

## **CHAPTER 10: BUSINESS REGULATIONS**

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## **ARTICLE 1: ALCOHOLIC BEVERAGES**

### **§ 10-101 ALCOHOLIC BEVERAGES; DEFINITIONS.**

For purposes of this Article, the definitions found in sections 53-103 through 53-103.42 RS Neb. shall be used.

### **§ 10-102 ALCOHOLIC BEVERAGES; 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 Municipality unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (*Ref. 53-102 RS Neb.*)

### **§ 10-103 ALCOHOLIC BEVERAGES; RETAIL ESTABLISHMENTS; 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 one hundred fifty (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 one hundred fifty (150) feet:

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

(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 section 53-177.01 RS Neb.

(B) If a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty (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 section 53-133 RS Neb. if the affected church submits a written request for a hearing. (*Ref. 53-177 RS Neb.*)

(C) No alcoholic liquor, other than beer, shall be sold for consumption on the premises within three hundred (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 section 53-124.15 RS Neb. (*Ref. 53-177.01 RS Neb.*) (*Amended by Ord. Nos. 10-103, 5/8/12; 10-103, 12/8/15*)

**Statutory reference:**

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

**§ 10-104 ALCOHOLIC BEVERAGES; DWELLINGS.**

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

**§ 10-105 ALCOHOLIC BEVERAGES; LICENSE DISPLAYED.**

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

**§ 10-106 ALCOHOLIC BEVERAGES; LICENSEE REQUIREMENTS.**

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premise is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony; a person who has never been associated with, or kept, a house of ill fame; a person who has never been convicted of, or pleaded guilty to, a crime or misdemeanor opposed to decency and morality; a person who has never had a liquor license revoked for cause; a person whose premises, for which a license is sought, does not meet standards for fire safety as established by the State Fire Marshal; or a person who has not acquired a beneficial interest in more than two (2) alcoholic beverage retail establishments since March 4, 1963; Provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least twenty-five (25) sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant. (*Ref. 53-124.07, 53-125 RS Neb.*) (*Amended by Ord. No. 357, 10/13/80*)

**§ 10-107 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; MUNICIPAL EXAMINATION.**

*(Repealed by Ord. No. 737, 7/11/00)*

**§ 10-108 ALCOHOLIC BEVERAGES; LIQUOR LICENSE RENEWAL.**

Retail liquor licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the Governing Body to require the said licensee to issue an application for renewal. The Municipal Clerk, upon notice from the Commission, between January tenth (10th) and January thirtieth (30th) of each year, shall cause to be published in a legal newspaper in, or of general circulation in the Municipality, one (1) time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the Municipality; Provided, class C license renewal notices shall be published between the dates of July tenth (10th) and July thirtieth (30th) of each year. The Municipal Clerk shall then file with the Commission proof of publication of said notice on or before February tenth (10th) of each year or August tenth (10th) of each year for class C licenses. In the event that written protests are filed by three (3) or more residents of the Municipality against said license renewal, the Municipal Clerk shall deliver the protests to the Governing Body who shall thereupon proceed to notify the Commission that they are to require the said licensee to submit an application. *(Ref. 53-135, 53-135.01 RS Neb.)(Amended by Ord. No. 343, 12/10/79)*

**§ 10-109 ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL POWERS AND DUTIES.**

(A) The governing body is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery, and microdistillery licensees carried on within the corporate limits of the Municipality. *(Ref. 53-134.03 RS Neb.)*

(B) During the period of forty-five (45) days after the date of 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. *(Ref. 53-131 RS Neb.)*

(C) The governing body, with respect to licenses within the corporate limits of the Municipality, has the following powers, functions, and duties with respect to retail, 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 thirty (30) days after determining that such violation has occurred;

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

(c) Within thirty (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 sections 53-124 and 53-124.01 RS Neb. and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

(5) To examine or cause to be examined any applicant or any retail, 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 thirty (30) days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in section 53-133 RS Neb.; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in section 53-131 RS Neb., to fix a time and place for a hearing at which the governing body shall receive

evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the Municipality, one (1) time not less than seven (7) and not more than fourteen (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 forty-five (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. (*Ref. 53-134 RS Neb.*)

(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 section 53-124 RS Neb. the fee is payable to the Municipal Treasurer;

