

Chapter 10

BUSINESS REGULATIONS

Article 1. Amusements

§10-101 BINGO; REGULATION:

Games of bingo shall be conducted within the Municipality in accordance with all laws of the Municipality and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing operation of said game. Application shall be made to the Municipal Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of an annual permit fee of ten (\$10.00) dollars. Said license 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 Governing Body may designate. All permits so issued will automatically expire on September thirtieth (30th), following their issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of ten (\$10.00) dollars. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted. (*Ref 9-166 RS Neb*)(*Amended by Ord 422, 10/9/78; 499, 10/8/84*)

§10-102 BINGO; TAX: (*Repealed by Ord 741, 7/12/99*)

§10-103 BINGO; QUARTERLY REPORT: (*Repealed by Ord 741, 7/12/99*)

§10-104 BINGO; INCORPORATED REGULATION:

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

Article 2. Business Enterprises

§10-201 FIREWORKS; SALE:

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

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

(3) Permissible fireworks may be sold at retail only between June 24 and July 5 of each year. (*Ref 28-1249 RS Neb*) (*Amended by Ord 815, 12/27/05*)

§10-202 FIREWORKS; DEFINED:

Fireworks shall mean any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations. (*Ref 28-1241 RS Neb*) (*Ord 552, 9/26/88*)

§10-203 FIREWORKS; PERMITTED FIREWORKS:

It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, vesuvian fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths (7/8") inch in length or one-eighth (1/8") inch in diameter, and which do not contain more than fifty (50) milligrams each in weight of explosive material.

The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the Governing Body or to fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal. (*Ref 17-556, 28-1241, 28-1244, 28-1245 RS Neb*) (*Ord 551, 9/26/88*)

Article 3. Occupation Taxes

§10-301 OCCUPATION TAX; AMOUNTS:

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

Fire Insurance Companies, per year	\$25.00
Retailer of Alcoholic Beverages, per year	\$75.00
Telephone Company, per year	\$250.00
Operators of Community Antenna Television Systems	3½% of gross service charges
Tobacco Retailers, per year	\$10.00
Natural Gas Distribution Companies	2% of gross revenues
Canvassers, solicitors and peddlers	
Up to six months	\$30.00
Over six months to one year	\$50.00

(Amended by Ord 425, 11/27/78; 477, 7/25/83; 580, 9/9/91)

§10-302 OCCUPATION TAX; FIRE INSURANCE COMPANIES:

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

§10-303 OCCUPATION TAX; COLLECTION DATE:

All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. *(Amended by Ord 393, 3/22/76)*

§10-304 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.

§10-305 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 percent (1%) per month until paid.

Article 4. Alcoholic Beverages

§10-401 ALCOHOLIC BEVERAGES; DEFINITIONS:

For purposes of alcoholic liquor regulations in the Code of Ordinances, the definitions found in sections 53-103.01 through 53-103.42 RS Neb shall be used. (*Ord 395, 7/26/76*) (*Amended by Ord 887, 2/28/11*)

§10-402 ALCOHOLIC BEVERAGES; HOURS OF SALE:

(1) For the purposes of this section, “on sale” shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment. “Off sale” shall be defined as alcoholic beverages sold at retail 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.

(2) 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; Beer and Wine:

ALL Days, including Sundays:

Off Sale.6:00 A.M. to 2:00 A.M.
On Sale.6:00 A.M. to 2:00 A.M.

(3) 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.

(4) Nothing in this section shall be construed to prohibit licensed premises from being open for 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 942, 7/24/2017; Ord 990 7/27/2020*)

§10-403 [Consolidated with section 10-402, Ord 435, 10/22/79]

§10-404 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*) (*Ord 436, 10/22/79*) (*Amended by Ord 456, 10/26/81*)

§10-405 ALCOHOLIC BEVERAGES; LICENSE RENEWAL; CITY 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 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 60 days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year. (*Ref 53-135 RS Neb*)

(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 licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in section 53-135 RS Neb. (*Ref 53-135.01 RS Neb*) (*Ord 437, 12/10/79*) (*Amended by Ord 484, 11/28/83; 817, 12/27/05; 963, 2/25/2019*)

§10-406 ALCOHOLIC BEVERAGES; LICENSEE REQUIREMENTS:

