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CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

SECTION 5-101: DEFINITIONS

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of the State of Nebraska. (Neb. Rev. Stat. §53-103)

SECTION 5-102: ACQUISITION AND POSSESSION

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act. Nothing in this section shall prevent:

A. The possession of alcoholic liquor for the personal use of the possessor and his or her family and guests, so long as the quantity of alcoholic liquor imported, brought, or shipped into the state does not exceed 9 liters in any one calendar month;

B. The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains or the products thereof by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

C. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any *bona fide* rite or religious ceremony conducted by such church;

D. 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;

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

F. 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

G. Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.
(Neb. Rev. Stat. §§53-168.06, 53-175, 53-194.03)

SECTION 5-103: DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER

A. Except as provided in subsection (B), it shall be unlawful for any person:

1. To consume or have in his or her possession any open container of alcoholic liquor in the public streets, alleys, roads, highway or parking areas, or any other property owned by or under the control of the state or any governmental subdivision; or

2. To consume or have in his or her possession any open container of alcoholic liquor in any place of public resort or any place open to the general public (including parking areas or lots) except as permitted by a license issued for the premises pursuant to the Nebraska Liquor Control Act, or

3. To consume or have in his or her possession any open container of alcoholic liquor inside a motor vehicle unless the alcoholic liquor is located so that no occupant of the motor vehicle shall have access to it while the vehicle is in motion.

B. This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the state Public Service Commission and subject to Neb. Rev. Stat. Chapter 75, Article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this city if:

1. The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and

2. Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

C. For purposes of this section:

1. “Alcoholic beverage” means (a) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor; (b) wine of not less than one-half of one percent of alcohol by volume; or (c) distilled spirits, which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. “Alcoholic beverage” does not include trace amounts not readily consumable as a beverage;

2. “Highway” means a road or street including the entire area within the right of way;

3. “Open alcoholic beverage container” means any bottle, can, or other receptacle that (a) contains any amount of alcoholic beverage; and (b) is

open or has a broken seal; or (c) the contents of which are partially removed; and

4. “Passenger area” means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. “Passenger area” does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

5. “Limousine” shall mean a luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than fourteen persons behind the driver with a physical partition separating the driver’s seat from the passenger compartment. “Limousine” does not include taxicabs, hotel or airport buses or shuttles, or buses.

(Neb. Rev. Stat. §60-6,211.08) (Ord. No. 247, 3/7/91)

SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE

It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, 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, club, or any place open to the general public except as permitted by a license issued for such premises pursuant to the act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. Rev. Stat. §60-6,211.08. (Neb. Rev. Stat. §53-186.01)

SECTION 5-105: LICENSE REQUIRED

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the city unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (Neb. Rev. Stat. §53-168.06)

SECTION 5-106: 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.

B. During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail or a craft brewery or microdistillery license, the City Council may make and submit

to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

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, and microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission.

2. To enter or authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act ("the 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 such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Nebraska Liquor Control 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 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 such complaints in the manner provided in the act.

4. To receive retail, craft brewery and microdistillery license fees as provided in Neb. Rev. Stat. §§53-124 and 53-124.01 and pay the same to the city treasurer after the license has been delivered to the applicant.

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 Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such 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, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133.

7. Upon receipt from the commission of the notice and copy of application as provided in Neb. Rev. Stat. §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 such 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. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission. After such hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such 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.

D. When the Nebraska Liquor Control Commission mails or delivers to the city clerk a license issued or renewed by it, the clerk shall deliver the license to the licensee upon proof of payment of (1) the license fee if, by the terms of Neb. Rev. Stat. §53-124(5), the fee is payable to the city treasurer; (2) any fee for publication of notice of hearing before the City Council upon the application for license; (3) the fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and (4) occupation taxes, if any, imposed by the city.

