

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110.BUSINESS LICENSING**

**111.ALCOHOLIC BEVERAGES**

**112.TOBACCO**

**113.SALES AND ADVERTISING**

**114.BINGO AND LOTTERY**

**115.CONSTRUCTION CONTRACTORS**

**116.RAILROADS**



## CHAPTER 110: BUSINESS LICENSING

Section

### *Occupation Taxes*

- 110.01 Amounts
- 110.02 Fire Department Fund
- 110.03 Collection date
- 110.04 Certificates
- 110.05 Failure to pay
- 110.06 Telephone, landline, cellular, wireless broad band and mobile service companies

***Cross-reference:***

*Garbage Collection; Licensed Haulers, see §§ 55.50 et seq.  
Trailer and Mobile Home Courts, see Ch. 151*

### ***OCCUPATION TAXES***

#### **§ 110.01 AMOUNTS.**

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

<i>Business</i>	<i>Details</i>	<i>Tax Period</i>	<i>Occupation Tax Amount</i>
Distributor of alcoholic liquor, except beer			\$500
Distributor of beer			\$150
Fire insurance corporations, companies, and associations			\$5
Manufacture of alcohol and spirits			\$1,000
Manufacture of beer			\$100
Manufacture of wine			\$250

**Superior - Business Regulations**

<i>Business</i>	<i>Details</i>	<i>Tax Period</i>	<i>Occupation Tax Amount</i>
Non-beverage user	All classes		\$5
Retailer of alcoholic liquors, except beer	For on-premises or off-premises consumption		\$200
Retailer of alcoholic liquors, except beer	For off-premises consumption (package only)		\$150
Retailer of beer only	For on-premises consumption		\$30
Retailer of beer only	For off-premises consumption (original package only)		\$15

(1986 Code, § 10-1001) Penalty, see § 10.99

**§ 110.02 FIRE DEPARTMENT FUND.**

For the use, support, and benefit of the Volunteer Fire Department, the Municipal Clerk shall pay over the proceeds of the occupation tax on fire insurance corporations, companies, and associations to the Municipal Treasurer who shall credit them to the special occupation tax fund for benefit of the Volunteer Fire Department.

(Neb. RS 53-106) (1986 Code, § 10-1002)

**§ 110.03 COLLECTION DATE.**

All occupation taxes shall be due and payable on May 1 of each year, except in the event that the tax is levied daily, and except that occupation taxes collected from Class C liquor licensees shall be due and payable on November 1 of each year. Upon the payment thereof by any person or persons to the Municipal Clerk, the Clerk shall give a receipt, properly dated and specifying the person paying the tax and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer except as otherwise specifically provided. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him or her. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction.

(1986 Code, § 10-1003)

**§ 110.04 CERTIFICATES.**

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the 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.  
(1986 Code, § 10-1004) Penalty, see § 10.99

**§ 110.05 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 municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.  
(1986 Code, § 10-1005) Penalty, see § 10.99

**§ 110.06 TELEPHONE, LANDLINE, CELLULAR, WIRELESS BROAD BAND AND MOBILE SERVICE COMPANIES.**

(A) All telephone, landline, cellular, wireless, broad band and mobile companies doing business in the city are required to pay an occupation tax in an amount equal to 3% of the gross receipts from legally established basic monthly charges collected for local exchange telephone, landline, cellular, wireless, broad band and mobile service from subscribers within the city. There shall be exempted from the provisions of this section all receipts for telephone, landline, cellular, wireless, broad band and mobile service to the United States Government and its departments, the State of Nebraska and its departments and the City of Superior.

(B) Payment of the tax levied herein shall be made 4 times annually, using the calendar quarter year as a basis for computing the amount due. Each quarterly payment shall be due within 45 days after the end of each calendar quarter year.

(C) The occupation tax levied herein shall be paid to the City of Superior as prescribed and a receipt shall be issued upon payment. The amount of payment shall be recorded and credited to the city's general fund.

(D) Payments of the occupation tax as provided herein which are made after the due date as prescribed in division (B) of this section shall be subject to a penalty of 1% of the amount due for each month or fraction of a month past due; this amount shall be paid in addition to the tax which is due.

(E) Payment of the occupation tax shall be accompanied by a statement of gross receipts subject to the tax; such statement shall be certified by an authorized representative of the paying company.

**Superior - Business Regulations**

(F) Each succeeding payment of the occupation tax levied pursuant to this section may include any adjustment which is shown on the report provided for by division (E) of this section; such adjustments may include uncollectible amounts or other amounts which cause an increase or decrease in the amount of tax paid in any previous quarter.

(G) The city shall have the right at any reasonable time to require any telephone, landline, cellular, wireless, broad band or mobile service company to produce all books and records necessary to verify any report submitted pursuant to the requirements of division (E) of this section.

(H) In case any telephone, landline, cellular, wireless, broad band or mobile service company shall fail to make payment of the occupation tax provided for by this section at the time specified for such payment, the city shall have the right to sue any such company in any court of competent jurisdiction for the amount of such occupation tax due and payable under the terms and provisions of this section and may recover judgment against any such company for such amount so due, together with interest and penalties, and have execution thereon.

(Ord. 1108, passed 11-13-2007)

## CHAPTER 111: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 111.01 Definitions
- 111.02 Sale or gift to minor or mentally incompetent person prohibited
- 111.03 Consumption in public places or places open to the public; restrictions
- 111.04 Removal of intoxicated persons from public or quasi-public property
- 111.05 Sidewalk cafes

#### *Licenses Required*

- 111.20 Manufacture, sale, delivery, and possession; general prohibitions; exceptions
- 111.21 Acquisition and possession; restrictions
- 111.22 License applications; municipal examination
- 111.23 Licensee requirements
- 111.24 Licenses; municipal powers and duties
- 111.25 Licensed premises; inspections
- 111.26 License renewal; municipal powers and duties
- 111.27 Catering licenses
- 111.28 Display of license
- 111.29 Owner of premises or agent; liability
- 111.30 Licensee; liability for acts of officer, agent, or employee
- 111.31 Citizen complaints

#### *Retail Establishments*

- 111.45 Location
- 111.46 Access to dwellings
- 111.47 Sanitary conditions
- 111.48 Hours of sale
- 111.49 Credit sales prohibited
- 111.50 (Reserved)
- 111.51 Original package required

111.52 Minor's presence restricted

111.53 Keg sales; requirements; prohibited acts

***Cross-reference:***

*Driving under the influence, see §§ 133.25 and 133.26*

*Minors in possession of alcohol, see § 133.24*

*Misrepresentation by minor to obtain alcohol, see § 133.23*

## **GENERAL PROVISIONS**

### **§ 111.01 DEFINITIONS.**

For purposes of this chapter, the definitions found in Neb. RS 53-103.01 through 53-103.42 shall be used.

