such license, and the distance and times of travel to such licenses.

9. The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.

10. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

11. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions, requirements, rules and regulations provided for in the Nebraska Liquor Control Act.

12. The background information of the applicants established by information contained in the public records of the Nebraska Liquor Control Commission and investigations conducted by the Police Department.

13. Past compliance with state laws and liquor regulations and municipal ordinance and regulations.

14. If the application is for an on-sale license, whether it is adjunct to a legitimate food service operation as evidenced by percent of gross income allocated to food and liquor, and the type and extent of kitchen facilities.

15. Whether the applicant or its representatives has suppressed any fact or provided any nonfactual information to the local Governing Body or its employees in regard to the license application or liquor investigations. The applicant is required to cooperate in providing a full disclosure to the investigating agents of the Municipality.

16. Proximity of and impact on schools, hospitals, libraries and public institutions.

17. Whether the type of entertainment to be offered, if any, will be appropriate and nondisruptive to the neighborhood where the premises are located and to the community at large.

18. Whether or not applicant has ever forfeited bond to appear in court to answer charges of having committed a felony, or charges of having violated any law or ordinance enacted in the interest of good morals and decency, or has been convicted of violating of forfeiting bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquors.

19. The City Council may fix certain requirements and prescribe certain conditions upon a license when it is granted or permitted to continue in full force and effect whether

such requirements or conditions are imposed at a formal hearing, by a written notice, or in a written stipulation, and such requirements or conditions shall be deemed to be a part of the license as though fully endorsed therein; and any violation or breach of any requirement or condition is prohibited.

20. Other information and data that may reasonably be considered pertinent to the issuance of the license.

The preceding standards are not necessarily of equal value that can be computed in a mathematical formula. Rather, they are standards which can be weighed and cumulated positively and negatively. The burden of proof and persuasion shall be on the party filing the application. When applicable, the term "applicants" as used herein is synonymous with "licensee." (*Ref. 53-134 RS Neb.*) (*Ord. No. 331, 7/1/86*)

§10-127. ALCOHOLIC BEVERAGES; CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under section 53-124(5) RS Neb. or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in section 53-124.12 RS Neb., the Governing Body shall process the application in the same manner as provided in section 10-109 (Alcoholic Beverages; Licenses; Municipal Powers and Duties).

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

(D) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body. The tax may not exceed double the license fee for a catering license. (*Ref. 53-124.12 RS Neb.*) (*Amended by Ord. Nos. 399, 6/16/92; 449, 7/6/95; 504, 8/5/97; 575, 1/4/05*)

Article 2. Itinerant Sales

§10-201. ITINERANT SALES; DEFINITION. A transient merchant, itinerant merchant, or itinerant vendor is defined as any person, firm, or corporation, whether as owner, agent, consignee, or employee, and whether a resident of the Municipality or not, who engages temporarily within the Municipality in the business of selling and delivering goods, wares, insurance, and merchandise or taking orders for goods, insurance or merchandise, to or at homes, apartments, or other residential premises in the Municipality. *(Ref. 17-134, 75-323 RS Neb.)*

§10-202. ITINERANT SALES; LICENSE REQUIRED. It shall be unlawful for an itinerant vendor to engage in such business within the Municipality without first obtaining a license therefor. 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 Business District. *(Ref. 17-134, 75-323 thru 75-335 RS Neb.)*

§10-203. ITINERANT SALES; 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:

1. 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.

2. 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.

3. A statement of the nature of merchandise to be sold or offered for sale by the applicant.

4. A brief statement of the nature of the advertising done or proposed to be done in order to attract customers.

5. Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative.

6. 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.

(Ref. 17-134, RS Neb.)

§10-204. ITINERANT SALES; FEE. The applicant shall pay a license fee set by resolution of the Governing Body to cover the cost of processing the application and issuing the license. *(Ref. 17-134, 17-525, RS Neb.)*

§10-205. ITINERANT SALES; BOND. 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 a reasonable sum set by the Administrator and executed by the applicant as principal, and one (1) corporate surety, or two (2) 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 of Nebraska, 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 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. Action on the bond may be brought in the name of the Municipality to the use of the aggrieved person. 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 of Nebraska as a prerequisite of doing business within the State. *(Ref. 17-134, 75-329 RS Neb.)*

§10-206. ITINERANT SALES; APPOINTMENT OF AGENT. 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 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 licenses.

