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CHAPTER 4 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

SECTION 4-101: 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. (Neb. Rev. Stat. §53-103)

SECTION 4-102: 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 (A) 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; (B) the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests; (C) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of 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; (D) 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; (E) persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor; (F) persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment; (G) persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or (H) persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment. (Neb. Rev. Stat. §53-168.06, 53-175, 53-194.03) (Am. by Ord. Nos. 556, 11/6/80; 686, 12/3/85; 1022, 2/6/96)

SECTION 4-103: CONSUMPTION IN PUBLIC PLACES

It shall be unlawful for any person to consume alcoholic beverages within the corporate limits upon the public ways and property, including inside vehicles while upon the public ways and property. It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment.

SECTION 4-104: LICENSE REQUIRED

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the City unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-102)

SECTION 4-105: LOCATION

It shall be unlawful for any person or persons to own, maintain, manage or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two years and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on if the said hotel, club or restaurant was licensed and in operation prior to May 24, 1935. No alcoholic liquor other than beer shall be sold for consumption on the premises within 300 feet from the campus of any college within the City. (Neb. Rev. Stat. §53-177)

SECTION 4-106: DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises 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 premises and such other portion of the building which is used only by the licensee, his or her family or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 4-107: LICENSEE REQUIREMENTS

It shall be unlawful for any person to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premises are 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 Neb. Rev. Stat. Chapter 28, Article 3, 4, 7, 8, 10, 11 or 12 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 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 25 sleeping rooms or where the request is limited to on-premises sale of beer only in a restaurant. (Neb. Rev. Stat. §53-124.03, 53-125) (Am. by Ord. Nos. 560, 12/4/80; 650, 1/3/84)

SECTION 4-108: MUNICIPAL POWERS AND DUTIES

The City Council is authorized to regulate by ordinance not inconsistent with the provisions of the Nebraska Liquor Control Act the business of all retail and bottle club licensees carried on within the corporate limits. The Council shall further have the power and duty in respect to licensed retailers of alcoholic beverages to cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction subject to the right of appeal to the Commission; to enter or to authorize any law enforcement officer to enter at any time upon any premises licensed by the State to determine whether any of the provisions of the municipal or state laws are being violated; to receive signed complaints from any citizens within its jurisdiction that any of the municipal or state laws are being violated and to act upon such complaints in the manner herein provided; to cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Section 4-127, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors; and to collect for the benefit of the State and the City all license fees and occupation taxes as prescribed by law. (Neb. Rev. Stat. §53-134) (Am. by Ord. Nos. 554, 11/6/80; 650, 1/3/84)

SECTION 4-109: LICENSE APPLICATION; MUNICIPAL EXAMINATION

A. Any person desiring to obtain a license to sell alcoholic liquor at retail shall file an application with the Liquor Control Commission. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-131, the City Council shall fix a time and place at which time the Council shall receive evidence

under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of notice from the Commission. The City Council may examine or cause to be examined any applicant, under oath; 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 City Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

B. 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 nor more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

C. The City Council shall, after the hearing provided in subsection (A), approve or deny the application within 45 days of its receipt 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 city clerk shall thereupon mail or deliver to the Commission a copy of the resolution within ten days of the decision to approve or deny the application.

D. Any resolution denying an application rendered by the City Council shall be in writing or stated in the record and shall be accompanied by findings, which 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.

(Neb. Rev. Stat. §53-131, 53-132, 53-134) (Am. by Ord. No. 869, 2/4/92)

SECTION 4-110: LICENSE APPLICATION; NOTICE; PROCEDURE

A. Notice of a hearing held pursuant to Neb. Rev. Stat. §53-134 shall be given to the applicant by the city clerk and shall contain the date, time and location of the hearing. Two 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 City Council that prejudice would result there from.

B. Hearings will be informal and conducted by the city attorney. The intent is an inquiry into the facts, not an adversarial action. Each witness may present his or her testimony in narrative fashion or by question and answer. The City Council or the applicant may order the hearing to be recorded by the clerk at the expense of the applicant.