(1986 Code, §10-101)

### **§ 111.02 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.**

No person shall sell, furnish, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent.

(Neb. RS 53-180) (1986 Code, § 10-112) (Am. Ord. 1142, passed 11-28-2011) Penalty, see § 10.99

***Statutory reference:***

*Authority, see Neb. RS 17-135*

### **§ 111.03 CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.**

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2) or as provided in Neb. RS 60-6,211.08, it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

(Neb. RS 53-186)

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, 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 dance hall, restaurant, café, or club or any place open to the general public except as permitted



by a license issued for such premises pursuant to the Act. 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.

(Neb. RS 53-186.01)

(1986 Code, § 10-120) (Am. Ord. 10-120, passed 10-23-2000; Am. Ord. 1142, passed 11-28-2011)

Penalty, see § 10.99

***Statutory reference:***

*Statutory restrictions and exceptions, see Neb. RS 53-186 and 53-186.01*

**§ 111.04 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.**

(A) 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 the intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the 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 24 hours.

(B) The placement of the 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 the person designated by the person taken into civil protective custody.

(C) 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 these actions.

(D) 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.

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

***PUBLIC PROPERTY.*** Any public right-of-way, street, highway, alley, park, or other state, county, or municipally owned property.

***QUASI-PUBLIC PROPERTY.*** Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Neb. RS 53-1,121) (1986 Code, § 10-122) Penalty, see § 10.99

### **§ 111.05 SIDEWALK CAFES.**

The City Council may permit the public streets and sidewalks within the city limits to be occupied and used under a lease, license, or other permission by a person, business, or others for the sale of services or goods and to permit the placement of nonpermanent sidewalk cafes, tables, chairs, benches, and other temporary improvements from which those sales can be transacted on the public streets and sidewalks.

***Statutory reference:***

*Authority, see Neb. RS 19-4301*

## ***LICENSES REQUIRED***

### **§ 111.20 MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.**

(A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this chapter and the State Liquor Control Act.

(B) Nothing in this chapter shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;

(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 that hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

(5) 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;

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

(7) 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

(8) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.

(Neb. RS 53-168.06) (1986 Code, § 10-121) (Am. Ord. 920, passed 4-22-1996; Am. Ord. 1049, passed 8-26-2002)

Penalty, see § 10.99

#### **§ 111.21 ACQUISITION AND POSSESSION; RESTRICTIONS.**

(A) 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 this chapter and the State Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act.

(Neb. RS 53-175)

(B) It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into this state for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of 9 liters in any 1 calendar month.

(Neb. RS 53-194.03)

Penalty, see § 10.99

#### **§ 111.22 LICENSE APPLICATIONS; MUNICIPAL EXAMINATION.**

(A) Any person desiring to obtain a new license to sell alcoholic liquor at retail or a craft brewery license shall file an application with the State Liquor Control Commission. The Commission shall then notify by registered or certified mail the Municipal Clerk. The Commission shall set for hearing before it any application for a retail license relative to which it has received, within 30 days from the date of receipt of the application by the municipality, a recommendation of denial from the municipality.

(B) Upon receipt of the notice and copy of the application, the City Council shall fix a time and place at which a hearing will be held, and at which the City Council shall receive evidence, either orally or by affidavit, from the applicant or any other person, bearing upon the propriety of the issuance of the license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the municipality 1 time, not less than 7 nor 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

## Superior - Business Regulations

evidence before the City Council in support of or protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 21 days after the receipt of this notice from the Commission.

(C) In determining what recommendation to make to the Commission, the City Council shall consider:

(1) Whether the applicant is fit, willing, and able to properly provide the service proposed within the municipality;

(2) Whether the applicant can conform to all provisions, requirements, rules, and regulations provided for in the State Liquor Control Act;

(3) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensed business can conform to all provisions, requirements, rules, and regulations provided for in the State Liquor Control Act; and

(4) Whether the issuance of the license is or will be required by the present or future public convenience and necessity.

(D) After the hearing, the City Council shall cause to be spread at large in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The Municipal Clerk shall thereupon 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 herewith shall not render void any license issued by the Commission. In the event the Commission refuses to issue such a license, the cost of publication of notice as herein required shall be paid by the Commission from the security for costs.

(1986 Code, § 10-107) (Am. Ord. 752, passed 8-25-1986; Am. Ord. 763, passed 10-24-1988; Am. Ord. 772, passed 11-13-1989; Am. Ord. 804, passed 2-10-1992)

***Statutory reference:***

*Application, hearings, see Neb. RS 53-131 through 53-134*

### § 111.23 LICENSEE REQUIREMENTS.

(A) No license shall be issued to:

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

(2) A person who is not of good character and reputation in the community in which he or she resides;

(3) A person who is not a citizen of the United States;

(4) 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;

(5) 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;

(6) A person whose license issued under the State Liquor Control Act has been revoked for cause;

(7) A person who at the time of application for renewal of any license issued under the Act would not be eligible for that license upon initial application;

(8) A partnership, unless 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;

(9) 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;

(10) A corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of that corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in divisions (A)(1) and (A)(3) 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;

(11) A person whose place of business is conducted by a manager or agent, unless that manager or agent possesses the same qualifications required of the licensee;

(12) A person who does not own the premises for which a license is sought or does not have a lease or combination of leases on the premises for the full period for which the license is to be issued;

(13) Except as provided in this division, 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 State 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:

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

(b) The licensed premises will be properly operated.

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

(15) 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

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

(B) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent.

(Neb. RS 53-125) (1986 Code, § 10-106)

#### **§ 111.24 LICENSES; MUNICIPAL POWERS AND DUTIES.**

(A) The governing body is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the municipality .