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

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

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

(2) Notwithstanding any ordinance or charter power to the contrary, the Municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the Municipality in any sum which exceeds two (2) times the amount of the license fee required to be paid under the Act to obtain that license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. Nos. 355, 10/13/80; 737, 7/11/00; 779, 6/11/02; 10-109, 5/8/12*)

## **§ 10-110 ALCOHOLIC BEVERAGES; OWNER OF PREMISES.**

The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premise in violation of any Municipal Code section or Nebraska Statute. (*Ref. 53-1,10 RS Neb.*)

**§ 10-111 ALCOHOLIC BEVERAGES; EMPLOYER.**

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act of omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him personally. (*Ref. 53-1,102 RS Neb.*)

**§ 10-112 ALCOHOLIC BEVERAGES; CATERING LICENSES.**

(A) The holder of a license to sell alcoholic liquor at retail issued under section 53-124 RS Neb., a craft brewery license, a microdistillery license, or a farm winery license may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, or farm winery license.

(B) Any person desiring to obtain a catering license shall file with the Commission:

(1) An application in triplicate original upon such forms as the Commission prescribes; and

(2) A license fee of one hundred dollars (\$100.00) payable to the Commission, which fee shall be returned to the applicant if the application is denied.

(C) (1) When an application for a catering license is filed, the Commission shall notify, by registered or certified mail, return receipt requested with postage prepaid:

(a) The Clerk of the city in which such applicant is located; or

(b) If the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located.

(2) The Governing Body and the Commission shall process the application in the same manner as provided in section 53-132 RS Neb.

(D) The Governing Body, with respect to catering licensees within its liquor license jurisdiction as provided in section 53-132(5) RS Neb. may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court of the county in which the local governing body is located.

(E) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body as provided in section 53-132(5) RS Neb. The tax may not exceed double the license fee to be paid under this section. (*Ref. 53-124.12 RS Neb.*) (*Ord. No. 780, 6/11/02*)



**§ 10-113 ALCOHOLIC BEVERAGES; SALE OF 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. (Ref. 53-180 RS Neb.) (Amended by Ord. Nos. 354, 10/13/80; 10-113, 5/8/12)

**Statutory reference:**

Authority, see 17-135 RS Neb.

**§ 10-114 ALCOHOLIC BEVERAGES; 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. (Ref. 53-183 RS Neb.) (Amended by Ord. Nos. 10-114, 5/8/12; 922, 2/10/15)

**§ 10-115 ALCOHOLIC BEVERAGES; SPIKING BEER.**

*(Repealed 2010)*

**§ 10-116 ALCOHOLIC BEVERAGES; ORIGINAL PACKAGE.**

It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. (Ref. 53-184 RS Neb.)

§ 10-117 ALCOHOLIC BEVERAGES; HOURS OF SALE.

(A) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day except:

(1) As provided below; and

Alcoholic Liquors (except beer and wine)

Secular Days

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

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

Sundays

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

On Sale. . . . . 12:00 Noon to 2:00 A.M.

Beer and Wine

Secular Days

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

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

Sundays

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

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

(2) Except that the City Council with respect to area inside the corporate limits of the City may by ordinance or resolution:

(a) Require closing prior to 1:00 A.M. on any day;

(b) If adopted by a vote of at least two-thirds (2/3) of the members of the City Council, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, later than 1:00 A.M. and prior to 2:00 A.M. on any day;

(c) If adopted by a vote of at least two-thirds (2/3) of the members of City Council, permit retail sale of alcoholic liquor for consumption off the premises later than 1:00 A.M. and prior to 2:00 A.M. on any day;

(d) If adopted by a vote of at least two-thirds (2/3) of the members of City Council, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises and permit retail sale of alcoholic liquor for consumption off the premises later than 1:00 A.M. and prior to 2:00 A.M. on any day.

(B) Except as provided for and allowed by ordinance of the City Council, no alcoholic liquor, including beer, shall be sold at retail or dispensed inside the corporate limits of the City between the

hours of 6:00 A.M. Sunday and 1:00 A.M. Monday. This division (B) shall not apply after 12:00 Noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

(C) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of fifteen (15) minutes after the closing hour applicable to the licensed premises and 6:00 A.M. on any day.