E. 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. Rev. Stat. §§53-131, 53-132, 53-134) (Ord. No. 216, 5/12/86)

SECTION 5-107: LICENSEE REQUIREMENTS

No liquor license shall be issued to any person unless he or she: is a resident of Nebraska; is a person of good character and reputation in the community; is a U.S. citizen; has never been convicted of or pled guilty to a felony under the laws of this state, any other state, or the United States; has never been convicted of or pled guilty to any Class I misdemeanor pursuant to Neb. Rev. Stat. §53-125; has never had a liquor license revoked for cause; and meets other requirements as provided in Neb. Rev. Stat. §53-125. (Neb. Rev. Stat. §53-125) (Am. Ord. No. 236, 10/5/89)

SECTION 5-108: LOCATION

A. Except as otherwise provided in subsection (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (1) to any location within such distance of 150 feet for which a license to sell alcoholic liquor at retail has been granted by the commission for two years continuously prior to making of application for license, or (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.

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 Liquor Control Commission gives notice to the affected church and holds a hearing as prescribed in Neb. Rev. Stat. §53-133 if the affected church submits a written request for a hearing.
(Neb. Rev. Stat. §53-177)

SECTION 5-109: ACCESS TO DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises having any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. Nothing herein shall prevent any connection with such premises and such other portion of the building that is used only by the licensee, his or her family, or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 5-110: SANITARY CONDITIONS

It shall be unlawful to open for public use any retail liquor establishment that is not in a

clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premises shall be subject to any health inspections the City Council or the city police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license. (Neb. Rev. Stat. §53-118)

SECTION 5-111: CATERING LICENSES

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12[1])

B. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall process the application in the same manner as provided in Section 5-106 (City Powers and Duties). (Neb. Rev. Stat. §53-124.12)

SECTION 5-112: DISPLAY OF LICENSE

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

SECTION 5-113: HOURS OF SALE

A. For the purposes of this section:

1. "On sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.

2. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell at retail or dispense any alcoholic beverages within the city except during the hours provided herein:

Alcoholic Liquors (except Beer and Wine)	
Monday through Saturday	
On and Off Sale	6:00 a.m. to 1:00 a.m.
Sunday	
On and Off Sale	12:00 noon to 6:00 a.m.

Beer and Wine	
Daily	
On and Off Sale	6:00 a.m. to 1:00 a.m.

C. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C or Class I license.

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 for purposes of consumption between fifteen minutes after the closing hour applicable to the licensed premises and 6:00 a.m. on any day.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which this section prohibits the sale or dispensing of alcoholic beverages.
(Neb. Rev. Stat. §53-179) (Am. Ord. No. 256, 12/5/91)

SECTION 5-114: INSPECTIONS

The Liquor Control Commission and City Council shall cause frequent inspections to be made on the premises of all retail licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of 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. Rev. Stat. §53-116.01)

SECTION 5-115: OWNER OF PREMISES

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

SECTION 5-116: EMPLOYER

The employer of any officer, director, manager, or employee working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him or her personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-117: HIRING MINORS

It shall be unlawful for any person to hire minors under the age of 19 years to serve or dispense alcoholic liquors, including beer, in the course of their employment. (Neb. Rev. Stat. §53-168.06)

SECTION 5-118: 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 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by a parent or legal guardian and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

SECTION 5-119: MINORS AND INCOMPETENTS

It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of, or make a gift of any alcoholic liquors or to procure any such alcoholic liquors to or for any minor or any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

SECTION 5-120: CREDIT SALES

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. If any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law. Nothing in this section shall prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and nothing in this section shall prevent (A) any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests, or (B) any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Neb. Rev. Stat. §53-183)

SECTION 5-121: ORIGINAL PACKAGE

It shall be unlawful for any person or persons who own, manage, or lease any premises 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. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184)

SECTION 5-122: CONDUCT PROHIBITED ON LICENSED PREMISES

No licensee in this city shall engage in, allow, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls, or unnecessary noise; or allow, permit or suffer the licensed premises to be used in such a manner as to create public censure or become a nuisance, public or private.

SECTION 5-123: AUTOMATIC LICENSE RENEWAL; PROTESTS

A. An outstanding retail license issued by the commission may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within 30 days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the City Council. If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in Neb. Rev. Stat. §53-131.