- (1) No license shall be issued to:
 - (a) A person who is not a resident of this state, except in case of railroad, airline, boat, or special party bus licenses;
 - (b) A person who is not of good character and reputation in the community in which he or she resides;
 - (c) A person who is not a resident of this state and legally able to work in this state;
 - (d) A person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States;
 - (e) A person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant Neb. RS Chapter 28, art. 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this division on May 18, 1983, shall not prevent any person holding a license on that date from retaining or renewing that license if the conviction or plea occurred prior to May 18, 1983;
 - (f) A person whose license issued under the Nebraska Liquor Control Act has been revoked for cause;
 - (g) 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;
 - (h) A partnership, unless 1 of the partners is a resident of this state and unless all the members of that partnership are otherwise qualified to obtain a license;
 - (i) A limited liability company, unless 1 of the members is a resident of this state and unless all the members of that company are otherwise qualified to obtain a license;
 - (j) A corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of that corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in divisions (A)(1) and (A)(3) of this section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This division shall not apply to railroad licenses;

(k) 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;

(l) 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;

(m) Except as provided in this division, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such an applicant shall become eligible for a liquor license only if the Nebraska Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if the license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

- (1) The licensed business will be the sole property of the applicant; and
- (2) The licensed premises will be properly operated.

(n) A person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal;

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

(p) A person less than 21 years of age.

(2) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent. *(Ref 53-125 RS Neb) (Ord 484, 11/28/83) (Amended by Ord 888, 2/28/11; 1014, 8/9/2021)*

§10-407 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; MUNICIPAL EXAMINATION: *(Repealed by Ord 751, 8/28/00)*

10-408 ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL POWERS AND DUTIES:

(1) 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 licensees carried on within the corporate limits of the City. (Neb. RS 53-134.03)

(2) During the period of 45 days after the date of receipt by mail or electronic delivery from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license, or a 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. (Neb. RS 53-131)

(3) 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:

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

(b) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated, and at that time examine the premises of the licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

(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, 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;

(e) 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 purposes 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 Neb. RS 53-134.04, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133;

(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, 1 time not less than 7 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/Board of Trustees) 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; and

(h) To review and authorize an application by a retail, bottle club, craft brewery, farm winery, or micro-distillery licensee for a temporary expansion of its licensed premises within the jurisdiction of the local governing body to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed 50 days for calendar year 2020 and, for each calendar year thereafter, not to exceed 15 days per calendar year, as provided in Neb. RS 53-123.12 and Neb. RS 53-129.

(i) To review and authorize an application by a craft brewery, farm winery, or micro-distillery licensee that holds a promotional farmers market special designated license for a permit to use such promotional farmers market special designated license to sell or dispense alcoholic liquor, which the holder is licensed to produce, at a farmers market within the jurisdiction of the local governing body as provided in section 14 of this act. The local governing body shall electronically notify the commission within five days after authorization of any permit pursuant to this subdivision. (*Neb. RS 53-134*)

(4) (a) When the Nebraska Liquor Control Commission mails or delivers to the (City/Village) Clerk a retail, craft brewery, or micro-distillery 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 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/village), 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/village) 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/village) in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain that license. (*Ref 53-132 RS Neb*) (*Ord 484, 11/28/83*) (*Amended by Ord 751, 8/28/00; 816, 12/27/05; 889, 2/28/11; 894, 1/23/12; 952, 3/12/2018; 1006, 8/9/2021; 1023, 7/25/2022*)

§10-409 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS:

Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The Governing Body shall only 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:

- a. The adequacy of existing law enforcement resources and services in the area;
- b. The recommendation of the Police Department or any other law enforcement agency;
- c. 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;
- d. Zoning restrictions and the local Governing Body's zoning and land-use policies;
- e. Sanitation or sanitary conditions on or about the proposed licensed premises;
- f. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- g. The existing population and projected growth within the jurisdiction of the local Governing Body and within the area to be served;
- h. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that issued such licenses;
- i. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- j. Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in section 53-101.01;
- k. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with section 53-102;
- l. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;
- m. Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;
- n. 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 and requirements of and rules and regulations adopted and promulgated pursuant to the act;
- o. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;
- p. Past evidence of discrimination involving the applicant as evidenced by findings of fact

before any administrative board or agency of the local Governing Body, any other governmental board or agency of the local Governing Body, any other governmental unit, or any court of law;

- q. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the commission or local Governing Body or the employees of the commission in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local Governing Body;
- r. Proximity of and impact on schools, hospitals, libraries, parks, and public institutions;
- s. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and
- t. Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the 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 or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "licensee." (*Ref 53-134 RS Neb*) (*Ord 506, 5/27/86*) (*Amending Ord 527, 10/12/87; 565, 11/27/89*)

§10-410 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE:

(1) 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.

(2) Procedure. Hearings will be informal and conducted by the Municipal Attorney. 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 may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The Municipal Attorney 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 Municipal Attorney 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 Municipal Attorney

- 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, 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 507, 5/27/86*) (*Amended by Ord 527, 10/12/87; 566, 11/27/89*)

§10-411 ALCOHOLIC BEVERAGES; CATERING LICENSES:

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

(2) Upon receipt from the Commission of the notice and a copy of the application as provided in section 53-124.12 RS Neb, the Governing Body shall process the application in the same manner as provided for other alcoholic liquor retail licenses.

