

## **TITLE XI: BUSINESS REGULATIONS**

### Chapter

- 110. ALCOHOLIC BEVERAGES**
- 111. SALES AND ADVERTISING**
- 112. AMUSEMENTS**
- 113. BUSINESS ENTERPRISES**
- 114. CABLE TELEVISION**
- 115. TOBACCO REGULATIONS**
- 116. GENERAL BUSINESS LICENSING**



## CHAPTER 110: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 110.01 Definitions
- 110.02 Sale or gift to minor or mentally incompetent person prohibited
- 110.03 Consumption in public places or places open to the public; restrictions
- 110.04 Removal of intoxicated persons from public or quasi-public property

#### *Licenses Required*

- 110.20 Manufacture, sale, delivery and possession; general prohibitions; exceptions
- 110.21 Acquisition and possession; restrictions
- 110.22 Licensee requirements
- 110.23 Licenses; city powers and duties
- 110.24 Licensed premises; inspections
- 110.25 License renewal; city powers and duties
- 110.26 Catering licenses
- 110.27 Display of license
- 110.28 Owner of premises or agent; liability
- 110.29 Licensee; liability for acts of officer, agent or employee
- 110.30 Citizen complaints

#### *Retail Establishments*

- 110.45 Location
- 110.46 Access to dwellings
- 110.47 Sanitary conditions
- 110.48 Hours of sale
- 110.49 Credit sales prohibited
- 110.50 Original package required
- 110.51 Minor's presence restricted
- 110.52 Keg sales; requirements; prohibited acts

**GENERAL PROVISIONS****§ 110.01 DEFINITIONS.**

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

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

No person shall sell, furnish, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. (Neb. RS 53-180) Penalty, see § 10.99

***Statutory reference:***

*Authority, see Neb. RS 17-135*

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

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

(B) It is unlawful for any person owning, operating, managing or conducting any dance hall, restaurant, café or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises, except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café or club or any place open to the general public, except as permitted by a license issued for such premises pursuant to the Act. This division (B) does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. RS 60-6,211.08.

(Neb. RS 53-186.01) Penalty, see § 10.99

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

(A) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself or others, or who is

otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take the intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center or with a medical doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

(B) The placement of the person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to the person designated by the person taken into civil protective custody.

(C) The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for these actions.

(D) The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

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

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

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

### ***LICENSES REQUIRED***

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

(A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this chapter and the 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 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

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

(7) Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

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

(Neb. RS 53-168.06)

Penalty, see § 10.99

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

(A) It shall be unlawful for any person to purchase, receive, acquire, accept or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under this chapter and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act.

(Neb. RS 53-175)

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

(Neb. RS 53-194.03)

Penalty, see § 10.99

**§ 110.22 LICENSEE REQUIREMENTS.**

(A) No license shall be issued to:

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

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

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

(4) A person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state or the United States;

(5) A person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant Neb. RS Ch. 28, Art. 3, 4, 7, 8, 10, 11 or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this division on May 18, 1983, shall not prevent any person holding a license on that date from retaining or renewing that license if the conviction or plea occurred prior to May 18, 1983;

(6) A person whose license issued under the 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 1 of the members is a resident of this state and unless all the members of that company are otherwise qualified to obtain a license;

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

**Alma - Business Regulations**

section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This division (A)(10) 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 (A)(13), an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such an applicant shall become eligible for a liquor license only if the Nebraska Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if the license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

(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 (A)(15) shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization; or

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

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

(Neb. RS 53-125)

**§ 110.23 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, craft brewery and microdistillery licensees carried on within the corporate limits of the city.

(Neb. RS 53-134.03)



(B) During the period of 45 days after the date of receipt by mail or electronic delivery from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license or a microdistillery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant the license to the applicant.

