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CHAPTER 10 – BUSINESS REGULATIONS

Article 1. Alcoholic Beverages

§10-101 ALCOHOLIC BEVERAGES; SALE AUTHORIZED; SALE FORBIDDEN DURING CERTAIN HOURS; POSSESSION OF ALCOHOLIC LIQUOR IN OPEN CONTAINERS FORBIDDEN DURING CERTAIN HOURS.

A. Alcoholic liquor may be sold at retail or dispensed within this City seven days a week; provided, however, on Monday through Saturday, no person shall sell at retail or dispense alcoholic liquor, including beer, between the hours of 1:00 a.m. and 6:00 a.m.; provided further, however, no person shall sell at retail or dispense alcoholic liquor, including beer, within this City on Sunday between the hours of 1:00 a.m. and 12:00 p.m.

B. It shall be unlawful within this City on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6:00 a.m. on any day; provided, however, it shall be unlawful within this City on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 12:00 p.m. on Sunday.

(Ref. 53-179 RS Neb.) (Amended by Ord. No. 490, 5/25/95)

§10-102 ALCOHOLIC BEVERAGES; CONSUMPTION ON PUBLIC PROPERTY PROHIBITED; EXCEPTIONS.

A. *City Properties Covered by this Section.* The city-owned properties intended to be covered by this section are the City Auditorium, the City Fire Station, all city parks, and the public streets, alleys and parking areas.

B. *Consumption of Alcoholic Beverages.* It shall be unlawful for any person to consume alcoholic liquors or beverages in or upon any public streets, alleys, parking areas, roads or highways or inside vehicles while upon such public streets, alleys, parking areas, roads or highways or upon any property owned by the City except as provided in this section.

C. *City Parks.* The consumption of alcoholic liquors and beverages in said parks is hereby permitted, except that such consumption is not permitted between the hours of 1:00 A.M. and 7:00 A.M. and except that such consumption must not create a nuisance, be done in a boisterous or offensive manner, cause drunkenness or disorderliness or create a disturbance or loud noise or littering, any of which may disturb other persons using the park facilities or residents living adjacent to the park.

D. *City Fire Station.* The consumption of alcoholic liquors or beverages in the City Fire Station is hereby authorized, provided that the same shall be consumed only at functions sponsored or supervised by the Oakland Fire Department.

E. *City Auditorium*. The consumption of alcoholic liquors in the City Auditorium shall be governed by the provisions of Section 3-802 of this code (City Auditorium; Rentals). (Ref. 53-186 RS Neb.)

§10-103 ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL 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 or craft brewery licensees carried on within the corporate limits of the City. (Neb. RS 53-134.03)

B. During the period of 45 days after the date of 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 City Council may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant. (Neb. RS 53-131)

C. The City Council, with respect to licenses within the corporate limits of the City, has the following powers, functions, and duties with respect to retail 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 City Council 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 Neb. RS 53-124 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 licensee or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may author-

ize 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 _____ (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 Liquor Control Commission within 30 days after the date of the order by filing a notice of appeal with that body. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133;

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 such hearing shall be published in a legal newspaper in or of general circulation in the City, one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the Council 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 45 days after the date of receipt of the notice from the Commission, and after such hearing the Council shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The City Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. RS 53-134)

D. When the Nebraska Liquor Control Commission mails or delivers to the City 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:

1. The license fee if by the terms of Neb. Rev. Stat. 53-124(5) 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. Rev. Stat. 53-135.01; and

4. Occupation taxes, at an amount double the liquor license fee, imposed by the City.

E. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under

the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. RS 53-132) (Ord 607, 12/13/04)

Article 2. Bingo

§10-201 BINGO; REGULATION.