(D) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section. *(Amended by Ord. Nos. 326, 6/11/79; 385, 12/8/81; 543, 10/8/91; 890, 3/8/11; 922, 2/10/15)*

#### **§ 10-118 ALCOHOLIC BEVERAGES; SANITARY CONDITIONS.**

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

#### **§ 10-119 ALCOHOLIC BEVERAGES; HIRING MINORS.**

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

#### **§ 10-120 ALCOHOLIC BEVERAGES; 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 section 53-186(2) RS Neb. or as provided in section 60-6,211.08 RS Neb., 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. *(Ref. 53-186 RS Neb.)*

(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 section 60-6,211.08 RS Neb. (*Ref. 53-186.01 RS Neb.*) (*Amended by Ord. Nos. 362, 12/10/80; 736, 7/11/00; 10-120, 5/8/12*)

#### **§ 10-121 ALCOHOLIC BEVERAGES; ACQUISITION OF ALCOHOLIC BEVERAGES.**

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under provisions of the Nebraska Liquor Control Act; Providing, nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his family and guests, nor prevent 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 it is made solely for the use of the maker, his family and guests; provided further, nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession, or any hospital or institution caring for the sick and diseased persons, from possessing any alcoholic liquor for the

treatment of bona fide patients of such hospital or other institution; Provided further, that any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians; and Provided further, that 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 shall not be prohibited by this section; Provided further, that persons who are sixteen (16) years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are sixteen (16) years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are sixteen (16) years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization; and Provided further, that persons who are nineteen (19) years old or older may serve or sell alcoholic liquor in the course of their employment. (*Ref. 53-102, 53-175 RS Neb.*)(*Amended by Ord. No. 353, 10/13/80*)

**§ 10-122 ALCOHOLIC BEVERAGES; SPECIAL SUNDAY SALES.** (*Repealed by Ord. No. 326, 6/11/79*)

**§ 10-123 ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.**

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

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

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

For the purposes of this section, quasi-public property shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (*Ref. 53-1,121 RS Neb. (Ord. No. 332, 11/12/79) (Amended by Ord. No. 384, 12/8/81)*)

#### **§ 10-124 ALCOHOLIC BEVERAGES; INSPECTIONS.**

It shall be the duty of the Governing Body 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, cancelled, or revoked after the licensee has been given an opportunity to be heard by the Governing Body. (*Ref. 53-146 RS Neb.) (Ord. No. 352, 10/13/80)*)

#### **§ 10-125 ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS.**

Any five (5) residents of the Municipality shall have the right to file a complaint with the Governing Body stating that any retail or bottle club licensee, subject to the jurisdiction of the Governing Body, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the Governing Body 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 Governing Body is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; Provided, that the complaint must in all cases be disposed of by the Governing Body within thirty (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. (*Ref. 53-1,114 RS Neb.) (Ord. No. 351, 10/13/80)*)

#### **§ 10-126 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE.**

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

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

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

The Governing Body may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The Municipal Attorney may limit testimony where it appears incompetent, irrelevant, or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to perform such function who shall notify the Municipal Attorney of his/her representation prior to the start of the hearing.

The order of the proceeding is as follows:

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

In all cases, the burden of proof and persuasion shall be on the party filing the application.

Any member of the Governing Body and the Municipal Attorney may question any witness, call witnesses, or request information.

All witnesses shall be sworn.

The Governing Body may make further inquiry and investigation following the hearing.

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

*(Ref. 53-134 RS Neb.) (Ord. No. 457, 7/8/86) (Amended by Ord. No. 513. 11/14/89)*

#### **§ 10-127 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS.**

Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The Governing Body shall only consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the Governing Body to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

- a. The adequacy of existing law enforcement resources and services in the area;
- b. The recommendation of the Police Department or any other law enforcement agency;
- c. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking;
- d. Zoning restrictions and the local governing body's zoning and land-use policies;
- e. Sanitation or sanitary conditions on or about the proposed licensed premises;
- f. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- g. The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
- h. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that issued such licenses;
- i. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- j. Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in section 53-101.01;
- k. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with section 53-102;



l. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

m. Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

n. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

o. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;

p. Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the local governing body, any other governmental unit, or any court of law;

q. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the commission or local governing body or the employees of the commission in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;

r. Proximity of and impact on schools, hospitals, libraries, parks, and public institutions;

s. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

t. Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "license." (*Ref. 53-134 RS Neb.*) (*Ord. No. 458, 7/8/86*) (*Amended by Ord. No. 512, 11/14/89*)