C. The City Council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The city 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 city attorney of his or 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 city

- 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 city attorney, City Council, 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 city and law enforcement personnel;
9. Cross-examination by applicant;
10. Rebuttal evidence by both parties, and by city administration and agent;
11. Summation by applicant and opposition spokesperson, if any.

D. In all cases, the burden of proof and persuasion shall be on the party filing the application. Any member of the City Council and the city attorney may question any witness, call witnesses, or request information. All witnesses shall be sworn. The City Council or the applicant may order the hearing to be recorded by the clerk at the expense of the applicant. The Council may make further inquiry and investigation following the hearing.

(Neb. Rev. Stat. §53-134) (Ord. No. 694, 5/6/86) (Am. by Ord. No. 789, 11/7/89)

SECTION 4-111: LICENSE APPLICATION; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS

A. Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The City Council 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 City Council 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 City Council's zoning and land-use policies;
5. Sanitation or sanitary conditions on or about the proposed licensed premises;
6. The existence of a citizens' protest and similar evidence in support of or in opposition to the application;
7. The existing population and projected growth within the jurisdiction of the City Council and within the area to be served;
8. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that were issued such licenses;
9. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;

10. 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 Neb. Rev. Stat. §53-101.01;
11. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. Rev. Stat. §53-102;
12. 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;
13. 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;
14. 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;
15. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;
16. Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the City Council, any other governmental board or agency of the City Council, any other governmental unit, or any court of law;
17. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Commission or City Council 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 Council;
18. Proximity of and impact on schools, hospitals, libraries, parks and public institutions;
19. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and
20. 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.

B. 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."

(Neb. Rev. Stat. §53-134) (Ord. No. 693, 5/6/86) (Am. by Ord. No. 790, 11/7/89)

SECTION 4-112: CATERING LICENSE

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a brewpub license may obtain an annual catering license as pre-

scribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Liquor Control Commission.

B. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall fix a time and place at which a hearing will be held, at which time the Council shall receive evidence under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The City Council may examine or cause to be examined any applicant, under oath; 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 City Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

C. 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 nor more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

D. The City Council shall, after the hearing provided in subsection (B), approve or deny the application within 45 days of its receipt 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 city clerk shall thereupon mail or deliver to the Commission a copy of the decision to approve or deny the application.

E. Any resolution denying an application rendered by the City Council shall be in writing or stated in the record and shall be accompanied by findings, which 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.

F. The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the District Court.

(Neb. Rev. Stat. §53-124.12) (Am. by Ord. Nos. 868, 2/4/92; 980, 3/21/95; 1060, 7/1/97)

SECTION 4-113: LICENSE DISPLAYED

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises. (Neb. Rev. Stat. §53-148)

SECTION 4-114: HOURS OF SALE

A. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the City except during the hours provided herein:

Alcoholic Liquors, Beer and Wine	
Daily	
Off Sale	6:00 A.M. to 2:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.

B. No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 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.

C. 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.

(Neb. Rev. Stat. §53-179) (Am. by Ord. Nos. 471-A, 11/1/77; 487-A, 2/7/78; 650, 1/3/84; 773, 6/6/89; 848, 9/10/91; 985, 5/2/95; 1346, 2/16/15; 1348, 4/6/15)

SECTION 4-115: LIQUOR LICENSE RENEWAL

Outstanding retail or bottle club licenses issued by the Liquor Control Commission may be automatically renewed in the absence of a request by the City Council to require the said licensee to issue an application for renewal. Any licensed retail or bottle club establishment 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 shall be authorized to continue all license privileges pursuant to this article until the original license expires, 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. The city clerk, upon notice from the Commission, between January 10 and January 30 of each year shall cause to be published one time in a legal newspaper in or of general circulation in the City a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City; provided, Class C license renewal notices shall be published between the dates of July 10 and July 30 of each year. The clerk shall then file with the Commission proof of publication of said notice on or before February 10 of each year or August 10 of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the Council may request a licensee to submit an application. (Neb. Rev. Stat. §53-135, 53-135.01) (Am. by Ord. Nos. 532, 1/8/80; 650, 1/3/84)