(Neb. RS 53-131)

(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, 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 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 30 days after determining that such violation has occurred;

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

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

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

(4) To receive retail, craft brewery, and microdistillery license fees as provided in Neb. RS 53-124 and 53-124.01 and pay the same, after the license has been delivered to the applicant, to the City 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 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 § 110.30, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133; and

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the 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 time not less than seven and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after the hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The City Clerk shall mail to the Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. RS 53-134)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the 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 Neb. RS 53-124 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 Neb. RS 53-135.01; and

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

(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 times the amount of the license fee required to be paid under the Act to obtain that license.  
(Neb. RS 53-132)

**§ 110.24 LICENSED PREMISES; INSPECTIONS.**

The City Council shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this chapter, the 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.  
(Neb. RS 53-116.01)

**§ 110.25 LICENSE RENEWAL; CITY POWERS AND DUTIES.**

(A) A retail 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 60 days following the annexation date of the area, the license may be renewed by order of the Commission for not more than 1 year.  
(Neb. RS 53-135)

(B) (1) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the city, 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.

(2) If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by three or more residents of the city 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.

(3) Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. RS 53-135.  
(Neb. RS 53-135.01)

**§ 110.26 CATERING LICENSES.**

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

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in § 110.23.

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

(D) The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license.  
(Neb. RS 53-124.12)

**§ 110.27 DISPLAY OF LICENSE.**

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises.  
(Neb. RS 53-148) Penalty, see § 10.99

**§ 110.28 OWNER OF PREMISES OR AGENT; LIABILITY.**

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of the premises, or the agent of that owner or person, knowingly permits the licensee to use the licensed premises in violation of the terms of the Nebraska Liquor Control Act or any city ordinance, that owner, agent or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as the licensee and be subject to the same punishment.  
(Neb. RS 53-1,101) Penalty, see § 10.99

**§ 110.29 LICENSEE; LIABILITY FOR ACTS OF OFFICER, AGENT OR EMPLOYEE.**

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act or any city ordinance by any officer, director, manager or other agent or employee of any licensee, if the act is committed or omission is made with the authorization, knowledge

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

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

**§ 110.30 CITIZEN COMPLAINTS.**

Any five residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the City Council has been or is violating any provision of the 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 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. RS 53-1,115.

(Neb. RS 53-134.04)

***RETAIL ESTABLISHMENTS***

**§ 110.45 LOCATION.**

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

(1) For which a license to sell alcoholic liquor at retail has been granted by the Nebraska Liquor Control Commission for 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 Neb. RS 53-177.01.

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

(Neb. RS 53-177)

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

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

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

(Neb. RS 53-177.01) Penalty, see § 10.99

***Statutory reference:***

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

**§ 110.46 ACCESS TO DWELLINGS.**

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

(Neb. RS 53-178) Penalty, see § 10.99

**§ 110.47 SANITARY CONDITIONS.**

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

Penalty, see § 10.99

***Statutory reference:***

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

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

**§ 110.48 HOURS OF SALE.**

(A) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1:00 a.m. and 6:00 a.m.

(B) Alcoholic liquor, including beer, shall be expressly permitted to be sold or dispensed by a licensed premises within the corporate limits of the city between the hours of 6:00 a.m. and 1:00 a.m. any secular day and also between the hours of 6:00 a.m. Sunday and 1:00 a.m. Monday.

(C) Upon application by a licensed person or persons, or their agents, the City Council may, by a two-thirds majority vote, extend the hours of sale of alcoholic liquor to 2:00 o'clock a.m. for such licensee for one day special events. A new application and permit shall be required for such event and shall not be continuing.

(D) 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 between the hours of 15 minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

(E) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours which the sale or dispensing of alcoholic liquor is prohibited by this section. (Ord 2015-22, passed 9/16/15)

**§ 110.49 CREDIT SALES PROHIBITED.**

(A) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any

services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

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

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

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

(3) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.

(Neb. RS 53-183) (Ord. 2015-18, passed 5-4-2015) Penalty, see § 10.99

#### **§ 110.50 ORIGINAL PACKAGE REQUIRED.**

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks or other containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.

(Neb. RS 53-184) Penalty, see § 10.99

#### **§ 110.51 MINOR'S PRESENCE RESTRICTED.**

It shall be unlawful for any person who owns, manages, or leases an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years of age to frequent or otherwise remain in the establishment unless the minor is accompanied by his or her parent or legal guardian, and unless the minor remains seated with and under the immediate control of the parent or legal guardian.