(Neb. RS 53-134.03)

(B) 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 microdistillery license, the governing body may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant.

(Neb. RS 53-131)

(C) The governing body, with respect to licenses within the corporate limits of the municipality, has the following powers, functions, and duties with respect to retail, craft brewery, and microdistillery licenses:

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

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

determines that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the governing body has been or is being violated shall report such violation in writing to the Executive Director of the Commission:

(a) Within 30 days after determining that such violation has occurred;

(b) Within 30 days after the conclusion of an ongoing police investigation; or

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

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

(4) To receive retail, craft brewery, and microdistillery license fees as provided in Neb. RS 53-124 and 53-124.01 and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

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

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided for citizen complaints, it determines that the licensee has violated any of the provisions of the 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; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the governing body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the municipality, one 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 governing body 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 governing body shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The Municipal Clerk shall mail to the Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs.

(Neb. RS 53-134)

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

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

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

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

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

(2) Notwithstanding any ordinance or charter power to the contrary, the municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the municipality in any sum which exceeds 2 times the amount of the license fee required to be paid under the Act to obtain that license.

(Neb. RS 53-132)

(1986 Code, § 10-109) (Am. Ord. 1142, passed 11-28-2011)

### **§ 111.25 LICENSED PREMISES; INSPECTIONS.**

The City Council shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this chapter, the State Liquor Control Act, or the rules and regulations of the State Liquor Control Commission, or is failing to observe in good faith the purposes of this chapter or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

(Neb. RS 53-116.01) (1986 Code, § 10-123)



**§ 111.26 LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES.**

(A) A retail license issued by the State 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 municipality shall file a formal application for a license, and while the application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If that license expires within 60 days following the annexation date of the area, the license may be renewed by order of the Commission for not more than 1 year.  
(Neb. RS 53-135)

(B) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the municipality, 1 time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Municipal Clerk by 3 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 Neb. RS 53-135.  
(Neb. RS 53-135.01) (1986 Code, § 10-108)

**§ 111.27 CATERING LICENSES.**

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

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in § 111.24.

(C) 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 the catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

(D) The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license.  
(Neb. RS 53-124.12) (1986 Code, § 10-127) Penalty, see § 10.99

knowledge, or approval of the licensee, shall be deemed and held to be the act of the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally.

(Neb. RS 53-1,102) Penalty, see § 10.99

### **§ 111.31 CITIZEN COMPLAINTS.**

Any 5 residents of the municipality shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the City Council has been or is violating any provision of the State Liquor Control Act or the rules or regulations issued pursuant to the Act. The complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for that belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the State Liquor Control Commission as provided in Neb. RS 53-1,115.

(Neb. RS 53-134.04) (1986 Code, § 10-124)

## ***RETAIL ESTABLISHMENTS***

### **§ 111.45 LOCATION.**

(A) Except as otherwise provided in division (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply to any location within such distance of 150 feet:

(1) For which a license to sell alcoholic liquor at retail has been granted by the Nebraska Liquor Control Commission for 2 years continuously prior to making of application for license;

(2) To hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935; or

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

(B) If a proposed location for the sale at retail of any alcoholic liquor is within 150 feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in Neb. RS 53-133 if the affected church submits a written request for a hearing. (Neb. RS 53-177)

(C) No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college or university within the municipality, except that this section:

(1) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

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

(Neb. RS 53-177.01)

(1986 Code, § 10-103) (Am. Ord. 1142, passed 11-28-2011; Am. Ord. 1186, passed 2-22-2016)

Penalty, see § 10.99

**Statutory reference:**

*State Commission may waive 300-foot requirement, see Neb. RS. 53-177.01*

**§ 111.46 ACCESS TO DWELLINGS.**

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which have any access which leads from the premises to any other portion of the same building or structure used for dwelling or lodging purposes, and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between the premises and such other portion of the building or structure which is used only by the licensee, his or her family, or personal guests.

(Neb. RS 53-178) (1986 Code, §10-104) Penalty, see § 10.99

**§ 111.47 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. The licensed premises shall be subject to any health inspections the City Council or the municipal police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the

standpoint of the sanitary conditions, and a report concerning the sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

(1986 Code, § 10-118) Penalty, see § 10.99

**Statutory reference:**

*Authority to regulate licensed premises, see Neb. RS 53-134.03*

*State sanitary rules and regulations authorized, see Neb. RS 53-118*

**§ 111.48 HOURS OF SALE.**

(A) 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:

- (1) Alcoholic liquors (except beer and wine):
  - (a) Secular days, off sale and on sale: 6:00 a.m. to 1:00 a.m.
  - (b) Sundays, off sale and on sale: 12:00 noon to 1:00 a.m.
- (2) Beer and wine:
  - (a) Secular days, off sale and on sale: 6:00 a.m. to 1:00 a.m.
  - (b) Sundays, off sale and on sale: 6:00 a.m. to 1:00 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 beverage 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.

(1986 Code, §10-117) (Am. Ord. 758, passed 5-23-1988; Am. Ord. 790, passed 2-25-1991; Am. Ord. 797, passed 9-23-1991) Penalty, see § 10.99

**§ 111.49 CREDIT SALES PROHIBITED.**

(A) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

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

(1) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(2) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(3) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.  
(Neb. RS 53-183) (1986 Code, § 10-113) (Am. Ord. 1142, passed 11-28-2011; Am. Ord. 1183, passed 8-10-2015) Penalty, see § 10.99

**§ 111.50 (RESERVED).**

**§ 111.51 ORIGINAL PACKAGE REQUIRED.**

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.  
(Neb. RS 53-184) (1986 Code, § 10-115) (Am. Ord. 807, passed 1-27-1992) Penalty, see § 10.99

**§ 111.52 MINOR'S PRESENCE RESTRICTED.**

It shall be unlawful for any person who owns, manages, or leases an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years of age to frequent or otherwise remain

in the establishment unless the minor is accompanied by his or her parent or legal guardian, and unless the minor remains seated with and under the immediate control of the parent or legal guardian.