B. Any licensed retail premises located in an area which is annexed by the city shall file a formal application for a license. While such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

C. 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 each year individual notice of the right of automatic renewal of each retail liquor and beer license within the city in the form prescribed by law; provided, Class C license renewal notices shall be published between July 10 and July 30 each year. 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. Rev. Stat. §53-135.

D. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the city on or before February 10, 20...., or August 10, 20...., in the office of the city clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.
(Neb. Rev. Stat. §§53-135, 53-135.01)

SECTION 5-124: CITIZENS' COMPLAINT

A. 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 council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based.

B. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.

C. The following form is hereby prescribed for the use of residents of this city desiring to complain to the mayor and the City Council that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission, or any provision of this ordinance:

To the Mayor and City Council of the City of Terrytown, Nebraska:

The undersigned respectfully state:

1. That each one is a resident of the City of Terrytown, Nebraska.

2. That they believe that _____, the holder of a Class ___ license in the aforesaid city, has violated Section _____ of (check one or more):

_____ the Nebraska Liquor Control Act.
_____ the regulations prescribed by the Nebraska Liquor Control Commission.
_____ the municipal code of the City of Terrytown, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:

_____

_____

_____ _____
(Name) (Name)

_____ _____
(Name) (Name)

_____
(Name)

STATE OF NEBRASKA)
) ss.
COUNTY OF SCOTTS BLUFF)

Subscribed in my presence and sworn to before me by _____, _____, _____, _____ and _____ this _____ day of _____, 20____.

My commission expires _____.

_____
Notary Public

(Neb. Rev. Stat. §53-134.04)

SECTION 5-125: COMPLAINT INITIATED BY COUNCIL

The City Council may on its own motion by resolution fix the time and place for a hearing on whether a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission, or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 5-124 (Citizens' Complaint), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

SECTION 5-126: REVOCATION OF LICENSE

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The City Council may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

SECTION 5-127: CHANGE OF PREMISES

Any retailer licensee desiring to transfer his or her license from one premises to another shall file a written request for permission to do so with the city clerk and shall also file with said clerk a sworn statement showing that the premises to which removal is to be made comply in all respects with the requirements of the Nebraska Liquor Control Act, as amended. The city clerk shall present said application and statement to the City Council at its next meeting and it shall by resolution approve or disapprove the transfer. If the transfer is approved, the said approval shall be endorsed on the license by the mayor and attested by the city clerk.

Article 2 – Peddlers and Solicitors

SECTION 5-201: REGISTRATION; ISSUANCE OF PERMIT

A. To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers and solicitors shall register with the city clerk before doing business within the city. Said registration shall contain all the necessary information and documents required by the City Council. “Peddlers” shall include truck farmers and any persons selling merchandise or foodstuffs or soliciting orders for merchandise for future delivery without a permanent day-to-day place of business within the city.

B. Any person or persons granted a peddlers’ and solicitors’ permit shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein, including permit fees set by the council by resolution and placed on file in the office of the city clerk.

C. Any permit so granted shall be subject to revocation for good and sufficient cause. It shall be unlawful for a solicitor, salesperson, or peddler to solicit without a proper permit on his or her person at all times.
(Neb. Rev. Stat. §17-525)

SECTION 5-202: EXCEPTIONS

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale salesmen soliciting merchants directly, or to a representative of a non-profit or charity organization soliciting on behalf of that organization.

SECTION 5-203: HOURS

It shall be unlawful to make calls as a solicitor or peddler to prospective customers before 10:00 a.m. or after 6:00 p.m. any day unless requested to do so by the prospective customer. (Neb. Rev. Stat. §17-134)

Article 3 – Occupation Taxes

(Am. Ord. No. 211, 10/3/85)

SECTION 5-301: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation tax upon such occupations and businesses carried on within the corporate limits of this city as set by ordinance and kept on file with the city clerk; and every person, firm, association or corporation carrying on the occupation or business specified within the limits of said city shall pay to the city treasury the sum named as a tax upon such occupation or business. All money so collected shall be credited to the general fund, except as provided in Section 5-302(B) as to fire insurance companies. The said money shall be and remain under the control of the City Council for such use and purpose as other monies belonging to the general fund.