Penalty, see § 10.99

*Statutory reference:*

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

#### **§ 110.52 KEG SALES; REQUIREMENTS; PROHIBITED ACTS.**

(A) When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18.92 or more liters, the seller



shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.  
(Neb. RS 53-167.02)

(B) Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container or is in possession of a beer container described in division (A) above with an altered or removed keg identification number after the container has been taken from the licensed premises pursuant to a retail sale and before its return to the licensed premises or other place where returned kegs are accepted shall be guilty of an offense.  
(Neb. RS 53-167.03) Penalty, see § 10.99



## CHAPTER 111: SALES AND ADVERTISING

### Section

#### *Peddlers and Solicitors*

- 111.01 Definitions
- 111.02 Permit required
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal Procedure
- 111.08 Exhibition of identification
- 111.09 Policy on soliciting
- 111.10 Time when Peddlers and Solicitors may do business
- 111.11 Peddler and Solicitor Exceptions

### ***PEDDLERS AND SOLICITORS***

#### **§ 111.01 DEFINITIONS.**

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

***BUSINESS.*** The business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this section.

***GOODS.*** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

***ITINERANT MERCHANT.*** Any person, whether as owner, agent or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle or any place within the city.

***PEDDLER.*** Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city. This does not apply to Farmers Markets or public events including but not limited to the community Fourth of July celebration or other events approved by the City Council.

***SOLICITOR.*** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

(Ord. 2017-5, passed 4-19-17)

**§ 111.02 PERMIT REQUIRED.**

(A) Any person who is an itinerant merchant, peddler or solicitor shall obtain a permit before engaging in such activity within the city.

(B) The fee for the permit required by this subchapter shall be as set from time to time by the city.

(C) No permit issued under this subchapter shall be transferable.

(D) It shall be unlawful for any itinerant merchant, solicitor, or peddler, directly or indirectly to sell, attempt to sell, solicit, or make solicitations on the streets, in any office or business building, by house to house or in any other private or public place by personal solicitation, or any other way in the City of Alma unless such person, organization, society, association, or corporation shall have obtained a permit as provided hereafter.

(Ord. 2017-5, passed 4-19-17)

**§ 111.03 APPLICATION PROCEDURE.**

(A) All applicants for permits required by this subchapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

- (1) The name and address of the applicant;
- (2) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;
- (3) The local address of such individual;
- (4) The permanent address of such individual;
- (5) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
- (6) The time period or periods during which it is proposed to carry on applicant's business;
- (7) The nature, character and quality of the goods or services to be offered for sale or delivered;
- (8) Whether or not the applicant or the individual identified in division (A)(2)(a) above or the person identified in division (A)(3). above has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor permits may be required to provide further information concerning the following items, in addition to that requested under division A. above:

- (1) A description of the applicant;
- (2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) If a peddler or solicitor permit is approved, applicant will not use or represent in any way to any potential customer that the granting of said permit is an endorsement by the City of Alma of the products or services being sold.  
(Ord. 2017-5, passed 4-19-17) Penalty, see § 10.99

**§ 111.04 STANDARDS FOR ISSUANCE.**

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character may be made.

(B) The application may be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude;
- (2) Has made willful misstatements in the application;
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts

will constitute valid reasons for disapproval of an application.  
(Ord. 2017-5, passed 4-19-17)

**§ 111.05 REVOCATION PROCEDURE.**

Any permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.  
(Ord. 2017-5, passed 4-19-17)

**§ 111.06 STANDARDS FOR REVOCATION.**

A permit granted under this subchapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the permit application;
- (B) Any fraud, misrepresentation or false statement made in connection with the business being conducted under the permit;
- (C) Any violation of this subchapter;

(D) Conviction of the applicant of any felony, or conviction of the applicant of any misdemeanor involving moral turpitude; or

(E) Conducting the business permitted in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

(Ord. 2017-5, passed 4-19-17)

**§ 111.07 APPEAL PROCEDURE.**

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 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 City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

(B) The order of the City Council after the hearing shall be final.  
(Ord. 2017-5, passed 4-19-17)

**§ 111.08 EXHIBITION OF IDENTIFICATION.**

(A) Any permit issued to an itinerant merchant under this subchapter may be posted conspicuously in or at the place(s) named therein.