(1986 Code, § 10-116) Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate, see Neb. RS 53-134.03*

**§ 111.53 KEG SALES; REQUIREMENTS; PROHIBITED ACTS.**

(A) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of 5 or more gallons or 18.92 or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

(Neb. RS 53-167.02)

(B) Any person who unlawfully tampers with, alters, or removes the keg identification number from a container described in division (A) or is in possession of a container described in division (A) with an altered or removed keg identification number after the container has been taken from the licensed premises pursuant to a retail sale and before its return to the licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

(Neb. RS 53-167.03)

(1986 Code, § 10-128) (Am. Ord. 1186, passed 2-22-2016) Penalty, see § 10.99

## CHAPTER 112: TOBACCO

### Section

- 112.01 License for tobacco sales
- 112.02 License application
- 112.03 License terms; fees
- 112.04 Licensee rights
- 112.05 Sales to persons under 18 prohibited; license revocation
- 112.06 Disposition of license fees
- 112.07 License transfer
- 112.08 License revocation; reissuance

### ***Cross-reference:***

*Dispensing of tobacco from vending machines prohibited; exceptions, see § 133.22*

*Sale of tobacco to minors, see § 133.21*

*Use of tobacco by minors, see § 133.20*

### **§ 112.01 LICENSE FOR TOBACCO SALES.**

Licenses for the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products to persons over the age of 18 years shall be issued to individuals, partnerships, limited liability companies, and corporations by the City Clerk upon application duly made as provided in this chapter.

(Neb. RS 28-1421) (1986 Code, § 10-801) (Am. Ord. 1183, passed 8-10-2015) Penalty, see § 10.99

### ***Statutory reference:***

*Licenses required, see Neb. RS 28-1420*

*Prohibited sales, see Neb. RS 28-1421*

### **§ 112.02 LICENSE APPLICATION.**

Every person, partnership, limited liability company, or corporation desiring a license under Neb. RS 28-1420 to 28-1429 shall file with the City Clerk a written application stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application the amount of the license fee provided in this chapter. If the applicant is an individual, the application shall include the applicant's social security number.

(Neb. RS 28-1422) (1986 Code, § 10-802) (Am. Ord. 1183, passed 8-10-2015) Penalty, see § 10.99

**§ 112.03 LICENSE TERMS; FEES.**

(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, 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, 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, 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 of \$100 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) (1986 Code, § 10-803) (Am. Ord. 1183, passed 8-10-2015) Penalty, see § 10.99

**§ 112.04 LICENSEE RIGHTS.**

(A) The license, provided for in this chapter, when issued, shall authorize the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products by the licensee and employees, to persons over the age of 18 years, 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.

(Neb. RS 28-1425)

(1986 Code, § 10-804) (Am. Ord. 1183, passed 8-10-2015)

***Statutory reference:***

*Sale to person under 18 prohibited; penalties, see Neb. RS 28-1425*



**§ 112.05 SALES TO PERSONS UNDER 18 PROHIBITED; LICENSE REVOCATION.**

Any licensee who shall sell, give, or furnish in any way to any person under the age of 18 years, or who shall willingly allow to be taken from his or her place of business by any person under the age of 18 years, any cigars, tobacco, cigarettes, or cigarette material, shall be guilty of an offense. Any officer, director, or manager having charge or control, either separately or jointly with others, of the business of any corporation which violates the provisions of this chapter, if he or she has knowledge of the same, shall be subject to the penalties provided in this section. In addition to the penalties provided in this section, the licensee shall be subject to the additional penalty of a revocation and forfeiture of his, her, their, or its license at the discretion of the court before whom the complaint for violation of this chapter may be heard. If the license be revoked and forfeited, all rights under that license shall at once cease and terminate.

(Neb. RS 28-1425) (1986 Code, § 10-805) Penalty, see § 10.99

**§ 112.06 DISPOSITION OF LICENSE FEES.**

All money collected as license fees under the provisions of this chapter shall be paid over by the City Clerk to the treasurer of the school fund for the city.

(Neb. RS 28-1426) (1986 Code, § 10-806) (Am. Ord. 1183, passed 8-10-2015)

**§ 112.07 LICENSE TRANSFER.**

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

(Neb. RS 28-1428) (1986 Code, § 10-807) (Am. Ord. 1183, passed 8-10-2015)

**§ 112.08 LICENSE REVOCATION; REISSUANCE.**

In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in Neb. RS 28-1425, no new license shall be issued to such licensee until the expiration of 1 year from the date of such revocation and forfeiture.

(Neb. RS 28-1429) (1986 Code, § 10-808) (Am. Ord. 1183, passed 8-10-2015)



## CHAPTER 113: SALES AND ADVERTISING

### Section

#### *Transient and Itinerant Merchants*

- 113.01 Definitions
- 113.02 License required
- 113.03 Application
- 113.04 Fee
- 113.05 Insurance
- 113.06 Appointment of agent
- 113.07 License expiration
- 113.08 Hours of solicitation
- 113.09 License revocation
- 113.10 Appeal
- 113.11 Police enforcement

#### **TRANSIENT AND ITINERANT MERCHANTS**

##### **§ 113.01 DEFINITIONS.**

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

**TRANSIENT MERCHANT, ITINERANT MERCHANT, or ITINERANT VENDOR.** Any person, firm, or corporation, whether as owner, agent, consignee, or employee, and whether a resident of the municipality or not, who engages temporarily within the municipality in the business of selling and delivering goods, wares, and merchandise or taking orders for goods or merchandise, to or at homes, apartments, or other residential premises in the municipality.  
(Neb. RS 17-134 and 75-323) (1986 Code, § 10-201)

##### **§ 113.02 LICENSE REQUIRED.**

It shall be unlawful for an itinerant vendor to engage in business within the municipality without first obtaining a license therefor, who engages temporarily within the municipality in the business of

selling and delivering goods, wares and merchandise or taking orders for goods, or merchandise, to or at homes, apartments or other residential premises in the municipality. It shall be unlawful for any farmer, truck grower, or others who produce, hawk, or peddle products of the farm, fruit, or other staples of food, or who peddle, sell, or offer to sell any commodity or article of commerce or trade, to park their conveyances or erect a place of business for the purpose of selling those products upon Central Street between 5th Street and 2nd Street within the city.