**§ 10-128 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 five (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 (6) 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. (*Ref. 53-167.02 RS Neb.*)

(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. (*Ref. 53-167.03 RS Neb.*) (*Ord. No. 10-128, 12/8/15*)

## **ARTICLE 2: ITINERANT SALES**

[Editor's Note: This Article was amended in its entirety by Ordinance No. 418, passed on 3/13/84]

### **§ 10-201 ITINERANT SALES; DEFINITION.**

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

### **§ 10-202 ITINERANT SALES; LICENSE REQUIRED.**

It shall be unlawful for an itinerant vendor to engage in such business within the Municipality without first obtaining a license therefor. (Ref. 17-134, 75-32 thru 75-335 RS Neb.)

### **§ 10-203 ITINERANT SALES; APPLICATION.**

Applicants for a license shall file a written sworn application signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, with the Municipal Clerk, showing the details required on the form provided by the Clerk. (Ref. 17-134 RS Neb.)

### **§ 10-204 ITINERANT SALES; FEE.**

The applicant shall pay a license fee set by resolution of the Governing Body to cover the cost of processing the application and issuing the license. (Ref. 17-134, 17-525 R Neb.)

### **§ 10-205 ITINERANT SALES; BOND.**

Before any license shall be issued for engaging in an itinerant business, such applicant shall file with the Municipal Clerk a bond running to the Municipality in the sum of five thousand (\$5,000.00) dollars and executed by the applicant as principal, and one (1) corporate surety, or two (2) individual sureties

upon whom service of process may be had in the County, such bond to be approved by the Municipal Attorney, conditioned that such applicant shall comply fully with all the provisions of this Code, and the statutes of the State of Nebraska.

The above requirements may be satisfied by an alternative method, in lieu of buying a special bond for the City of Plainview, if the applicant has a surety bond as an itinerant sales agent with the State of Nebraska. A copy of the State of Nebraska bond, indicating thereon the effective dates, will be sufficient to satisfy this bonding requirement. *(Amended by Ord. No. 504, 6/13/89)*

#### **§ 10-206 ITINERANT SALES; APPOINTMENT OF AGENT.**

Before any license shall be issued, such applicant shall file with the Municipal Clerk an instrument nominating and appointing the Municipal Clerk, or the person performing the duties of such position, his true and lawful agent with full power and authority to acknowledge service of notice or process in respect to any matters connected with or arising out of the business transacted under such license. *(Ref. 17-134, 75-325 RS Neb.)*

#### **§ 10-207 ITINERANT SALES; LICENSE EXPIRATION.**

Two forms of licenses may be issued under the itinerant sales provisions, on either a sixty day basis of a six month basis, in the discretion of the applicant. The resolution providing for application fees may allow different fees for the different terms of licenses. *(Ref. 17-134, RS Neb.) (Amended by Ord. No. 505, 6/13/89)*

#### **§ 10-208 ITINERANT SALES; LICENSE REVOCATION.**

The licenses issued may be revoked by the Governing Body after reasonable notice and a hearing, for any causes deemed by the Governing Body, in their reasonable discretion, to be sufficient. *(Ref. 17-134 RS Neb.)*

#### **§ 10-209 ITINERANT SALES; APPEAL.**

Any person aggrieved by the decision of the Municipal Clerk in regard to the denial of an application for a license or in connection with the revocation of a license, shall have the right to appeal to the Governing Body. Such appeal shall be taken by filing with the Governing Body within fourteen (14) days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Governing Body shall set the time and place for a hearing on such appeal and notice shall be given to such person by registered mail, postage prepaid, at his last known address. The order of the Governing Body on such appeal shall be final. *(Ref. 17-134, RS Neb.)*

**§ 10-210 ITINERANT SALES; POLICE ENFORCEMENT.**

It shall be the duty of the Municipal Police to examine all places of business and persons subject to the provisions of this Article and to enforce the provisions herein against any person found to be violating the same. (*Ref. 17-134, 75-334 RS Neb.*)



### **ARTICLE 3: BOWLING AND BINGO**

**§ 10-301 BOWLING; HOURS.** *(Repealed by Ord. No. 456, 6/10/86)*

**§ 10-302 BINGO; REGULATION.**

Games of bingo shall be conducted within the Municipality in accordance with all laws of the Municipality and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing operation of said game. Application shall be made to the Municipal Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of an annual permit fee of ten (\$10.00) dollars. Said license shall be subject to revocation at any time for good cause. Any person or persons, so licensed, shall be subject to any other fees, rules, and regulations which the Governing Body may designate. All permits so issued will automatically expire on September thirtieth (30th), following its issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of ten (\$10.00) dollars. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted. *(Ref. 9-166 RS Neb.)(Amended by Ord. No. 436, 9/11/84)*