(B) The City Clerk may issue a permit to each peddler or solicitor approved pursuant to the provisions of this subchapter. The permit shall contain the expiration date of the permit and the number of the permit. The permit shall be kept with the applicant during such time as he or she is engaged in the business permitted.  
(Ord. 2017-5, passed 4-19-17) Penalty, see § 10.99

**§ 111.09 POLICY ON SOLICITING.**

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.  
(Ord. 2017-5, passed 4-19-17)

**§ 111.10 TIME WHEN PEDDLERS AND SOLICITORS MAY DO BUSINESS.**

It is hereby declared that it is unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of sunset and 9am unless they have a previous appointment with the resident of the premises solicited.  
(Ord. 2017-5, passed 4-19-17)

**§ 111.11 PEDDLER AND SOLICITOR EXCEPTIONS.**

(A) This Article shall not apply to any established society, school, church, association, or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, charitable, or educational purposes, not operated for pecuniary profit, when no part of the net earnings of which inures to the benefit of any person, private, shareholder, or individual, and where such solicitation may

be in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order, or fraternity or similar organization, or any branch thereof.

(B) No permit will be required for qualified representatives of any church, having an established congregation and conducting regular services, in the City. It shall be the duty of the City Clerk to verify that the congregation is actually established in the City.

(C) Nothing herein shall be construed to apply to any person, or persons selling products at a Farmers Market or public event approved by the City Council, or to wholesale sales representatives.  
(Ord. 2017-5, passed 4-19-17)

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## CHAPTER 112: AMUSEMENTS

### Section

#### *Pool and Billiards*

- 112.01 Definition
- 112.02 Regulation
- 112.03 Minors
- 112.04 Operator's responsibility
- 112.05 Unobstructed view
  
- 112.99 Penalty

#### ***POOL AND BILLIARDS***

##### **§ 112.01 DEFINITION.**

(A) The term ***POOL AND BILLIARDS*** shall mean a game played on a table in which the object is to drive balls into the pockets, and which is conducted for profit or gain.

(B) All ordinances relating to pool and billiards shall apply to any such game whether or not it is conducted in connection with any other business.  
(1993 Code, § 10-301)

##### **§ 112.02 REGULATION.**

(A) It shall be unlawful for any person or persons, to own, maintain or operate any game of pool or billiards for profit or gain without having first obtained a license from the municipality.

(B) Any person desiring a license to operate, maintain or own a pool or billiard game or hall shall file a written application with the Municipal Clerk. 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.



(C) Upon the determination that the granting of the license would be beneficial to the municipality, the governing body shall immediately direct the Municipal Clerk to issue the license to the applicant upon the payment of a fee set by resolution of the governing body.

(D) Said license shall be subject to revocation at any time for good and sufficient cause by the governing body upon the issuance of proper notice, and a hearing if the licensee should make such a request.

(E) Any person or persons so licensed shall be subject to any bond, fees or other rules and regulations as may be set by resolution of the governing body for the benefit of the municipality. (1993 Code, § 10-302) Penalty, see § 112.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-120, 17-207, 17-524*

**§ 112.03 MINORS.**

It shall be unlawful for any person or persons operating any pool and billiards game to allow any minor under the age of 18 years to play any game of pool or billiards, or to loiter on the premise.

(1993 Code, § 10-303) Penalty, see § 112.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-120, 17-207*

**§ 112.04 OPERATOR'S RESPONSIBILITY.**

It shall be unlawful for the owner or operator of a pool and billiards establishment to allow or permit any disturbance of the peace, fighting, gambling, drunkenness, use of profanity, obscene books and pictures.