Immediately upon being served with process, the Municipal Clerk shall send to the licensee at his last known address, by registered mail, a copy of such process. 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. *(Ref. 17-134, 75-325 RS Neb.)*

§10-207. ITINERANT SALES; HOURS OF SOLICITATION. It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of six (6:00) o'clock P.M., and eight (8:00) o'clock A.M., unless they have a previous appointment with the resident, or residents, of the premise solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his person at all times. *(Ref. 17-134 RS Neb.)*

§10-208. ITINERANT SALES; LICENSE EXPIRATION. All licenses issued shall expire one hundred eighty (180) days after the date of issuance thereof unless a prior date is fixed therein. *(Ref. 17-134, RS Neb.)*

§10-209. ITINERANT SALES; APPEAL. 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. Such appeal shall be taken by filing with the Governing Body within fourteen (14) 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. 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 last known address. The order of the Governing Body on such appeal shall be final. *(Ref. 17-134, RS Neb.)*

§10-210. ITINERANT SALES; 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 Article and to enforce the provisions herein against any person found to be violating the same. *(Ref. 17-134, 75-334 RS Neb.)*

Article 3. Junk Yards

§10-301. DEFINITIONS. The following definitions shall be applied throughout this Chapter. Where no definition is specified, the normal dictionary usage of the word shall apply.

JUNK DEALER. The term "junk dealer" as used in this Code is hereby defined as meaning, and shall include any person engaged in the business of buying, selling, receiving, collecting or dealing in metal scraps, scrap iron, metals of any kind and in any form, bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; or the storage of iron, metals or junk.

JUNK COLLECTOR. The term "junk collector" shall be construed to mean any person going from place to place, or house to house, collecting or buying iron, copper, brass and zinc scraps, rags, bottles, or old paper, and selling the same to a junk dealer.

JUNK YARD. The term "junk yard" as used in this Code is hereby defined as meaning, and shall include any place in the Municipality where or from which any person shall conduct, engage in or carry on the business of junk dealer as herein defined.

JUNK. The term "junk" as used in this Code shall include scrap metals, scrap materials, whether they are liquids, solids, or gases, branches of trees, and dismantled or wrecked automobiles, tractors, and machinery or parts thereof. (Ref. 17-207 RS Neb.)

§10-302. JUNK YARD; REGULATION. It shall be unlawful for any person to own, operate, or hold open for public use any junk yard as herein defined without first obtaining an annual license to do so from the Administrator. Application for a license to own, operate, or hold open for public use any junk yard shall be made in writing to the Municipal Clerk and shall require such information and documents, or copies thereof, that the Administrator deems necessary to determine whether to grant or reject the said application. Upon approval of the application, the Administrator shall issue the license upon the payment of a fee set by resolution of the Governing Body. The licensee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the Governing Body may determine to be beneficial to the Municipality. Any such bond shall be set by resolution of the Governing Body and will be conditioned upon the faithful observance of the provisions of this Code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard. (Ref. 69-202 RS Neb.)

§10-303. JUNK YARD; OWNER'S RESPONSIBILITY. The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director, or employee thereof to see that the provisions of this Code will not be violated. In the event the provisions of this Code are violated, he shall be equally liable with the operator, director, or employee for the said violation of the provisions herein.

§10-304. JUNK YARD; INSPECTIONS. The Municipal Police, health officials, Administrator and the Governing Body shall have the power and authority to inspect and examine the premise on which a junk yard is located; Provided, that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director, or employee has allowed a health or safety hazard to develop, the Administrator shall give written notice to the owner to remove the said health hazard within thirty (30) days. (*Ref. 69-204 RS Neb.*)

§10-305. JUNK YARD; RECORDS. Any person who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles at the time the same was received and the name, residence, and description of the person doing the selling. The said book, as well as the article purchased, shall be at all reasonable times subject to the inspection of the Governing Body, Administrator or any member of the Municipal Police. (*Ref. 69-204 RS Neb.*)

§10-306. JUNK YARD; FENCE REQUIRED. It shall be unlawful for any Junk Dealer to keep any Junk Yard except within a building or within an enclosure tightly fenced by a board fence at least eight (8') feet high from the ground level, or in a manner such as to harbor rodents.

