

Chapter 10

BUSINESS REGULATIONS

Article 1. Alcoholic Beverages

§10-101 ALCOHOLIC BEVERAGES; DEFINITIONS. All words and phrases herein used are to have the definitions applied thereto, as defined in the Liquor Control Act of the State of Nebraska. (*Ref. 53-103.01 through 53-103.42 RS Neb.*)

§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; LOCATION RESTRICTIONS. (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 or for a bottle club 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 or for a bottle club has been granted by the Nebraska Liquor Control Commission for two (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 section 53 177.01 RS Neb.

(B) If a proposed location for the sale at retail of any alcoholic liquor or for a bottle club 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) Unless otherwise exempted by section 177.01 RS Neb., 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 village, and no bottle club shall be operated within three hundred (300) feet from the campus of any college, 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.*

820, 6/19/12; 914, 5/17/16; 1012, 8/8/19)

§10-104 ALCOHOLIC BEVERAGES; ACCESS TO DWELLINGS. Except in the case of hotels and clubs no alcoholic liquor shall be manufactured or sold at retail or wholesale upon any premise 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 permitted to be used or kept accessible for use by the public. This section does 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. *(Ref. 53-178 RS Neb.) (Amended by Ord. No. 949, 5/2/17)*

§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 REQUIRE-MENTS. (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 resident of this State and legally able to work in this State;
- (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 Chapter 28, art. 3, 4, 7, 8, 10, 11, or 12 RS Neb., 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 Nebraska 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 one 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 one (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 twenty-five percent (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 liquor license only if the Nebraska Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if the license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

- (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 twenty-one (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. (*Ref. 53-125 RS Neb.*) (*Amended by Ord. Nos. 243, 4/5/83; 259, 11/1/83; 520, 8/21/01; 951, 5/2/17*)

§10-107 ALCOHOLIC BEVERAGES; MUNICIPAL EXAMINATION. (*Repealed by Ord. No. 499, 7/5/00*)

§10-107.01 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, a microdistillery or a farm winery 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. 373, 3/7/95*) (*Amended by Ord. Nos. 437, 6/17/97; 498, 7/5/00; 559, 4/2/02; 662, 11/2/04*)

§10-108 ALCOHOLIC BEVERAGES; LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES.

(A) A retail or bottle club license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the City Council to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the city shall file a formal application for a license, and while 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 sixty (60) days following the annexation date of the area, the license may be renewed by order of the Commission for not more than one (1) year. (*Ref. 53-135 RS Neb.*)

(B) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the municipality, one (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 and each bottle club license within the Municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by three (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 section 53-135 RS Neb. (*Ref. 53-135.01 RS Neb.*) (*Amended by Ord. Nos. 259, 11/1/83; 661, 11/2/04; 1013, 8/8/19*)

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

(A) The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, craft brewery, and microdistillery licensees carried on within the corporate limits of the city. (*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 City Council 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 City Council, with respect to licenses within the corporate limits of the city, has the following powers, functions, and duties with respect to retail, bottle club, craft brewery, and microdistillery licenses:

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

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

(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, bottle club, 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 City Treasurer;

(5) To examine or cause to be examined any applicant or any retail, bottle club, 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, except as otherwise provided for bottle club licensees under state law, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in this code or section 53-134.04 RS Neb., 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 City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the city, 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 City Council in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than forty-five (45) days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The City Clerk 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 City 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 City Treasurer;

(b) Any fee for publication of notice of hearing before the City Council 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 city, except that Class J retail licensees shall not be subject to occupation taxes.

(2) 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 that license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. Nos. 244, 4/5/83; 259, 11/1/83; 499, 7/5/00; 558, 4/2/02; 952, 5/2/17; 1014, 8/8/19*)

§10-110 ALCOHOLIC BEVERAGES; OWNER OF PREM-ISES. 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. 53-1,101 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, 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; CLEAR VIEW. It shall be unlawful to use any screen, blind, curtain, partition, article, or other device in the windows or upon the doors of any retail liquor establishment which will have the effect of preventing a clear view into the interior of such licensed premise from the street, road, or sidewalk at all times. All licensed premises shall be continuously lighted during business hours by natural or artificial white lights to insure the clear visibility into said establishment. Any licensee who willfully violates the provisions of this section shall be subject to a revocation of his license by the Municipality as provided herein. (Ref. 53-167 RS Neb.)