SECTION 5-302: LEVY 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. Rev. Stat. §§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. Rev. Stat. §77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. Rev. Stat. §18-1208, except that Neb. Rev. Stat. §18-1208 does not apply to an occupation tax subject to Neb. Rev. Stat. §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.

B. 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. Rev. Stat. §§17-525, 35-106, 53-132)

SECTION 5-303: INTERSTATE OR GOVERNMENT BUSINESS

The license tax levied by this ordinance is not levied upon any business or occupation which is interstate or which is done or conducted by any department of the government of the United States, the State of Nebraska, this city or the officers thereof, as such in the course of its or their official duties or by any county or subdivision of this state or its officers.

SECTION 5-304: COLLECTION DATE

All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily. Upon the payment thereof by any person, company or corporation, the city clerk shall give a receipt, dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. All forms and receipts herein mentioned shall be issued in duplicate and one copy shall then be kept by each party in the transaction.

SECTION 5-305: CERTIFICATES

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

SECTION 5-306: FAILURE TO PAY

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

SECTION 5-307: NO REFUND

No person paying occupation tax shall be entitled to a refund of any part of the tax so paid.

Article 4 – Lottery and Bingo

SECTION 5-401: LOTTERY; OPERATION

A. Neb. Rev. Stat. §9-625 permits a city to establish and conduct a lottery if approved by a majority of the registered voters of the city, casting ballots at a regular or special election called by the City Council for that purpose. On February 4, 1992, a special election of the city was conducted and the electors approved the conduct of a lottery pursuant to the Nebraska County and City Lottery Act (the act).

B. As authorized by the election, the city shall conduct a lottery within the boundaries of the city pursuant to the act. Until the City Council decides otherwise and notifies the Nebraska Department of Revenue as required by law, the type of lottery to be conducted shall be a keno lottery as defined in the act.

C. The city lottery shall be administered as provided for in the act and the net proceeds of the act shall be appropriated and expended as required by the act.

D. The City Council shall contract with one or more lottery operators to operate the city lottery. All lottery operators must be licensed pursuant to state law.

E. No lottery operator shall operate the city lottery at a sales outlet location without obtaining the prior approval of the City Council. Any individual, sole proprietorship, partnership, or corporation who desires to have a location approved as an authorized sales outlet location shall:

1. Have a retail liquor license pursuant to the Nebraska Liquor Control Act for consumption on the premises at the authorized sales outlet location;

2. Not have been convicted of, forfeited bond upon a charge of, or pled guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to any governmental agency or any similar offense or offenses or any crime, whether felony or misdemeanor, invoking gambling activity or moral turpitude;

3. Not have had a gaming license revoked or canceled under the act, the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, or the Nebraska Lottery and Raffle Act;

4. Be fit, willing and able to properly provide the service proposed according to the act and all rules and regulations adopted pursuant to the act; and

5. Not be a member of the City Council nor a city official.

F. All officers and directors of a corporation and all individuals who own more than a 25% interest in a partnership or corporation operating an authorized sales outlet

shall be subject to the qualification standards set out in subsections (E)(2), (3), (4) and (5) above.

G. No person under 19 years of age shall play or participate in any way in the city lottery. Subject to this age restriction, there shall be no limitations on the playing of the city lottery by:

1. Any member of the City Council, any city official, or the immediate family of a council member or official;

2. Any lottery operator or the operator's employees, agents or family members; or

3. Any person(s) having an ownership interest in any sales outlet location(s) or employees of a sales outlet location.

H. No lottery conducted pursuant to the act shall be conducted within the boundaries of the city other than the city lottery or a lottery conducted jointly with one or more other governmental entities pursuant to the Nebraska Interlocal Cooperation Act. (Ord. No. 257, 2/25/92)

SECTION 5-402: BINGO; NEBRASKA BINGO ACT

Anyone requesting to hold games of bingo to be conducted within the city shall adhere to all rules and regulations of the Nebraska Bingo Act referred to in Neb. Rev. Stat. §§9-201 through 9-266. (Ord. No. 237, 1/4/90)

SECTION 5-403: BINGO; REGULATION

A. “Bingo” shall have the same meaning as defined in Neb. Rev. Stat. §9-204.

B. “Gross receipts” shall mean total receipts received from the conduct of bingo, including but not limited to receipts from admission to the premises where bingo is conducted or from the sale, rental, or use of regular bingo cards, special bingo cards, and bingo supplies.