Games of bingo shall be conducted within the City in accordance with all laws of the City and the State if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of said game. Application shall be made to the City Clerk for such permit, and said application form shall contain such information and documents or copies thereof as the City Council deems necessary to determine whether to grant or reject the permit. Upon a determination that granting the permit would be proper, the City Council shall immediately direct the City Clerk to issue the same to the applicant upon the payment of an annual permit fee of \$10.00. Said permit shall be subject to revocation at any time for good cause. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the City Council may designate. All permits so issued will automatically expire on September 30 following their issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10.00, which shall be credited to the General Fund. Every permit shall be on display at any place where a game of bingo is conducted. (Ref. 9-236 RS Neb.)

§10-202 BINGO; TAX.

A tax of 2% of the gross receipts of each licensed association deriving revenue from the game of bingo is hereby imposed and levied against each such association and payable on or before the 30th day of the immediately succeeding calendar quarter to the City Treasurer. Such tax shall be credited to the City General Fund and shall be used to pay for the cost of regulation and enforcement of this article. (Ref. 9-239 RS Neb.)

§10-203 BINGO; QUARTERLY REPORT.

Each association conducting the game of bingo shall submit a written quarterly report to the City Clerk covering the preceding calendar quarter on or before the 30th day of the immediately succeeding calendar quarter. (Ref. 9-239 RS Neb.)

§10-204 BINGO; INCORPORATED REGULATION.

All applicable state statutes as they now exist or may hereafter be amended shall be and will constitute a part of this article as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the City as well as against the State. Violators thereof shall be separately prosecuted by the City for each of such offenses and if convicted shall be deemed to be guilty of a misdemeanor. (Ref. 9-201 through 9-265 RS Neb.)

Article 3. Peddlers and Hawkers

§10-301 PEDDLERS AND HAWKERS; REGULATION.

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers and hawkers shall register with the City Clerk before doing business within the City. The registration forms, supplied by the Clerk, shall contain all the necessary information required for the protection of the residents of the City. All peddlers and hawkers shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein. (Ref. 17-134, 17-525, 17-562 RS Neb.)

§10-302 PEDDLERS AND HAWKERS; HOURS OF SOLICITATION.

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of 6:00 P.M., and 8:00 A.M. unless he/she has a previous appointment with the resident or residents of the premises solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his/her person at all times. (Ref. 17-134, 17-562 RS Neb.)

§10-303 PEDDLERS AND HAWKERS; EXCEPTIONS.

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, or to wholesale salespersons soliciting merchants directly. (Ref. 17-562 RS Neb.)

Article 4. Railroad Companies

§10-401 RAILROAD COMPANIES; SAFE CROSSING.

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

§10-402 RAILROAD COMPANIES; LIGHTING AND SIGNALS.

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

§10-403 RAILROAD COMPANIES; OBSTRUCTING TRAFFIC.

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the City to obstruct traffic on any public street, except in the event of an emergency, for a longer period than 10 minutes at one time. (Ref. 17-552 RS Neb.)

§10-404 RAILROAD COMPANIES; SPEED LIMIT ORDINANCE; PROCEDURE.

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

Article 5. Occupation Taxes

§10-501 OCCUPATION TAX; AMOUNTS.

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

Retail Liquor Licenses	
Class A (On Sale Beer only)	\$100.00
Class B (Off Sale Beer only)	50.00
Class C (On & Off Sale Alcoholic Liquor)	500.00
Class D (Off Sale Alcoholic Liquor and Beer)	300.00
Class H (On Sale Alcoholic Liquor, Nonprofit)	100.00
Class I (On Sale Alcoholic Liquor)	400.00
Class J (On Sale Beer & Wine, Restaurants)	150.00
Class K (Off Sale Wine only)	250.00
Fire Insurance Companies	5.00

§10-502 OCCUPATION TAX; FIRE INSURANCE COMPANIES.

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

§10-503 OCCUPATION TAX; COLLECTION DATE.

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

§10-504 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.)

§10-505 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 City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid. (Ref. 17-525 RS Neb.)

Article 6. Penal Provisions

§10-601 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$100.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