§10-113 ALCOHOLIC BEVERAGES; 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. (Ref. 53-180 RS Neb.) (Amended by Ord. Nos. 245, 4/5/83; 821, 6/19/12)

§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. 199, 11/6/79; 822, 6/19/12; 893, 7/21/15)

§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; MINOR'S PRESENCE. It shall be unlawful for any

person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of eighteen (18) years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by his parent or legal guardian, and unless said minor remains seated with, and under the immediate control of, the said parent or legal guardian. (Ref. 53-147 RS Neb.)

§10-118 ALCOHOLIC BEVERAGES; HOURS OF SALE. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

HOURS OF SALE

Alcoholic Liquors (except beer and wine)

Secular Days

Off Sale6:00 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 Sale6:00 A.M. to 1:00 A.M.

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

Sundays

Off Sale6:00 A.M. to 1:00 A.M.

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

Provided that such limitations shall not apply after twelve o'clock (12:00) Noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to section 53-124-(5)(C) and (E) RS Neb.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

Nothing in this section shall be construed to prohibit licensed premises from being open for

business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. 53-179 RS Neb.) (Amended by Ord. Nos. 176, 9/7/76; 198, 11/6/79; 246, 4/5/83; 260, 11/1/83; 340, 10/1/91; 664, 11/2/04; 773, 7/6/10)

§10-119 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. (Ref. 53-118 RS Neb.)

§10-120 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. (Ref. 53-102 RS Neb.)

§10-121 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 bottle club, 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 bottle club, 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. 823, 6/19/12; 1015, 8/8/19)

§10-122 ALCOHOLIC BEVERAGES; 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 Nebraska 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 sixteen (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 sixteen (16) years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are sixteen (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;

(8) Persons who are sixteen (16) years old or older from completing a transaction for the sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor; or

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

(Ref. 53-168.06 RS Neb.) (Amended by Ord. Nos. 247, 4/5/83; 405, 2/20/96; 557, 4/2/02; 948, 5/2/17)

§10-123 ALCOHOLIC BEVERAGES; GROUNDS FOR REVOCATION AND SUSPENSION.

A retail license to sell or dispense alcoholic liquors, which this Council is legally empowered to revoke, may be either revoked or suspended by the City Council whenever it shall find, after notice and hearing as provided by law, that the holder of any such license has violated any of the provisions of said Nebraska Control Act, or of this Chapter, or rule or regulation of the Nebraska Liquor Control Commission, or for any one or more of the following causes:

1. The licensee, his manager or agent in charge of the premises licensed, has been convicted of or has plead guilty to a felony under the laws of the State of Nebraska, or of any other state of the United States.

2. The licensee, his manager or agent in charge of the premises licensed, has been convicted of or has plead guilty to being the proprietor, manager or agent in charge of a gambling house, or of pandering.

3. The licensee, his manager or agent in charge of the premises licensed, has been convicted of or plead guilty to violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquors.

4. The licensee either swore falsely to any question in his application for said license or has failed to comply with the statements and representations made by the answer to any question or questions in said application.

5. The licensee, his manager or agent in charge of the premises licensed, shall have forfeited bond to appear in court to answer charges for any one of the violations of law or ordinance referred to in this section.

6. It shall be the cause for revocation or suspension as herein provided if the licensee, his manager or agent, shall allow any live person to appear, or have reasonable cause to believe that any live person shall appear in any licensed premises in a state of bottomless nudity or topless nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as any employee in any capacity.

For the purpose of this section, the term "bottomless nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering. The term "topless nudity" shall mean the showing of that area of the human female breast from one inch above the breast nipple, the breast nipple, and that portion of the breast four inches below the breast nipple with less than a full opaque covering.