§10-307. JUNK YARD; NUISANCE. Upon a written complaint of the Board of Health, filed with the City Council stating that any Junk Yard is carried on or maintained so that same is harboring rodents or the provisions of this Article are not otherwise complied with, it shall be the duty of the City Council to declare same a nuisance and to notify the owner of such business and the owner of the real property upon which same is conducted, by registered mail addressed to their last known addresses, to correct the condition within ten (10) days and if such owners fail to correct the condition and to notify the Administrator thereof within said time, the City Attorney shall bring suit to abate such nuisance. (*Ref. 18-1720 RS Neb.*)

§10-308. JUNK YARD; RODENTS. Any person who owns, operates, directs, or is employed by a junk yard shall make a diligent and continuous effort to exterminate all rats, mice, and other harmful rodents frequenting the said junk yard. (*Ref. 18-1720 RS Neb.*)

Article 4. Railroads

§10-401. RAILROAD COMPANIES; SAFE CROSSING. It shall be the duty of every railroad company doing business in, or traveling through, the Municipality to keep in a suitable, and safe condition the crossings and right-of-way in the Municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the Governing Body may, by resolution, call upon the said company to make whatever repairs that it may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail, or neglect to repair, and correct the said condition as aforesaid within forty-eight (48) hours, neglect for each twenty-four (24) hours thereafter shall be deemed, and is hereby made a separate, and distinct offense against the provisions herein. *(Ref. 17-143, 17-144, 17-521, 17-552, 18-1719 RS Neb.)*

§10-402. RAILROAD COMPANIES; OBSTRUCTING VIEW AT CROSSINGS PROHIBITED. It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within one hundred (100') feet of the crossing of any such railroad track and a public road within the corporate limits of the Municipality; Provided, however, in no instance shall any person who is authorized to control the movement of such railroad car or cars within such distance be prevented from reasonably conducting his or her business. *(Ref. 74-1323 RS Neb.)(Ord. No. 327, 3/4/86)*

Article 5. Franchises

§10-501. FRANCHISE; NATURAL GAS. *(Transferred to §10-701)*

§10-502 FRANCHISE; TELEPHONE. The Governing Body has granted to the Great Plains Telephone Company, Inc. the authority to maintain, and operate a telephone system within the Municipality. Actual details of the agreement, and the present telephone rates, charges, and fees are available at the Municipal Clerk's office. *(Ref. 7-525 RS Neb.)*

§10-503. FRANCHISE; COMMUNITY ANTENNA TELEVISION (CATV). The Governing body has granted to Universal Cable Holdings, Inc. the authority to maintain and operate a CATV system in the Municipality. Actual details of the agreement and the charges, rates and fees are available at the Municipal Clerk's Office. *(Ref: 18-22-01 et seq. RS Neb.) (Amended by Ord. No. 541, 11/2/99)*

Article 6. Occupation Taxes

§10-601. OCCUPATION TAX; COLLECTION RATE. All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; Provided, occupation taxes collected from Class C liquor licensees shall be due and payable on the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. *(Ref. 17-525 RS Neb.)*

§10-602. OCCUPATION TAX; CERTIFICATES. The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person, and business that paid the said tax. The Occupation Tax Certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted. *(Ref. 17-525 RS Neb.)*

§10-603. OCCUPATION TAX; FAILURE TO PAY. If any person, company, or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due, and payable, the Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one (1%) per cent per month until paid. *(Ref. 17-525 RS Neb.)*

§10-604. OCCUPATION TAX; AMOUNTS. There is hereby levied an occupation tax upon each and every occupation herein enumerated, within the corporate limits of this City, in the several different amounts, and upon the several different respective occupants, professions and lines of business, as follows:

Billiard or pool halls, first table per year	\$25.00
Each additional table, per year	\$5.00
 Bowling or ten-pin alley, each alley, per year.....	 \$10.00
 Fruit and vegetables, dealers in, selling or offering for sale at retail to persons, firms or corporations from railroad cars, trucks, automobiles, or other vehicles, per day.....	 \$5.00

Occupation taxes shall be paid by dealers in alcoholic liquors as follows:

- a. Retailer of beer only for consumption on or off the premises, per year \$25.00
- b. Retailer of alcoholic liquors, including beer, for consumption off the premises, per year \$150.00
- c. Retailer of alcoholic liquors for consumption on the premises and off the premises \$500.00
(Ref. 17-525 RS Neb.)

§10-605. OCCUPATION TAXES; PRO-RATE. Occupation taxes due and payable for the first license year of any dealer in alcoholic liquors shall be pro-rated as follows: if such license will require renewal in less than twelve (12) months then the occupation tax due shall be prorated by multiplying the annual tax by a fraction, the numerator of which is the number of full or partial quarter-annual periods to renewal date and the denominator of which is four (4). *(Ord. No. 378, 6/12/90) (Amended by Ord. No. 571, 1/4/05)*

Article 7. Natural Gas Regulations

§10-701. FRANCHISE; NATURAL GAS. The Governing Body has granted to Sourcegas Distribution, LLC, the authority to construct, maintain, and operate a gas transmission, and distribution system within the Municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office. *(Ref. 17-528.02 RS Neb. See Ord. No. 590, 12/2/08)*