SECTION 4-116: OWNER OF PREMISES

The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premises in violation of any municipal code section or Nebraska statute. (Neb. Rev. Stat. §53-1,101)

SECTION 4-117: 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 of omission or violation of any law or ordinance, and each such act or omission shall be deemed and held to be

the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him or her personally. (Neb. Rev. Stat. §53-1,102)

SECTION 4-118: SANITARY CONDITIONS

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the City Council or the city police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

SECTION 4-119: REMOVAL OF PATRONS

No owner of any premises located within the city limits used for the sale at retail of alcoholic beverages shall allow any person, except employees of said establishment, to be on the premises for any purpose for a period of time longer than 30 minutes after the time fixed herein for stopping the sale of alcoholic beverages on said premises. (Ord. No. 507-A, 3/6/79)

SECTION 4-120: HIRING MINORS

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

SECTION 4-121: 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. (Neb. Rev. Stat. §53-180) (Am. by Ord. No. 555, 11/6/80)

SECTION 4-122: CREDIT SALES

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any bona fide club from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the by-laws of any such club; and provided further, nothing herein shall be construed to prevent any hotel from permitting checks or statements for liquor to be signed by bona fide guests residing in the said hotel and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

SECTION 4-123: SPIKING BEER

It shall be unlawful for any person who owns, manages or leases any premises 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 premises of such licensee. (Neb. Rev. Stat. §53-174)

SECTION 4-124: ORIGINAL PACKAGE

It shall be unlawful for any person who owns, manages or leases any premises in which the sale of alcoholic beverages is licensed to have in his or her possession for sale at retail any alcoholic liquor contained in casks or other containers, except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184) (Am. by Ord. No. 867, 2/4/92)

SECTION 4-125: NUDE ENTERTAINMENT

It shall be cause for suspension or revocation of any liquor license if the licensee, his or her manager or agent shall allow any live person to appear or have reasonable cause to believe that any live person shall appear on any licensed premises in a state of nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as an employee in any capacity. For purposes of this section, the term "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breast including the nipple or any portion below the nipple with less than a full opaque covering. (Ord. No. 509A, 6/5/79)

SECTION 4-126: INSPECTIONS

It shall be the duty of the City Council to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of said Act, the license may be suspended, canceled or revoked after the licensee has been given an opportunity to be heard by the Council. (Neb. Rev. Stat. §53-146) (Am. by Ord. No. 557, 11/6/80)

SECTION 4-127: CITIZEN COMPLAINTS

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club licensee subject to the jurisdiction of the Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn 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 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 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; provided, the complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof. Said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Neb. Rev. Stat. §53-1,114) (Am. by Ord. No. 558, 11/6/80)

Article 2 – Non-Resident Sales

SECTION 4-201: REGISTRATION

A. Any non-resident salesman, peddler, solicitor or vendor, hereafter referred to as “salesman,” not having a regular weekly route within the City and intending to sell or attempting to sell at retail any merchandise, magazines, books or other items of value or attempting to take orders or subscriptions for the same within the corporate limits of the City shall, prior to making any attempt to sell such items, register with the city police. The police shall require satisfactory evidence of identification, including fingerprints and photographs, product to be sold, principal place of business, employer’s name and address, telephone numbers, address if employed, and such other additional evidence necessary for identification and location. A prepared food vendor shall also provide a copy of its license from the State of Nebraska and its liability insurance as required by the State for obtaining its license.

B. Upon registration, the city police shall certify to the city clerk such registration, who shall have authority to issue a permit to such salesman. There shall be a charge for such registration in an amount to be set by resolution of the City Council, to be paid at the time such permit is issued by the clerk. He or she may also require written satisfactory recommendation or approval from the Better Business Bureau or such other organization as to said salesman, his or her product and business prior to issuing such permit. All registration fees collected by the clerk shall be credited by the treasurer to the General Fund of the City.