(1993 Code, § 10-304) Penalty, see § 112.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-120, 17-207*

**§ 112.05 UNOBSTRUCTED VIEW.**

It shall be unlawful for the owner or operator of a pool or billiards establishment to obstruct the view from the outside into the said establishment by the use of screens, blinds, paint or other means. It shall further be unlawful for the owner or operator of a pool or billiards establishment to close or lock any room or rooms, except rooms used for storage purposes only, while the said pool or billiards establishment is open and available for public use.

(1993 Code, § 10-305) Penalty, see § 112.99

***Statutory reference:***

*Related provisions, see Neb. RS 17-120, 17-207*

**§ 112.99 PENALTY.**

(A) *Generally.* Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.  
(1993 Code, § 10-801)

(B) *Abatement of nuisance.* Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.  
(1993 Code, § 10-802)  
(Ord. 10-0708-2, passed 10-7-2008)



## CHAPTER 113: BUSINESS ENTERPRISES

Section

### *General Regulations*

- 113.01 Mobile homes and trailer houses; noncompliance with requirements; designated areas
- 113.02 Zoning regulations; manufactured homes; standards

### *Junk Yard Regulations*

- 113.15 Definitions
- 113.16 Regulation
- 113.17 Owner's responsibility
- 113.18 Inspections
- 113.19 Nuisance
- 113.20 Rodents
  
- 113.99 Penalty

### **GENERAL REGULATIONS**

#### **§ 113.01 MOBILE HOMES AND TRAILER HOUSES; NONCOMPLIANCE WITH REQUIREMENTS; DESIGNATED AREAS.**

All mobile homes and trailer houses within the city limits that do not comply with all of the requirements of § 113.02 shall be located in a designated trailer house or mobile home parking area or they shall not be served by city utilities.

(1993 Code, § 10-401)

#### **§ 113.02 ZONING REGULATIONS; MANUFACTURED HOMES; STANDARDS.**

(A) A manufactured home may be used as a residential structure in any zone in which residential uses are permitted if such manufactured home bears an appropriate seal which indicates that it was

constructed in accordance with the standards of the Department of Health or the United States Department of Housing and Urban Development.

(B) Manufactured homes permitted pursuant to this section shall be located and installed according to the following standards which are applicable to site-built, single-family dwellings.

(1) The home shall be located and installed on a permanent perimeter foundation.

(2) The home shall be installed with permanent utility connections.

(3) The home shall comply with all setback and lot requirements of the residential zone in which it is located.

(4) The home shall comply with the minimum square footage requirements of the residential zone in which it is located.

(C) Manufactured homes shall also meet the following standards.

(1) The home shall have no less than 900 square feet of floor area.

(2) The home shall have no less than an 18-foot exterior width.

(3) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.

(4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction.

(5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock.

(6) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(D) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

(E) For purposes of this section, **MANUFACTURED HOME** shall mean: a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban

Development; or a modular housing unit as defined in Neb. RS 71-1557, bearing the seal of the Department of Health.

(1993 Code, § 10-402) (Ord. 01-175-10, passed 1-17-1995)

**Statutory reference:**

*Related provisions, see Neb. RS 19-902*

**JUNK YARD REGULATIONS**

**§ 113.15 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where no definition is specified, the normal dictionary usage of the word shall apply.

**JUNK.** Includes scrap metals, scrap materials, whether they are liquids, solids or gases, branches of trees and dismantled or wrecked automobiles, tractors and machinery or parts thereof.

**JUNK COLLECTOR.** Any person going from place to place, or house to house, collecting or buying iron, copper, brass and zinc scraps, rags, bottles or old paper, and selling the same to a junk dealer.

**JUNK DEALER.** Includes any person engaged in the business of buying, selling, receiving, collecting or dealing in metal scraps, scrap iron, metals of any kind and in any form, bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; or the storage of iron, metal or junk.

**JUNK YARD.** Include any place in the municipality where or from which any person shall conduct, engage in or carry on the business of junk dealer as herein defined.

(1993 Code, § 10-403)

**Statutory reference:**

*Related provisions, see Neb. RS 17-207*

**§ 113.16 REGULATION.**

(A) It shall be unlawful for any person to own, operate or hold open for public use any junk yard as herein defined without first obtaining a license to do so from the municipality.