C. Bingo shall not be conducted within city limits except by an organization licensed by the State of Nebraska to conduct bingo. A licensed organization desiring to conduct bingo within the city shall first obtain a permit from the city clerk. An annual permit fee, as set by resolution of the City Council and kept on file in the office of the city clerk, shall be paid prior to the issuance of such permit and all permits shall expire on September 30 of each year. Bingo permits shall be displayed conspicuously at the place where bingo is conducted at all times during its conduct.

D. There shall be imposed a tax of 4% on the gross receipts from the conduct of bingo within the city. This tax shall be credited to the general fund. Each licensed organization conducting bingo within the city shall pay the amount of the tax to the city

clerk on a quarterly basis, not later than 30 days after the close of each calendar quarter. Upon payment of the tax, the licensed organization shall include a written statement showing the manner in which the tax was computed along with a copy of the bingo tax report being submitted to the State of Nebraska for the corresponding quarter.

E. All deficiencies of the tax provided for in subsection (D) shall accrue interest and be subject to a penalty as provided for sales and use taxes in the Nebraska Revenue Act of 1967, as amended.
(Neb. Rev. Stat. §9-232.03) (Ord. No. 237, 1/4/90)

Article 5 – Block Parties

SECTION 5-501: DEFINED

For the purpose of this article:

“Neighborhood block party" shall mean and include any event open to a specific, defined neighborhood or area where no admission fee is charged for attendance; where alcoholic beverages are not sold; where a city street is not closed for more than six hours; where the use of kybos/portapotties is not necessary; and where no other use of any right of way permit is needed.

“MUTCD” shall mean the *Manual on Uniform Traffic Control Devices*.
(Ord. No. 440, 9/7/17)

SECTION 5-502: APPLICATION

A. Any organization, private or public, or individual desiring to exclusively use a street or part thereof for a neighborhood block party must complete a block party application and submit the same to the city clerk or his or her designee at least 30 days prior to the event. The application must include a map of the specific area to be used and blocked off and shall, unless otherwise directed by the city clerk, be from cross-section to cross-section so that no traffic can turn onto the closed street.

B. The application for a neighborhood block party shall set forth on a form to be furnished by the city:

1. The name, address, telephone number, and email address of the person or persons seeking to conduct the neighborhood block party;

2. The date and time of the neighborhood block party; and

3. The location of the neighborhood block party and which street or streets are requested to be used.

(Ord. No. 440, 9/7/17)

SECTION 5-503: PERMIT; FEE

A. When applying for a permit to use the right-of-way of sidewalks or streets for a neighborhood block party, the applicant must pay to the city a fee as set by resolution by the City Council and kept on file in the office of the city clerk.

B. The city clerk shall issue a permit as provided for herein when, from a consideration of the application and from such other information as otherwise obtained, he or she finds that the following rules and regulations have been conformed with.

1. All the addresses within the block party perimeter/boundary and all addresses affected by the neighborhood block party have been informed about the block party and have signed an event notification sheet.

2. Street closure requires the approval of the city. MUTCD-approved signs, barricades, cones and the like shall be used for all street closures and must be obtained from the city. If the city is unable to supply the approved signs, barricades, cones and the like because of other uses or due to other neighborhood block parties, the city clerk shall deny the applied for permit for that date.

3. Neighborhood block parties shall only be approved on local residential streets. Arterials, collectors, emergency snow routes or other streets necessary for traffic safety cannot be blocked.

4. Emergency vehicle access must be maintained at all times. Participants in the neighborhood block party shall not park cars or place other obstructions therein, including fireworks, which prevent emergency vehicle access.