(Neb. RS 17-134 and 75-323 through 75-335) (1986 Code, § 10-202) (Am. Ord. 1182, passed 6-8-2015) Penalty, see § 10.99

### § 113.03 APPLICATION.

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

(B) This application shall show:

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

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

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

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

(5) Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as his or her representative; and

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

(Neb. RS 17-134) (1986 Code, § 10-203) (Am. Ord. 1182, passed 6-8-2015) Penalty, see § 10.99

**§ 113.04 FEE.**

The applicant shall pay a license fee set by resolution of the Governing Body to cover the cost of processing the application and issuing the license.

(Neb. RS 17-134 and 17-525) (1986 Code, § 10-204)

**§ 113.05 INSURANCE.**

Before any license shall be issued for engaging in an itinerant business, the applicant shall file with the Municipal Clerk a certificate of liability insurance for each individual applying for the permit.

(Neb. RS 17-134 and 75-329) (1986 Code, § 10-205) (Am. Ord. 1182, passed 6-8-2015) Penalty, see § 10.99

**§ 113.06 APPOINTMENT OF AGENT.**

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

(B) Immediately upon being served with process, the Municipal Clerk shall send to the licensee at his or her last known address, by registered mail, a copy of that process. Nothing herein shall be construed to apply to any itinerant vendor required to appoint a state official as an agent for the purpose of receiving service of process as a prerequisite for doing business within the state.

(Neb. RS 17-134 and 75-325) (1986 Code, § 10-206) Penalty, see § 10.99

**§ 113.07 LICENSE EXPIRATION.**

All licenses issued shall expire 5 days or 4 weeks after the date of issuance thereof, depending upon which application fee is paid which has been set by resolution.

(Neb. RS 17-134) (1986 Code, § 10-207) (Am. Ord. 1182, passed 6-8-2015)

**§ 113.08 HOURS OF SOLICITATION.**

It shall be unlawful for an itinerant merchant to solicit any individual between the hours of 6:00 p.m. and 9:00 a.m., unless he or she has a previous appointment with the resident or residents of the

premises solicited. It shall be unlawful at any hour for a solicitor, salesperson, or peddler to solicit without a proper permit on his or her person at all times.

(Neb. RS 17-134) (1986 Code, § 10-208) (Am. Ord. 1182, passed 6-8-2015) Penalty, see § 10.99

### **§ 113.09 LICENSE REVOCATION.**

(A) The licenses issued may be revoked by the Governing Body after notice and a hearing, for any of the following causes:

(1) Any fraud, misrepresentation, or false statement contained in the application for a license;

(2) Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise;

(3) Any violation of this subchapter;

(4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude;  
or

(5) Conducting the business licensed under this subchapter in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

(B) Notice of a hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be sent by registered mail, postage prepaid, to the licensee, at his or her last known address, at least 5 days prior to the date set for the hearing.

(Neb. RS 17-134) (1986 Code, § 10-209) Penalty, see § 10.99

### **§ 113.10 APPEAL.**

Any person aggrieved by the decision of the Municipal Clerk in regard to the denial of an application for a license or in connection with the revocation of a license, shall have the right to appeal to the Governing Body. The appeal shall be taken by filing with the Governing Body within 14 days after notice of the decision has been mailed to the person's last known address, a written statement setting forth the grounds for appeal. The Governing Body shall set the time and place for a hearing on the appeal, and notice shall be given to the person by registered mail, postage prepaid, at his or her last known address. The order of the Governing Body on the appeal shall be final.

(Neb. RS 17-134) (1986 Code, § 10-210)

**§ 113.11 POLICE ENFORCEMENT.**

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

(Neb. RS 17-134 and 75-334) (1986 Code, § 10-211) Penalty, see § 10.99





## CHAPTER 114: BINGO AND LOTTERY

### Section

#### *Bingo*

- 114.01 Regulation
- 114.02 State statutes adopted

#### *Lottery*

- 114.15 Sales outlet locations; approval required; qualification standards
- 114.16 Participation; restrictions

#### **BINGO**

### **§ 114.01 REGULATION.**

Games of bingo shall be conducted within the municipality in accordance with all laws of the municipality and the state if the game of bingo is played for or involves profit or gain. Any entity duly licensed by the state to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing operation of the game. Application shall be made to the Municipal Clerk for this permit. The application form shall contain the 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 license to the applicant upon the payment of an annual permit fee of \$10. The 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 30 of each year or such other date as the Department of Revenue may prescribe. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10. This fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted.

(Neb. RS 9-166) (1986 Code, § 10-301) (Am. Ord. 742, passed 7-14-1986) Penalty, see § 10.99

**§ 114.02 STATE STATUTES ADOPTED.**

All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this subchapter 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 these offenses, and if convicted, shall be deemed to be guilty of an offense.

(1986 Code, § 10-304) Penalty, see § 10.99

***Statutory reference:***

*State bingo laws, see Neb. RS 9-201 et seq.*

***LOTTERY*****§ 114.15 SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS.**

(A) The lottery operator with whom the City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior approval of the sales outlet location by the City Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in this section.

(B) Any individual, sole proprietorship, partnership, limited liability company, or corporation which seeks to have its location approved as an authorized sales outlet location shall:

(1) Obtain a retail liquor license for consumption on the premises pursuant to Neb. RS Chapter 53, Article 1;

(2) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(3) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in division (B)(2) within the 10 years preceding the filing of the application;

(4) Not have had a gaming license revoked or canceled under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act; and

(5) Be fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the act.

(C) If the person seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company, or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation, and every stockholder owning more than 10% of the stock of such corporation.

(D) The city shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.

***Statutory reference:***

*Requirements for sales outlet locations, Neb. RS 9-642.01*

(Neb. RS 9-642.01) (1986 Code, § 10-1301) (Ord. 805, passed 1-27-1992) Penalty, see § 10.99

**§ 114.16 PARTICIPATION; RESTRICTIONS.**

(A) No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the municipality.

(B) No owner or officer of a lottery operator with whom the municipality contracts to conduct its lottery shall play the lottery conducted by the municipality. No owner or officer of an authorized sales outlet location for the municipality shall play in the lottery conducted by the municipality. No employee or agent of the municipality, lottery operator, or authorized sales outlet location shall play the lottery of the municipality for which he or she performs work during such time as he or she is actually working at such lottery or while on duty.