(B) Application for a license to own, operate or hold open for public use any junk yard shall be made in writing to the Municipal Clerk and shall require such information and documents, or copies thereof, that the governing body deems necessary to determine whether to grant or reject the said application.

(C) Upon approval of the application, the Municipal Clerk shall issue the license upon the payment of a fee set by resolution of the governing body.

(D) The licensee shall then be subject to any occupation taxes, bond requirements and other rules and regulations which the governing body may determine to be beneficial to the municipality. Any such bond shall be set by resolution of the governing body and will be conditioned upon the faithful observance of the provisions of this code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard.

(1993 Code, § 10-404) Penalty, see § 113.99

***Statutory reference:***

*Related provisions, see Neb. RS 69-202*

**§ 113.17 OWNER'S RESPONSIBILITY.**

The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director or employee thereof to see that the provisions of this Code will not be violated. In the event the provisions of this Code are violated, he or she shall be equally liable with the operator, director or employee for the said violation of the provisions herein.

(1993 Code, § 10-405)

**§ 113.18 INSPECTIONS.**

The municipal police, health officials and the governing body shall have the power and authority to inspect and examine the premise on which a junk yard is located; provided, that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director or employee has allowed a health or safety hazard to develop, the governing body shall give written notice to the owner to remove the said health hazard within 30 days.

(1993 Code, § 10-406)

***Statutory reference:***

*Related provisions, see Neb. RS 69-204*

**§ 113.19 NUISANCE.**

Any junk yard that becomes a danger to the public health, or is not operated in the manner herein provided, shall be deemed to be a public nuisance after the said 30-day period of grace. The governing

body shall then request the Municipal Attorney to prosecute the owner, operator, director or employee of the said nuisance for violation of the provisions of this subchapter.

(1993 Code, § 10-407)

***Statutory reference:***

*Related provisions, see Neb. RS 18-1720*

**§ 113.20 RODENTS.**

Any person who owns, operates, directs or is employed by a junk yard shall make a diligent and continuous effort to exterminate all rats, mice and other harmful rodents frequenting the said junk yard.

(1993 Code, § 10-408)

***Statutory reference:***

*Related provisions, see Neb. RS 18-1720*

**§ 113.99 PENALTY.**

(A) *Generally.* Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

(1993 Code, § 10-801)

(B) *Abatement of nuisance.* Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(1993 Code, § 10-802)

(Ord. 10-0708-2, passed 10-7-2008)





## CHAPTER 114: CABLE TELEVISION

### Section

- 114.01 FCC regulations
- 114.02 Public hearings
- 114.03 State and local requirements
  
- 114.99 Penalty

### **§ 114.01 FCC REGULATIONS.**

The city will follow the FCC rate regulations, (as such may be amended from time to time by the FCC) in its regulation of the basic service rates and charges of any cable television system operating within the city's jurisdiction, notwithstanding any different or inconsistent provisions in any franchise agreement given by the city to any cable television system.  
(1993 Code, § 10-601)

### **§ 114.02 PUBLIC HEARINGS.**

In connection with such regulation, the city will ensure a reasonable opportunity for consideration of the views of interested parties by: making available for public inspection, at a time and location to be specified by public notice, a copy of any rate filing submitted by the company to the city, (hereinafter "rate filing"); after public notice, accepting written comments submitted by interested parties and convening a public hearing within 20 days (or more but not less than 30) of the submission of such rate filing by the company; and accepting additional public comments and/or convening further public hearings as the city deems necessary or desirable in carrying out its rate regulatory function in a fair and efficient manner which assures adequate public participation (for example, if the city avails itself of the additional 90- or 150-day period permitted by the FCC to complete its review of the company's rate filing).  
(1993 Code, § 10-602)

### **§ 114.03 STATE AND LOCAL REQUIREMENTS.**

In connection with §§ 114.01 and 114.02, the city will comply with all state and local requirements that apply to public participation in the city's regulation of the basic service rates and charges of any

cable television system operating within the city's jurisdiction.  
(1993 Code, § 10-602)