**§ 10-303 BINGO; TAX.** *(Repealed by Ord. No. 719, 4/8/99)*

**§ 10-304 BINGO; QUARTERLY REPORT.**

Each association conducting the game of bingo shall submit a written quarterly report to the Municipal Clerk covering the preceding calendar quarter on or before the thirtieth (30th) day of the immediately succeeding calendar quarter. *(Ref. 9-165 RS Neb.)*

**§ 10-305 BINGO; INCORPORATED REGULATION.**

All applicable State statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this Article as if repeated verbatim herein, and violation of any State statute will be a distinct and separate offense against the Municipality as well as against the State. Violators thereof

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shall be separately prosecuted by the Municipality for each of such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. (*Ref. 9-124 thru 9-176 RS Neb.*)



## **ARTICLE 4: BUILDING MOVING**

### **§ 10-401 BUILDING MOVING; BOND AND PERMIT REQUIRED.**

It shall hereafter be unlawful for any person or persons to engage in moving houses or other buildings or structures from place to place within the corporate limits of this City without first having given a bond and secured a permit in writing to do so from the City Administrator.

Any person or persons engaged in the business of moving houses within the corporate limits of the City shall execute a good and sufficient bond payable to the City of Plainview, Nebraska, in any sum not exceeding five thousand (\$5,000.00) dollars, with two (2) or more sureties, conditioned for the payment of any damages sustained by any person or corporation and also any damages sustained by the City, resulting from the moving of any building or buildings over and across any street, alley, crossing or culvert within the City. The amount of said bond shall be determined by the City Administrator.

Any bond as specified in this Section may be sued upon for the recovery of any and all damages sustained by any individual or corporation, and also any damages sustained by the City to any street, alley, culvert or crossing caused by the moving of any building or buildings over said crossings or culverts, either under the supervision of the principal or principals or their agents or their employees.



## ARTICLE 5: OCCUPATION TAXES

### § 10-500 LEVIES AUTHORIZED.

(A) The City shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the City and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 RS Neb. or which is exempt from tax under section 77-2704.24 RS Neb. The occupation tax shall be imposed in the manner provided in section 18-1208 RS Neb., except that section 18-1208 RS Neb. does not apply to an occupation tax subject to section 86-704 RS Neb. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the City. (*Ref. 17-525 RS Neb.*)

(B) The City Council shall have authority, by ordinance, to impose an occupation tax of not more than five dollars (\$5) per annum on each fire insurance corporation, company, or association, doing business in the City, for the use, support, and benefit of volunteer fire departments, regularly organized under the laws of the state regulating the same. The City Clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax the Clerk shall pay over the proceeds thereof to the City Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer fire department. Upon proper claim filed by the Chief of the Fire Department and allowed by the City Council, the Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department, as hereinbefore provided. (*Ref. 35-106 RS Neb.*)

(C) Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two (2) times the amount of the license fee required to be paid under the Act to obtain such license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. No. 922, 2/10/15*)

***Statutory reference:***

*Occupation taxes generating more than \$300,000; imposition or increase; election required, see 18-1208 RS Neb.*

**§ 10-501 OCCUPATION TAX; AMOUNTS.**

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

Alcoholic Beverages

Retailer of Beer, On and Off Sales, per year. . . . . \$ 50.00  
Plus \$50.00 State License Fee.

Retailer of Alcoholic Liquors, including Beer, On and Off Sale (Class C) per year. . . . . 250.00  
Plus \$250.00 State License Fee.