(Am. by Ord. 1252, 9/2/04)

SECTION 4-202: REGISTRATION; EXCEPTIONS

The provisions of Section 4-201 shall not extend to the following:

A. Individuals calling on retail merchants in corporate limits of the City for the purpose of taking orders or selling of merchandise for resale by such merchants,

B. Farmers selling produce raised in their gardens or on their farms, or

C. Non-profit organizations.

(Am. by Ord. 1252, 9/2/04)

SECTION 4-203: DUTY TO CARRY AND DISPLAY PERMIT

The sales permit as herein provided shall at all times be carried on the person of said salesman and shall be displayed by the salesman upon the request of any citizen or any police officer of the City.

SECTION 4-204: HOURS OF SOLICITATION

It shall be unlawful for any door-to-door salesman to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M., unless he or she has a previous appointment with the resident or residents of the premises solicited. (Neb. Rev. Stat. §17-134)

Article 3 – Railroad Companies

SECTION 4-301: 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 right-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 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. (Neb. Rev. Stat. §17-143, 17-144)

SECTION 4-302: 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, by allowing a railroad car or cars, engine or train to stand upon a railroad crossing for a longer period than five minutes at one time. (Neb. Rev. Stat. §17-552)

SECTION 4-303: WEEDS

Every railroad company owning any railroad or railroad right-of-way within the City shall at its expense keep all weeds cut as close to the ground as can be practicably done and keep the weeds cut thereon during the growing season for weeds. Any weeds growing in excess of 18 inches shall be considered a violation of this section.

Article 4 – Occupation Taxes

SECTION 4-401: AMOUNTS

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

<i>Alcoholic Beverages:</i>	
Retailer of beer only, for consumption on the premises, Class A, per year	\$200.00
Retailer of beer only, for consumption off the premises (sale in original package only), Class B, per year	200.00
Retailer of alcoholic liquors including beer, for consumption on and off the premises, Class C, per year	600.00
Retailer of alcoholic liquors, including beer, for consumption off the premises (sale in original package only), Class D, per year	400.00
Retailer of distilled spirits, wine and beer, for consumption on the premises only, Class I, per year	500.00

Fire Insurance Companies, per year	5.00
Life Insurance Companies, per year	5.00

(Neb. Rev. Stat. §17-525) (Am. by Ord. Nos. 600, 6/3/82; 634, 5/26/83; 740, 11/17/87; 864, 2/4/92; 997, 8/8/95; 1267, 9/12/05)

SECTION 4-402: 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. (Neb. Rev. Stat. §35-106)

SECTION 4-403: COLLECTION DATE

All occupation taxes shall be due and payable on the first day of May 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 city clerk, he or she shall give a receipt, properly dated, 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 day of November. 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 or her. Every form and receipt herein mentioned shall be issued in duplicate and one copy shall then be kept by each party in the transaction. (Neb. Rev. Stat. §17-525) (Am. by Ord. No. 448-A, 4/6/76)

SECTION 4-404: 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 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. (Neb. Rev. Stat. §17-525)

SECTION 4-405: FAILURE TO PAY

If any person, company or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become 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. (Neb. Rev. Stat. §17-525)

SECTION 4-406: HOTELS

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

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

C. *Occupied Room; Defined; Exceptions.* "Occupied room" shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained their use or possession or the right to use or possess for a period not to exceed 30 continuous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception room, or meeting room, provided it is not used as temporary sleeping accommodations. "Occupied room" shall not mean, and no tax imposed by this article shall be measured by or collected, for:

1. Complimentary or other sleeping accommodations for which no consideration is charged;
2. Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue act of 1967, as amended from time to time; or
3. Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than 30 consecutive days, and consideration is actually paid for use during at least 30 consecutive days.

D. *Collection.* The tax imposed by this section shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed, whether or not the taxes are actually collected from the guests.