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

(4) 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*) (*Ord 555, 9/26/88*) (*Amended by Ord 585, 6/8/92; 653, 4/24/95; 711, 11/24/97; 749, 8/28/00; 789, 8/25/03; 818, 12/27/05; 890, 2/28/11*)

§10-412 ALCOHOLIC BEVERAGES; KEG SALES; REGISTRATION; KEG IDENTIFICATION NUMBERS; PROHIBITED ACTS:

(1) When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or eighteen and ninety-two hundredths or more liters, the seller shall record the date of 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 such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the 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.

Such 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.

(2) Licensees shall place a label bearing a keg identification number on each keg at the time of retail sale. Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of an offense. (*Ref 53-167.02, 53-167.03 RS Neb*) (*Ord 639, 5/23/94*)

§10-413 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*) (*Ord 678, 2/26/96*)

§10-414 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 section 53-186(2) RS Neb, or as provided in Neb RS 60-6,211.08 it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (*Neb RS 53-186*)

(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. (*Ref 53-186.01 RS Neb*) (*Ord 750, 8/28/00, 961, 2/25/2019*)

§10-415 ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS:

Any five (5) residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee 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. Such 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 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 City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in section 53-1,115 RS Neb. (*Ref 53-134.04 RS Neb*) (*Ord 819, 12/27/05*) (*Amending Ord 962, 2/25/2019*)

§10-416 LICENSE TO SELL; ISSUANCE:

Licenses for the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material to persons 21 years of age or over shall be issued to individuals, partnerships, limited liability companies, and corporations by the (City/Village) Clerk upon application duly made as provided in § 112.02. (Neb. RS 28-1421) *Statutory reference: Licenses required, see Neb. RS 28-1420; Prohibited sales, see Neb. RS 28-1421* (*Ord 979, 12/23/2019; 1007, 8/9/2021*)

§10-417 RIGHTS OF LICENSEE:

(A) The license provided for in §§ 112.01 and 112.02 shall, when issued, authorize the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material by the licensee and employees, to persons 21 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.

(Neb. RS 28-1424)

(B) If the license is revoked and forfeited pursuant to Neb. RS 28-1425, all rights under the license shall at once cease and terminate. (*Ord 980, 12/23/2019;1008, 8/9/2021*)

Statutory reference: Sale to person under 21 prohibited; Penalties, see Neb RS 28-1425

(A) 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.

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

(C) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than 150,000 cigars, packages of cigarettes, electronic nicotine delivery system, 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 system, 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 system, 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.

(D) If application for license is made after July 1 of any calendar year, the fee shall be ½ of the fee provided in this section. (*Neb RS 28-1423*) (*Ord 981, 12/23/2019*)

Article 5. Lottery

§10-501 LOTTERY:

The City of Pawnee City is hereby authorized to establish and conduct lotteries, the proceeds of such lotteries to be used for community betterment purposes and the awarding of prizes to participants pursuant to the provisions of Nebraska Revised Statutes section 28-1116. The City Council shall adopt by resolution the necessary rules and regulations to establish and conduct such lotteries. (*Ord 474, 11/22/82*)

§10-502 LOTTERY; INTERLOCAL AGREEMENT:

WHEREAS, it is necessary that the City of Pawnee City, Nebraska, provide for the health, welfare, safety, and public morals of its population;

WHEREAS, the City desires to engage in a program of community betterment as defined in section 9-604 of Nebraska Law;

WHEREAS, it has been determined that to operate an effective lottery, dedicated management is necessary and the benefits of operating the lottery in conjunction with other communities in an interlocal agreement is necessary and desirable;

WHEREAS, the City has an opportunity to join other Nebraska cities, villages, and counties in the Nebraska Cooperative Lottery Interlocal Agreement for the purposes of conducting a joint lottery;

WHEREAS, a copy of such Nebraska Cooperative Lottery Interlocal Agreement, as revised and approved as to form, has been provided to the City and its terms are agreeable; and

WHEREAS, the electorate of the City has duly approved the City conducting a lottery;

IT IS THEREFORE RESOLVED AND ORDAINED by the Mayor and the City Council of the City of Pawnee City, Nebraska, that it desires to and hereby does elect to become a party to the Nebraska Cooperative Lottery Interlocal agreement and agrees to be bound hereby to the same extent as an original party hereto and shall be entitled to the rights and privileges thereto appertaining.

The Mayor is hereby authorized to execute the said Interlocal Agreement on behalf of the City. Prior ordinances in conflict herewith are repealed. (*Ord 583, 3/23/92*)