Retailer of Alcoholic Liquors, including Beer, On Sale only, per year. . . . . 200.00  
Plus \$200.00 State License Fee

Retailer of Alcoholic Liquors, including Beer, Off Sale only, (Package Sales) per year. . . . . 75.00

Fire Insurance Companies, per year. . . . . 5.00  
*(Ref. 17-525 RS Neb.)(Amended by Ord. No. 545, 10/8/91)*

**§ 10-502 OCCUPATION TAX; FIRE INSURANCE COMPANIES.**

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

**§ 10-503 OCCUPATION TAX; COLLECTION DATE.**

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

**§ 10-504 OCCUPATION TAX; CERTIFICATES.**

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

**§ 10-505 OCCUPATION TAX; FAILURE TO PAY.**

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



**ARTICLE 6: NATURAL GAS**

**§ 10-601 NATURAL GAS; FILING FEE.**

*(Repealed by Ord. No. 818, 3/9/04)*





## ARTICLE 7: TOBACCO SALES

### § 10-701 TOBACCO AND CIGARETTES; LICENSE TO SELL; ISSUANCE; VAPOR PRODUCTS.

(A) *License.* Licenses for the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products to persons over the age of eighteen (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. (Ref. 28-1421 RS Neb.)

*Statutory reference:*

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

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

(B) *License application.* Every person, partnership, limited liability company, or corporation desiring a license under sections 28-1420 to 28-1429 RS Neb. 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. (Ref. 28-1422 RS Neb.)

(C) *License term; fees.*

(1) 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.

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

(3) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than one hundred fifty thousand (150,000) cigars, packages of cigarettes, and packages of tobacco in any form, at wholesale, shall pay a license fee of one hundred dollars (\$100), and if such combined annual sales amount to less than one hundred fifty thousand dollars (150,000) cigars, packages of cigarettes, and packages of tobacco, the annual license fee shall be fifteen dollars (\$15). No wholesaler's license shall be issued in any year on a less basis than one hundred dollars (\$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 one hundred fifty thousand (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 one hundred dollars (\$100) is paid.

(4) If application for license is made after July 1 of any calendar year, the fee shall be one-half (1/2) of the fee provided in this section. (*Ref. 28-1423 RS Neb.*)

(D) *Rights of licensee.*

(1) 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 eighteen (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 section 28-1425 RS Neb. (*Ref. 28-1424 RS Neb.*)

(2) If the license is revoked and forfeited pursuant to section 28-1425 RS Neb., all rights under the license shall at once cease and terminate. (*Ref. 28-1425 RS Neb.*)

**Statutory reference:**

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

(E) *Disposition of 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. (*Ref. 28-1426 RS Neb.*)

(F) *Transfer of license.* 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. (*Ref. 28-1428 RS Neb.*)

(G) *Reissuance of revoked and forfeited license.* In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in section 28-1425 RS Neb., no new license shall be issued to such licensee until the expiration of one (1) year from the date of such revocation and forfeiture. (*Ref. 28-1429 RS Neb.*)

(*Ord. No. 713, 8/11/98*) (*Amended by Ord. No. 922, 2/10/15*)

**§ 10-702 TOBACCO; USE OF TOBACCO BY MINORS.**

(A) *Use by minors.* Whoever, being a minor under the age of eighteen (18) years, shall smoke cigarettes or cigars, use vapor products or alternative nicotine products, or use tobacco in any form whatever, in this City, shall be guilty of an offense. Any minor charged with a violation of this section

may be free from prosecution if he or she furnishes evidence for the conviction of the person or persons selling or giving him or her the cigarettes, cigars, vapor products, alternative nicotine products, or tobacco. (*Ref. 28-1418 RS Neb.*)

(B) *Sale of tobacco to minors.* Whoever shall sell, give, or furnish in any way any tobacco in any form whatever, or any cigarettes or cigarette paper, vapor products, or alternative nicotine products, to any minor under eighteen (18) years of age is guilty of an offense. (*Ref. 28-1419 RS Neb.*)

(C) *Misrepresentation by minor to obtain tobacco.* Any person under the age of eighteen (18) years who shall obtain cigars, tobacco, cigarettes, or cigarette material, vapor products, or alternative nicotine products from a licensee hereunder by representing that he or she is of the age of eighteen (18) years or over, is guilty of an offense. (*Ref. 28-1427 RS Neb.*)  
(*Ord. No. 922, 2/10/15*)



**ARTICLE 8: PENAL PROVISIONS**

**§ 10-801 VIOLATION; PENALTY.**

*(Repealed by Ord. No. 744, 7/11/00)*

*For penalty provisions, see section 12-101 of Chapter 12.*

**§ 10-802 ABATEMENT OF NUISANCE.**

*(Repealed by Ord. No. 744, 7/11/00)*

*For penalty provisions, see section 12-101 of Chapter 12.*