**§ 114.99 PENALTY.**

(A) *Generally.* Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$500 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.  
(1993 Code, § 10-801)

(B) *Abatement of nuisance.* Whenever a nuisance exists as defined in this chapter, the municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.  
(1993 Code, § 10-802)  
(Ord. 10-0708-2, passed 10-7-2008)

## CHAPTER 115: TOBACCO REGULATIONS

### Section

- 115.01 Tobacco and cigarettes; license to sell; issuance
- 115.02 License application
- 115.03 License term; fees
- 115.04 Rights of licensee
- 115.05 Disposition of fees
- 115.06 Transfer of license
- 115.07 Reissuance of revoked and forfeited license

### § 115.01 TOBACCO AND CIGARETTES; LICENSE TO SELL; ISSUANCE.

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

(Neb. RS 28-1421) (Ord. 2015-19, passed 5-4-2015)

***Statutory reference:***

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

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

### § 115.02 LICENSE APPLICATION.

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

(Neb. RS 28-1422) (Ord. 2015-19, passed 5-4-2015)

**§ 115.03 LICENSE TERM; FEES.**

(A) The term for which a license shall run shall be from the date of filing the application and paying the license fee to and including December 31 of the calendar year in which application for the license is made.

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

(C) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than 150,000 cigars, packages of cigarettes, and packages of tobacco in any form, at wholesale, shall pay a license fee of \$100, and if such combined annual sales amount to less than 150,000 cigars, packages of cigarettes, and packages of tobacco, the annual license fee shall be \$15. No wholesaler's license shall be issued in any year on a less basis than \$100 per annum unless the applicant shall file with the application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, and packages of tobacco in every form have not exceeded in the aggregate 150,000 annually and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of an offense, and such wholesaler's license shall be revoked until the full license fee of \$100 is paid.

(D) If application for license is made after July 1 of any calendar year, the fee shall be one-half of the fee provided in this section.

(Neb. RS 28-1423) (Ord. 2015-19, passed 5-4-2015) Penalty, see § 10.99

**§ 115.04 RIGHTS OF LICENSEE.**

(A) The license, provided for in this chapter, when issued, shall authorize the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products by the licensee and employees, to persons over the age of 18 years, at the place of business described in the license for the term therein authorized, unless the license is forfeited as a result of court action as provided in Neb. RS 28-1425.

(Neb. RS 28-1424)

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

(Neb. RS 28-1425)

(Ord. 2015-19, passed 5-4-2015)

***Statutory reference:***

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

**§ 115.05 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.  
(Neb. RS 28-1426) (Ord. 2015-19, passed 5-4-2015)

**§ 115.06 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.  
(Neb. RS 28-1428) (Ord. 2015-19, passed 5-4-2015)

**§ 115.07 REISSUANCE OF REVOKED AND FORFEITED LICENSE.**

In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in Neb. RS 28-1425, no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture.  
(Neb. RS 28-1429) (Ord. 2015-19, passed 5-4-2015)



## CHAPTER 116: GENERAL BUSINESS LICENSING

Section

### *Occupation Taxes*

- 116.01 Levies authorized
- 116.02 Collection dates
- 116.03 Certificates
- 116.04 Failure to pay

### **OCCUPATION TAXES**

#### **§ 116.01 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 Neb. RS 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under Neb. RS 77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. RS 18-1208, except that Neb. RS 18-1208 does not apply to an occupation tax subject to Neb. RS 86-704. 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.

(Neb. RS 17-525)

(B) The City Council shall have authority, by ordinance, to impose an occupation tax of not more than \$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.

(Neb. RS 35-106)

(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 times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. RS 53-132)

(Ord. 2015-16, passed 5-4-2015)

**Statutory reference:**

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

#### **§ 116.02 COLLECTION DATES.**

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

#### **§ 116.03 CERTIFICATES.**

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

#### **§ 116.04 FAILURE TO PAY.**

If any person, company or corporation fails or neglects to pay the occupation taxes as provided in this subchapter on the day they become due and payable, the city shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.