§10-702. NATURAL GAS REGULATIONS; RATE FILING FEE. The Municipality shall charge and collect a filing fee from Natural Gas Companies for a rate filing. The fee shall be three hundred (\$300.00) dollars. *(Ord. No. 353, 10/6/87)*

Article 8. Sales and Use Tax

§10-801. MUNICIPAL SALES AND USE TAX. (1) From and after April 1, 1997, pursuant to the provisions of sections 77-27,142 to 77-27,148 R.R.S. 1943, as amended, the Local Option Revenue Act, the City of Red Cloud shall impose a sales and use tax of one percent (1%) upon the same transactions within the corporate city limits of the City of Red Cloud on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended.

(2) As approved by a majority of the electors of the City of Red Cloud at the November 5, 1996 election, the proceeds of the tax may only be used by the Municipality for the following purposes, to-wit: (a) renovation of the Red Cloud Municipal Swimming Pool Bathhouse; (b) construction of the Red Cloud Civic Center; (c) upon completion of items (a) and (b), then twenty-five percent (25%) annually to the maintenance of the items (a) and (b) and seventy-five percent (75%) annually to all lawful Municipal purposes, including, but not limited to Municipal street improvements.

(3) The administration of the sales and use tax, imposed by subsection (1) of this section, making of returns for the ascertainment, assessment, the provision for tax claims and remedies, the laws governing consummation of sales, penalties for collection and for the disposition and distribution of the taxes so imposed and collected, shall be provided in sections 77-27,142 to 77-27,148 R.R.S. 1943, as amended.

(4) The sales and use tax imposed by subsection (1) of this section shall become effective on April 1, 1997, in accordance with the provisions of section 77-27,143 R.R.S. 1943, as amended, which provides that for ordinances passed after October 1, 1969, the effective date shall be the first day of the next calendar quarter following receipt by the Tax Commission of a certified copy of the adopting ordinance; provided a certified copy of the ordinance is received 60 days prior to the date of the next calendar quarter.

(5) The City Clerk shall furnish or cause to be furnished to the Tax Commissioner of the State of Nebraska a certified copy of this adopting ordinance and a map of the City of Red Cloud, Nebraska clearly showing the boundaries thereof, at least 60 days prior to the 1st day of April, 1997, as provided by law. (*Ord. No. 476, 1/21/97*)

§10-802. ADDITIONAL SALES AND USE TAX. (1) That pursuant to the approval of the electors of the City of Red Cloud, Nebraska, at the special election held on May 12, 2009, there is hereby adopted pursuant to the provisions of §77-2701 to 77-27,135, R.R.S. Neb., 2003 as amended, known as the Nebraska Revenue Act of 1967, and Sections §77-27,142 to 77-27,148, R.R.S. Neb. 2003, as amended, known as the Local Option Revenue Act, a sales and use tax which tax shall be one-half of one percent (0.5%) upon the same transactions within the corporate limits of the City of Red Cloud, Webster County, Nebraska, on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the aforementioned statutes of the State of Nebraska as the same may from time to time be amended, which sales and use tax shall be in addition to the one-percent (1%) sales and use tax currently imposed by the City; said additional sales and use

tax shall commence on October 1, 2009, and shall continue for a period of twenty (20) years from the time of its first going into effect or for such shorter period as shall be required to result in annual collections sufficient to retire bonds issued for construction of an assisted living facility.

(2) That the administration of the Sales and Use Tax imposed by this Ordinance, the making of returns for the ascertainment and assessment, the provisions for tax claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected shall be as provided by Sections 77-27,142 to 77- 27,148 R.R.S. Neb., 2003, as amended, Sections 77-2701 to 77-27,135, R.R.S. Neb., 2003, as amended, as approved by the electors of the City of Red Cloud, Nebraska, at the special election held on August 10, 2004.

(3) That the City Clerk shall mail a certified copy of this Ordinance and a certified copy of a map of the City of Red Cloud, Nebraska, showing the corporate limits thereof to the Nebraska Tax Commission and Nebraska Department of Revenue immediately after the passage of this Ordinance and at least one hundred twenty (120) days prior to October 1, 2009, as provided by law. (*Ord. No. 593, 5/26/09*)

Article 9. Penal Provisions

§10-901. VIOLATION: PENALTY. *(Repealed by Ord. No. 587, 1-08-08. See §12-101)*

§10-902. ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 18-1720, 18-1722 RS Neb.)*