(C) Nothing shall prohibit any member of the City Council, a municipal official, or the immediate family of such member or official from playing the lottery conducted by the municipality as long as such person is 19 years of age or older.

(D) No person, or employee or agent of any person or the municipality, shall knowingly permit an individual under 19 years of age to play or participate in any way in the lottery conducted by the municipality.

(E) For purposes of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***IMMEDIATE FAMILY OF A MEMBER OF THE CITY COUNCIL OR A MUNICIPAL OFFICIAL.***

(a) A person who is related to the member or official by blood, marriage, or adoption and resides in the same household; or

(b) A person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes.  
(1986 Code, § 10-1302) (Ord. 803, passed 1-13-1992; Am. Ord. 828, passed 10-25-1993) Penalty, see § 10.99

***Statutory reference:***

*State provisions on participation restrictions, Neb. RS 9-646*

## CHAPTER 115: CONSTRUCTION CONTRACTORS

### Section

#### *General Provisions*

- 115.01 City employees exempt
- 115.02 Contractor; insurance required

#### *Plumbers*

- 115.10 Insurance required

#### *Electricians*

- 115.25 License required
- 115.26 License application; examination
- 115.27 Bond required; conditions; exceptions
- 115.28 License fees; issuance; renewal
- 115.29 Apprentice license; permit fee; eligibility
- 115.30 Maintenance permit
- 115.31 License revocation
- 115.32 Construction of subchapter; civil liability
- 115.33 Inspections

#### *Gas Fitters*

- 115.45 License required
- 115.46 License application; examination; contractors, employees
- 115.47 Bond; conditions
- 115.48 License fees, issuance, and renewal; apprentices; installations

#### ***Cross-reference:***

*One call notification; penalty, see §§ 150.029 and 150.999*

***GENERAL PROVISIONS*****§ 115.01 CITY EMPLOYEES EXEMPT.**

No provision or requirement in this chapter shall apply to employees of the city performing work for the city.

(Ord. 1131, passed 3-14-2011)

**§ 115.02 CONTRACTOR; INSURANCE REQUIRED.**

(A) Before a contractor can perform work for the city, he or she shall execute and file with the City Clerk evidence of current liability insurance providing bodily injury and property damage insurance to the municipality and the general public, executed by an insurance company authorized to do business in the state. The coverage amount shall be set at \$1,000,000 unless otherwise specified during the contractor procurement process.

(B) The requirement to show proof of current liability insurance when administration is procuring services from specialty contractors and other service providers will be at the discretion of administration when the monetary amount of the work provided is allowed through administrative spending authority.

(Ord. 1131, passed 3-14-2011)

***PLUMBERS*****§ 115.10 INSURANCE REQUIRED.**

Before a plumber can perform work as a plumber or gas fitter in the city, he or she shall execute and file with the City Clerk evidence of current liability insurance in the amount of \$1,000,000 providing public liability and property damage insurance to the municipality and the general public in an amount not less than \$1,000,000, executed by an insurance company authorized to do business in the state. The beneficiary of the insurance policy shall be the municipality, and action may be maintained thereon by anyone injured by a breach of the conditions of the covenants contained in the required endorsement on the policy of insurance for a period of 1 year after the completion of any plumbing or gas work.

(Neb. RS 17-537) (1986 Code, § 10-403) Penalty, see § 10.99

***ELECTRICIANS*****§ 115.25 LICENSE REQUIRED.**

(A) No individual, partnership, corporation, or other business association shall install any electrical wiring, apparatus, and equipment within the city, its corporate zoning limits, and its lawful zoning limits without first having obtained a license from the State Electrical Board. No individual or business association holding a license from the State Electrical Board shall be required to pay any electrical license fee to the city.

(B) No individual, partnership, corporation, or other business association holding a license issued by the State Electrical Board shall do electrical work within the city, its corporate zoning limits, without first placing on file with the city a copy of the current license issued by the State Electrical Board or other evidence of that license as may be provided by the Board.

(1986 Code, § 10-501) (Am. Ord. 10-501, passed 6-14-1999) Penalty, see § 10.99

**§ 115.26 LICENSE APPLICATION; EXAMINATION.**

(A) Application for a license shall be made to the Electrical Inspector on forms furnished by him or her. Before the license shall be issued, the applicant shall be required to submit to and pass an examination as to his or her qualifications and fitness, practical and elementary in character, to install electric apparatus. The examination shall be given by the Board of Examiners, which shall consist of the following members: one gas fitter examiner, one plumbing examiner, and one electrical examiner, to be appointed by the Mayor and confirmed by the Council for a term of 3 years. The Board of Examiners shall have full power and authority to examine applicants and make rules for its conduct as may be necessary; provided, those rules to be effective shall first be approved by the Council.

(B) Where the applicant for an electrician's license is an electrical contractor, he or she shall specify the names of all individuals qualified as electricians, who, as employees of the applicant, will install or supervise the installation of electric apparatus for the applicant under the authority of the license; provided, additional names of qualified individuals may be included in and shown on the license upon payment of an additional fee of \$2 per name; and provided further, the inclusion of any name on the license shall not be construed as authority for that individual to install or supervise the installation of any electric apparatus otherwise than as an employee of the licensee.

(1986 Code, § 10-502) Penalty, see § 10.99

**§ 115.27 BOND REQUIRED; CONDITIONS; EXCEPTIONS.**

Before any electrician's license shall be issued by the Board of Examiners, the applicant shall execute and file with the City Clerk a bond in the sum of \$1,000, signed by 2 or more sufficient sureties

or a bond in like amount of some approved corporate surety company doing business through a writing agent in this city to be approved by the Mayor and Council, conditioned that the licensee shall indemnify and hold harmless the city from all accidents, damage liability, claims, judgments, costs, or expenses caused by any negligence arising from a failure to protect the work, or by any unfinished, unskilled, and inadequate work done in pursuance of his or her license in wiring the places prepared to receive the electric current provided by the city and including the connections and extensions of supply wires; and that the applicant will be governed by the rules and requirements herein provided or that may be hereafter prescribed and adopted by the city, adopted or in force during the period of his or her license with reference to the wiring and fixing of electric appliances to the satisfaction of the Electrical Inspector or his or her deputy or agent charged with that duty; and shall pay all fines imposed upon him or her for any violation thereof; provided, however, the city through its Utilities Superintendent through his or her agents, telephone, telegraph, and messenger call companies operated under the regular franchise granted by the city shall not be amenable to the bond and license provisions contained in this subchapter. The obligee of the bond shall be the city, and action may be maintained thereon by anyone injured by a breach of its conditions for a period of 1 year after the completion of any electrical work.