5. On street parking shall not block driveways, fire hydrants, or travel lanes at any time.

6. If legal fireworks are used in the neighborhood block party, they must comply with any applicable ordinances and state statutes.

7. No open fires shall be allowed. Fires may be used for cooking only and must be screened. Smoke must be minimized so as not to be deemed a nuisance; if deemed a nuisance, the fire shall he extinguished.

8. Amplified music shall not be permitted unless a noise permit has been obtained from the city. Applicants must contact the city clerk for a noise permit.

9. Tents and canopies shall not be allowed on public property, streets or any right of way.

10. Alcoholic beverages may be consumed on private property only. Alcoholic beverages cannot be sold at the neighborhood block party.

11. Block parties shall end at 10:00 p.m. on weekdays and at 12:01 a.m. on the weekends and holidays.

12. Traffic barricades shall be removed and all party refuse, materials, and garbage shall be cleaned from the streets, sidewalks and front yards within one hour of the end of the party. If the city shall be required to clean

any neighborhood block party area, the applicant or applicants shall be charged a cleanup fee as set by resolution by the City Council and kept on file in the office of the city clerk.

13. No activity shall be conducted that conflicts with federal, state, county, and/or city ordinances or regulations.

14. Applicants agree that the city and its official representatives shall not be held responsible for any and all claims or losses, which may occur as a result of the neighborhood block party.

15. The city will evaluate the conformance to these standards which may affect future applications for a neighborhood block party at any applied for location.

16. The issued neighborhood block party permit shall be available on-site upon demand from any city official, police officer or firefighter. Failure to do so shall terminate and revoke any permit for a neighborhood block party immediately.

17. The city has the right to revoke the permit for any neighborhood block party if the City Council has determined that the party would be detrimental to public morals or welfare.

(Ord. No. 440, 9/7/17)

SECTION 5-504: PERMIT; REVOCATION; APPEAL

A. The city clerk shall act upon an application within five working days after the filing thereof. Applications must be submitted to the city a minimum of 30 days in advance of a neighborhood block party. If the city clerk disapproves the application, he or she shall mail the applicant(s), within five days after the date upon which the application was filed, a notice of the denial, stating the reason for the denial of the permit. Such notice shall be mailed to the applicant at his or her address given upon the application. Upon approval, the city clerk shall immediately notify the City of Scottsbluff Police Department and the Scotts Bluff County Communications Center.

B. The city clerk shall have authority, at his or her sole discretion, to consider any application for a permit to conduct a neighborhood block party which shall be filed less than 30 days, but more than 20 days, before the date such neighborhood block party is proposed to be conducted. Immediately upon granting the neighborhood block party permit, the city clerk shall send a copy thereof to the applicant at the address listed in the application and shall also send a copy to the City of Scottsbluff Police Department and the Scotts Bluff County Communications Center.

C. Upon denial of an application for a neighborhood block party permit, the city clerk may authorize an alternate neighborhood block party on a date, at a time, or at a

location which shall be different from that named by the applicant. If the applicant desires to accept the proposed alternate date, time and location, he or she shall notify the city clerk within two days of receiving the notice. The permit applied for shall conform to the other requirements of this article. The alternate dates may arise depending upon the availability of MUTCD-approved signs, barricades, or cones used for street closures.

D. The city clerk shall have authority to revoke a neighborhood block party permit if he or she finds that the standards for issuance set forth in this article will not, or likely will not, be met notwithstanding the exercise of reasonable diligence on the part of the city or the Scottsbluff Police Department. The city clerk, on the date of revocation of a permit, shall mail or deliver the permittee a notice in writing of the revocation stating the reasons therefor.

E. Any person aggrieved shall have the right to appeal the denial or revocation of a neighborhood block party permit to the City Council. The appeal shall be taken by filing a notice thereof with the city clerk within ten days after the mailing or delivery of the notice of denial or revocation. The council shall act upon the appeal within ten days after its receipt.
(Ord. No. 440, 9/7/17)

Article 6 – Penal Provision

SECTION 5-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.