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

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

G. *Intent.* It is the intent of the City Council that the City shall use the revenue generated by the occupation tax imposed by this section to fund the design, construction, maintenance and operation of a community center to be built, owned and/or operated by the City.

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

Article 5 – Fair Housing Regulations

SECTION 4-501: PURPOSE

The purpose of this article is to promote the general welfare of the residents of the City by endorsing the provisions of the Nebraska Fair Housing Act, Neb. Rev. Stat. §20-301 through 23-344, to the effect that there shall be no discrimination in the City in the acquisition, ownership, possession or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska. (Ord. No. 856, 12/3/91)

SECTION 4-502: DEFINITIONS

As used in this article, unless the context otherwise requires:

“Aggrieved person” shall include any person who: (A) claims to have been injured by a discriminatory housing practice or (B) believes that he or she will be injured by a discriminatory housing practice that is about to occur;

“Commission” shall mean the Nebraska Equal Opportunity Commission;

“Dwelling” shall mean (A) any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence for one or more families and (B) any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;

“Familial status” shall mean one or more minors being domiciled with (A) a parent or another person having legal custody of such individual or (B) the designee of a parent or other person having legal custody, with written permission of the parent or other person;

“Handicap” shall mean, with respect to a person: (A) a physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401, which substantially limits one or more of such person’s major life activities, (B) a record of having such an impairment, or (C) being regarded as having such an impairment;

“Person” shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries;

“Rent” shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant; and

“Restrictive covenant” shall mean any specification limiting the transfer, rental or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status or ancestry.

(Ord. No. 856, 12/3/91)

SECTION 4-503: UNLAWFUL ACTS

A. Except as exempted by Section 4-507, it shall be unlawful to:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status or sex;
2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status or sex;
3. Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, handicap, familial status or sex or an intention to make any such preference, limitation or discrimination;
4. Represent to any person because of race, color, religion, national origin, handicap, familial status or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;
5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status or sex of a person seeking to purchase, rent or lease any housing;
6. Include any transfer, sale, rental or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;
7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article or the Nebraska Fair Housing Act; and
8. Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status or sex.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

(Ord. No. 856, 12/3/91)

SECTION 4-504: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS

A. Except as exempted by Section 4-507, it shall be unlawful to:

1. Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
 - a. The buyer or renter;
 - b. Any person associated with the buyer or renter; or
 - c. A person residing in or intending to reside in the dwelling after it is so sold, rented or made available; or

2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:
 - a. Such person;
 - b. Any person associated with such person; or
 - c. A person residing in or intending to reside in the dwelling after it is so sold, rented or made available.

B. For purposes of this section, “discrimination” shall include:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;

2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and

3. In connection with the design and construction of covered multi-family dwellings, a failure to design and construct the dwellings in such manner that:
 - a. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;

 - b. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

 - c. All premises within the dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and (iv) kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

C. Compliance with the appropriate requirements of the American National Standards Institute’s standard for buildings and facilities providing accessibility and us-

ability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (B)(3)(c) of this section.

D. For purposes of this section, “covered multifamily dwellings” shall mean:

1. Buildings consisting of four or more units if such buildings have one or more elevators; and
2. Ground floor units in other buildings consisting of four or more units.

E. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. No. 856, 12/3/91)

SECTION 4-505: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED

A. It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status or national origin.

B. For purposes of this section, “transaction related to residential estate” shall mean any of the following:

1. The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling or secured by residential real estate; or
2. The selling, brokering or appraising of residential real property.

C. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status or sex.

(Ord. No. 856, 12/3/91)

SECTION 4-506: MULTIPLE LISTING SERVICE; OTHER SERVICE; DISCRIMINATORY PRACTICES PROHIBITED

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers’ organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status or sex. (Ord. No. 856, 12/3/91)

SECTION 4-507: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED

A. Nothing in this article shall prohibit a religious organization, association or so-

ciety or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of a dwelling which it owns or operates for other than commercial purposes to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status or sex.

B. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

C. Nothing in this article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her home.

D. Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, "housing for older persons" shall mean housing:

1. Provided under any state program that the Commission determines is specifically designed and operated to assist elderly persons or defined in the program;
2. Intended for and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. No. 856, 12/3/91)

SECTION 4-508: INFORMATION

The City clerk shall make available upon request to an aggrieved person or any other person information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual. (Neb. Rev. Stat. §20-301 through 20-322) (Ord. No. 856, 12/3/91)

Article 6 – Minimum Rental Housing Standards

SECTION 4-601: RENTAL HOUSING STANDARDS CODE

To provide certain minimum standards, provisions and requirements for safe and stable design, construction, uses of materials, and maintenance of rental residential dwellings, the regulations promulgated by the U.S. Department of Housing and Urban Development and known as "Section 8 Existing Housing Program," published by HUD and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said regulations do not conflict with state statutes. The City Council shall have the authority to establish regulations

differing from the Section 8 Existing Housing Program, by resolution, and any such resolution is hereby incorporated by reference. Section 8 Existing Housing Program and any such resolutions shall constitute the Rental Housing Standards Code for the City. Three copies of the Rental Housing Standards Code shall be on file at the office of the City clerk and available for public inspection during office hours. The provisions of the Rental Housing Standards Code shall be controlling throughout the City. (Neb. Rev. Stat. §17-1001, 18-132, 19-902)

SECTION 4-602: INSPECTION; COMPLIANCE

To insure compliance with the rental code, every residential dwelling unit within the City which is not occupied by a person who is a record title owner of said unit shall be inspected by the City and brought into compliance with said code by the owner of said dwelling at the time of any change of occupancy of said unit.

SECTION 4-603: INSPECTION; EXEMPTION; FEE

An inspection shall not be required if, within the two-year period immediately preceding the change of occupancy, a change of occupancy occurred in the unit which resulted in an inspection and certification of compliance with the rental code. All costs of compliance with the said code shall be paid by the owner of the unit. The owner of the dwelling shall pay a fee of \$25.00 for the inspection required under this article.

SECTION 4-604: TIME LIMIT TO BRING OCCUPANCY INTO COMPLIANCE; EXTENSION; FEE

The owner of a residential dwelling unit shall have a period of 90 days from the date of initial inspection to bring the unit into compliance with the rental code. An additional 60-day period shall be allowed, upon payment of a fee of \$25.00 for said extension to the City, provided that the extension fee must be paid prior to the expiration of the initial 90-day period. Any further extension request will be charged an additional \$25.00 fee and must be approved by the City Council prior to the expiration of the original period allowed for compliance. The Council shall have the authority to grant or deny requests for additional extensions of time.

SECTION 4-605: VIOLATION

An owner of a residential dwelling unit who has failed to report a change of occupancy which requires an inspection; failed to allow the City to inspect a residential dwelling covered by this article; failed to pay fees required under this article; failed to bring a dwelling into compliance with the rental code within the time allowed to said owner; or an owner in violation of any other aspect of this ordinance shall be guilty of a misdemeanor. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

SECTION 4-606: INSPECTION ORDERED BY HOUSING INSPECTOR

Notwithstanding the above, the city housing inspector shall have the authority to order an inspection of any residential dwelling covered by this article for the purpose of determining whether or not said dwelling is in compliance with the rental code. No fee shall be required for the inspection ordered by the housing inspector under this provision. If it is determined, after any such inspection, that a dwelling is not in compliance, a \$25.00

inspection fee will be collected and all owners of said dwelling shall be in violation of this article until said dwelling is brought into compliance. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

SECTION 4-607: CONTINUOUS VIOLATION; NUISANCE, ABATEMENT

Any violation of this ordinance or any part thereof which continues for more than seven consecutive days is hereby declared to be a threat to public safety and a nuisance. The City may proceed by a suit in equity to enjoin, prevent, abate and remove the same in the manner provided by law. (Neb. Rev. Stat. §17-123, 18-1720)

Article 7 – Penal Provision

SECTION 4-701: 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 a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.