(1986 Code, § 10-503) Penalty, see § 10.99

#### **§ 115.28 LICENSE FEES; ISSUANCE; RENEWAL.**

Every applicant for a license who has not previously submitted to an examination shall pay an examination fee of \$10, and upon renewal of a license which shall not have elapsed for a period of more than 3 months from the date of its expiration, a renewal or registration fee of \$5; provided, if any license shall be permitted to lapse for a period of more than 30 days from the date of its expiration, the applicant shall be required to pay the renewal fee and the examination and renewal or registration fees shall be paid to the Board of Examiners by the applicant before taking the examination for license or before making application for a renewal of his or her license, as the case may be; and the applicant or the registrant for renewal shall take the Treasurer's receipt for the payment of those fees. Before any initial license is issued by the Board of Examiners, the applicant or registrant shall pay to the Board of Examiners a license fee of \$10 which shall pay for the license and continue it in force to May 31 after the date on which it is granted, unless sooner revoked as hereinafter provided, and the applicant or registrant shall take the Treasurer's receipt for this license fee. Upon the written recommendation of the Board of Examiners that the applicant has shown himself or herself by the examination competent and qualified to install electric apparatus, accompanied by the Board of Examiners receipt for examination and license fees, and upon approval of the required bond by the Mayor and Council, the Board of Examiners shall forthwith issue and deliver to that applicant an electrician's license. Licenses at the time of their expiration may be renewed by the Board of Examiners upon written recommendation of the Board of Examiners, without an examination, upon payment of the annual registration or renewal fee in the sum of \$5 and upon condition that registrant's bond for the renewal license period is approved and on file. No initial license or renewal license issued hereunder shall be transferable. The Board of



Examiners shall make and keep a record of all licenses issued, lapsed, or revoked hereunder. All electricians' licenses shall be signed by the chairperson and countersigned by the secretary of the Board of Examiners.

(1986 Code, § 10-504) Penalty, see § 10.99

**§ 115.29 APPRENTICE LICENSE; PERMIT FEE; ELIGIBILITY.**

(A) It shall be unlawful for any person to work as an electrician's apprentice without first obtaining an electrician's permit.

(B) Upon the payment of a \$2 permit fee to the Board of Examiners, and the filing of a written application with the Electrical Inspector, or his or her deputy, upon those forms as he or she shall prescribe, the Board of Examiners shall issue to any person over 18 years of age and engaged in learning the trade of electrician, an annual apprentice's permit which shall expire on May 31 after its issuance. The apprentice's permit shall not be transferable and shall only entitle the holder thereof to act as an electrician's apprentice to a licensed electrician.

(C) No permit shall be issued to any person to work as an electrician's apprentice who has previously been licensed under this subchapter as an electrician, or to any person who has previously worked as a master or journeyman electrician, unless that last mentioned person shall have taken the complete examination prescribed in this subchapter and shall have failed to pass the same.

(1986 Code, § 10-505) Penalty, see § 10.99

**§ 115.30 MAINTENANCE PERMIT.**

Any person regularly employed to care for and attend to the electric apparatus of any person, firm, or corporation shall submit himself or herself to the Board of Examiners for an examination as to his or her fitness and qualification to care for and attend to the electrical apparatus of that person, firm, or corporation; and if in the opinion of the Board of Examiners the person is competent and qualified to care for and attend to that electric apparatus, the Board of Examiners shall issue a permit to that person which permit shall give him or her the privilege of attending to and caring for the electric apparatus of the person set forth in the permit. This permit shall not be transferable, nor shall the person to whom it is granted be entitled to install electric apparatus for any other person, except the person, firm, or corporation set forth in the permit. Each person making application for a permit as provided in this section shall pay a permit fee of \$1, which shall include the examination fee.

(1986 Code, § 10-506) Penalty, see § 10.99

**§ 115.31 LICENSE REVOCATION.**

Every license and permit granted under the provisions of this subchapter may be revoked after reasonable notice and hearing by the Board of Examiners whenever any licensee or holder of any permit fails, neglects, or refuses to comply with any of the provisions of this subchapter. This penalty shall be cumulative and in addition to the penalties prescribed for the violation of the provisions of this subchapter. When the license of any electrician shall have been revoked by the Board, as herein provided, notice in writing of that revocation shall forthwith be furnished the City Clerk.  
(1986 Code, § 10-507) Penalty, see § 10.99

**§ 115.32 CONSTRUCTION OF SUBCHAPTER; CIVIL LIABILITY.**

This subchapter shall not be construed to remove or lessen the liability of any party owning, operating, controlling, or installing any electrical equipment for damage to any person or property injured by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspections authorized in §§ 150.095 *et seq.* of this code or the licenses or permits issued hereunder.  
(1986 Code, § 10-508)

**§ 115.33 INSPECTIONS.**

All electrical work done by any electrician shall be subject to electrical inspections as provided in §§ 150.095 *et seq.* of this code.  
(1986 Code, § 10-509)

***GAS FITTERS*****§ 115.45 LICENSE REQUIRED.**

It shall be unlawful for any person, firm, or corporation to engage in the gas fitting business in the city without first having obtained a license so to do as hereinafter provided. The same rule with respect to issuing licenses to gas fitters without examination as set forth in §§ 115.25 *et seq.* of this code pertaining to electricians shall apply.  
(1986 Code, § 10-601) Penalty, see § 10.99

**§ 115.46 LICENSE APPLICATION; EXAMINATION; CONTRACTORS, EMPLOYEES.**

(A) Application for a license shall be made to the Gas Inspector on forms furnished by him or her. Before the license shall be issued, the application shall be referred to the Board of Examiners and the applicant shall be required to submit to and pass an examination as to his or her qualifications and fitness, practical and elementary in character, to install gas fittings. The examination shall be given by the Gas Inspector, who shall have full power and authority to examine applicants and make rules for conduct as may be necessary; provided, those rules to be effective shall be first approved by the Mayor and Council.