7. Upon a signed formal complaint of an alleged violation of this ordinance filed with the City Clerk of the City of Springfield, Nebraska, the Mayor and City Council of the City of Springfield will conduct a hearing on the matter at its next regular meeting, provided that the complaint is filed within ten (10) days prior to said meeting, otherwise the matter will be held over until the following regular Council Meeting. It shall be the duty of the City Clerk of the City of Springfield, Nebraska, to notify the retail liquor license holder, by United States mail, postage prepaid, of said alleged violation and hearing date. (*Ord. No. 176, 9/7/76*)

§10-124 ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY. (1) 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.

(2) 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.

(3) 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.

(4) 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. 215, 4/1/80*) (*Amended by Ord. No. 250, 4/5/83*)

§10-125 ALCOHOLIC BEVERAGES; LICENSED PREMISES; INSPECTIONS. The City Council shall cause frequent inspections to be made on the premises of all retail licensees and bottle club licensees. If it is found that any such licensee is violating any provision of this chapter, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska 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. (*Ref. 53-116.01 RS Neb.*) (*Ord. No. 248, 4/5/83*) (*Amended by Ord. Nos. 660, 11/2/04; 1016, 8/8/19*)

§10-126 ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS. Any five (5) residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee or bottle club licensee subject to the jurisdiction of the City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. 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 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 the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within thirty (30) days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in section 53-1,115 RS Neb. (*Ref. 53-134.04 RS Neb.*) (*Ord. No. 249, 4/5/83*) (*Amended by Ord. No. 663, 11/2/04; 1017, 8/8/19*)

§10-127 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE. (*Repealed by Ord. No. 499, 7/5/00*)

§10-128 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS. (*Repealed by Ord. No. 499, 7/5/00*)

§10-129 ALCOHOLIC BEVERAGES; CRITERIA FOR GRANTING OF SPECIAL DESIGNATED PERMITS. The following criteria are hereby adopted as prerequisites to the approval of a special designated permit for the consumption of alcohol. These criteria are established pursuant to section 53-124.11 RS Neb.

- (1) The applicant has met all the requirements set forth in section 53-124.11 RS Neb., 1943, and all rules and regulations as promulgated by the Nebraska Liquor Control Commission.
- (2) The designated location is appropriate and proper and does not otherwise prohibit the consumption of alcoholic liquor thereon.
- (3) The special designated permit and the designated location shall not allow or permit the selling or dispensing of liquor to minors because of its designated location.
- (4) The designated location shall not have had any liquor violations occur within the past year.
- (5) The applicant shall not have been found guilty of violating liquor license laws of the State of Nebraska or the City within the past five (5) years.
- (6) The applicant has paid a fifty dollar (\$50.00) per day permit fee to the City.
- (7) The applicant is not requesting more than a five (5) day permit.
- (8) An applicant may only receive one (1) permit in any six (6) day period.
- (9) The event shall be held in an enclosed or fenced area no larger than ninety thousand (90,000) square feet.
- (10) Applicant shall post a five hundred dollar (\$500.00) cash bond with the City to ensure faithful performance of subsection (9) above. If applicant's event shall exceed the square footage limitation, the bond shall be forfeited to cover the law enforcement costs associated with the violation. (*Ord. No. 443, 4/7/98*) (*Amended by Ord. Nos. 515, 8/7/01; 570, 9/3/02; 755, 4/7/09*)

§10-130 ALCOHOLIC BEVERAGES; 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 eighteen and ninety-two hundredths (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. 918, 5/17/16*)

§10-131 ALCOHOLIC BEVERAGES; 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 Nebraska Liquor Control Act unless within specific

exemptions or exceptions provided in this chapter or the Act. *(Ref. 53-175 RS Neb.)*

(B) (1) Except as otherwise provided in this section, 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 nine (9) liters in any one (1) calendar month.

(2) Division (B)(1) of this section does not apply to a person importing alcoholic liquor from a holder of a retail direct sales shipping license or its equivalent, which alcoholic liquor is for personal use or for use by such person's family or guests, if the total amount imported by such person in any one (1) calendar year does not exceed one hundred eight (108) liters. *(Ref. 53-194.03 RS Neb.) (Ord. No. 950, 5/2/17)*