(B) The same rule with respect to issuing licenses to gas fitting contractors and their employees as set forth in §§ 115.25 *et seq.* of this code pertaining to electrical contractors and their employees shall apply.

(1986 Code, § 10-602) Penalty, see § 10.99

**§ 115.47 BOND; CONDITIONS.**

Before any gas fitter's license shall be issued by the Board of Examiners, the applicant shall execute and file with the City Clerk a bond in the sum of \$1,000, signed by 1 or more sufficient sureties or a bond in like amount of some approved corporate surety company doing business through a writing agent in this city, to be approved by the Mayor and Council; conditioned that the licensee shall indemnify and hold harmless the city of and from all accidents, damage, liability, claims, judgments, costs, or expenses caused by any negligence arising from a failure to protect the work; or by any unfinished, unskillful, and inadequate work done in pursuance of his or her license in connecting the places prepared to receive gas service or arising out of furnishing defective material or from failure to execute and perform any gas fitting work done by licensee or by others under his or her supervision during the period of that gas fitter's license; and that the applicant will be governed by the rules and requirements herein provided or that may hereafter be prescribed and adopted by the city during the period of his or her license with reference to gas fitting to the satisfaction of the Gas Inspector or his or her deputy, if any. The obligee on the bond shall be the city, and action may be maintained thereon by anyone injured by a breach of its conditions for a period of 1 year after the completion of any gas fitting work.

(1986 Code, § 10-603) Penalty, see § 10.99

***Cross-reference:***

*Plumbers and gas fitters; insurance, see § 115.03*

**§ 115.48 LICENSE FEES, ISSUANCE, AND RENEWAL; APPRENTICES; INSTALLATIONS.**

§§ 115.28, 115.29, 150.099, and 150.100 of this code are hereby incorporated in this section by reference; provided, whenever words describing electrical apparatus appear in the sections incorporated

they shall be construed to mean gas pipes and appliances; and “gas fitter” shall be substituted for “electrician” therein; also “Electrical Inspector” shall mean “Gas Inspector.”  
(1986 Code, § 10-604)

## CHAPTER 116: RAILROADS

### Section

- 116.01 Safe crossing
- 116.02 Automatic lights and signals
- 116.03 Obstructing traffic
- 116.04 Drainage
- 116.05 Weeds
- 116.06 Obstructing view at crossings prohibited

### § 116.01 SAFE CROSSING.

It shall be the duty of every railroad company doing business in or traveling through the municipality to keep in a suitable and safe condition the crossings and right-of-way in the municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the Governing Body may, by resolution, call upon that company to make whatever repairs that it may deem necessary to correct the dangerous condition. Notice of this resolution shall be served upon the local agent of that company. In the event that the railroad shall fail or neglect to repair and correct the condition as aforementioned 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. RS 17-143, 17-144, 17-521, and 17-552) (1986 Code, § 10-701) Penalty, see § 10.99

### § 116.02 AUTOMATIC LIGHTS AND SIGNALS.

When so ordered by the Governing Body, approved automatic lights or signals shall be installed at designated crossings. These lights and bells shall be kept in good working order at all hours of the day and night so that all persons approaching the crossing shall be warned of the danger of approaching trains, engines, or cars on the tracks. Neglect or refusal to comply with that order within the time prescribed on the notice shall constitute an offense for each 24 hours of that neglect or refusal.

(Neb. RS 17-561) (1986 Code, § 10-702) Penalty, see § 10.99

**§ 116.03 OBSTRUCTING TRAFFIC.**

It shall be unlawful for any railroad company, its employees, agents, or servants, operating a railroad through the municipality to obstruct traffic on any public street, except in the event of an emergency, for a longer period at 1 time than 10 minutes.

(Neb. RS 17-552) (1986 Code, § 10-703) Penalty, see § 10.99

**§ 116.04 DRAINAGE.**

(A) It shall be the duty of any railroad company, its employees, agents, or servants, owning, maintaining, or operating a railroad within or through the corporate limits to construct and keep in repair ditches, drains, and culverts along and under its railroad tracks where the same may be necessary for the escape of water and proper draining of the territory on either side of the railroads.

(B) When any drains, ditches, or culverts may be necessary for the escape of water and the proper drainage of the territory on either side of any railroad track, the Governing Body may, by resolution, call upon the proper railroad company to construct or repair the drain, ditch, or culvert and to place the same in proper condition for the escape of water for the proper drainage of the territory on either side of the railroads. A copy of every such resolution shall be served upon the local agent of the railroad company whose duty it is to construct or keep in repair any such drain, ditch, or culvert; and for a failure or refusal to comply with any such resolution within 14 days after service thereof, as aforementioned, that railroad company, its local agent, section foreperson, or the employee in charge of maintenance shall be deemed guilty of an offense. Neglect or refusal to comply with the order after 14 days have expired shall constitute a separate offense for each 24-hour period thereafter.

(Neb. RS 17-144) (1986 Code, § 10-704) Penalty, see § 10.99

**§ 116.05 WEEDS.**

It shall be the duty of any railroad company, its employees, agents, or servants, owning, maintaining, or operating a railroad within or through the corporate limits to keep its right-of-way free from weeds and worthless vegetation. If any such owner or owners fails to destroy and remove the weeds and worthless vegetation from that right-of-way, it shall be the duty of the Municipal Clerk to give that owner or owners written notice to so remove the weeds and worthless vegetation. The notice shall set forth the specific portions of the weeds and worthless vegetation to be removed. If the owner or owners fails, neglects, or refuses to remove the weeds or worthless vegetation after 10 days of receiving notice, the Municipal Clerk or his or her agent shall destroy or remove the same and shall assess the cost thereof against the property.

(Neb. RS 18-1719) (1986 Code, § 10-705) Penalty, see § 10.99

**§ 116.06 OBSTRUCTING VIEW AT CROSSINGS PROHIBITED.**

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 40 feet of the crossing of the railroad track and a public road within the corporate limits of the municipality; provided, however, in no instance shall any person who is authorized to control the movement of a railroad car or cars within that distance be prevented from reasonably conducting his or her business.

(Neb. RS 74-1323) (1986 Code, § 10-706) Penalty, see § 10.99

