

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. GENERAL PROVISIONS
- 111. ALCOHOLIC BEVERAGES
- 112. TOBACCO
- 113. SALES AND ADVERTISING
- 114. LOTTERY AND BINGO
- 115. CONSTRUCTION CONTRACTORS
- 116. RAILROADS
- 117. SALES TAX

CHAPTER 110: BUSINESS LICENSING

Section

Occupation Tax

- 110.01 Amount
- 110.02 Fire Department fund
- 110.03 Collection date
- 110.04 Certificates
- 110.05 Prior payment
- 110.06 New businesses; duty to pay tax; City Treasurer to collect
- 110.07 Failure to pay
- 110.08 City Attorney to enforce collection
- 110.09 Games of chance or lotteries
- 110.10 Gas distribution companies
- 110.11 Telephone and telecommunications companies

Franchises

- 110.20 Community antenna television service; rate increases

OCCUPATION TAX

§ 110.01 AMOUNT.

For the purpose of raising revenue an occupation tax may be levied on such businesses as the City Council may prescribe by ordinance. The type of business so taxed and the amount of each tax shall be on file in the office of the City Clerk and available for public inspection at any reasonable time. (Neb. RS 17-525) Penalty, see § 10.99

§ 110.02 FIRE DEPARTMENT FUND.

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

§ 110.03 COLLECTION DATE.

All occupation taxes shall be due and payable on May 1 of each year, except in the event that the tax is levied daily, and except as levied upon certain businesses herein. Upon the payment thereof by any person or persons to the City Clerk, he/she shall give a receipt, properly dated, and specifying the person paying the tax, and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. The revenue collected shall then be immediately deposited into the General Fund or such other fund or funds as designated by the City Council by the City Treasurer, who 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. (Neb. RS 17-525) (Am. Ord. 2972, 3-4-08)

§ 110.04 CERTIFICATES.

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

§ 110.05 PRIOR PAYMENT.

Any occupation tax previously paid by any business, in the year application is granted for a license of different classification, shall be deducted from the occupation tax due by reason of granting the new license in that year.

§ 110.06 NEW BUSINESSES; DUTY TO PAY TAX; CITY TREASURER TO COLLECT.

It is hereby made the duty of any person desiring to exercise, carry on or engage in any occupation within the provisions of this chapter to pay to the City Treasurer the amount specified for the occupation tax as provided for in this chapter. The amount of the occupation tax shall be due and payable to the City Treasurer immediately after such person shall begin business in any occupation within the provisions of this chapter. (Ord. 2972, 3-4-08)

§ 110.07 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.

§ 110.08 CITY ATTORNEY TO ENFORCE COLLECTION.

The City Attorney may bring suit in the name of the City against any person, corporation, firm, or association in any court of competent jurisdiction of the amount of such tax levied by this chapter, together with interest and penalties, upon the failure of such person, corporation, firm, or association to pay the same as herein provided, whenever the City Attorney is so directed by the City Treasurer. (Ord. 2972, 3-4-08)

§ 110.09 GAMES OF CHANCE OR LOTTERIES.

(A) Occupation tax levied. An occupation tax is hereby imposed on all persons engaged in the occupation of conducting games of chance or lottery activities within the City, and upon all persons engaged in the occupation of distributing gambling devices to persons engaged in the business of conducting games of chance or lotteries within the City.

(B) *Amount of tax.* The occupation tax for each person engaged in the occupation of conducting games of chance or lottery activities within the City shall be 5% of the gross receipts received by that person. The occupation tax for each person engaged in the occupation of distributing gambling devices to persons engaged in the business of conducting games of chance or lottery within the City shall be 5% of the gross receipts received by that distributor.

(C) *Exception.* The provisions of this section shall not apply to persons conducting a lottery pursuant to the provisions of the State County and City Lottery Act. (Ord. 2490, 11/6/90)

§ 110.10 GAS DISTRIBUTION COMPANIES.

(A) *Occupation tax levied.* There is hereby assessed an occupation tax against all persons distributing natural gas for sale in an amount of 5% on the gross receipts derived from the business of distributing and selling natural gas within the City, exclusive of such sale to governmental agencies, departments or other bodies whether they be federal, state, or local. Payment shall be made within 30 days to the clerk semiannually for the preceding six-month periods ending June 30 and December 31. If the tax is not paid when due, 9% per annum on the amount in default shall be added to the tax. The statement shall show the gross receipts derived

from the distribution and sale of natural gas within the city. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. The amount paid by energy providers shall be in lieu of, and energy providers shall be exempt from, all other fees, charges, taxes or assessments which the City may impose for the privilege of doing business within the City, including without limitation excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the City imposes any such fees, charge, tax or assessment, the payment to be made by energy providers in accordance with this ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the energy providers. *Ad valorem* property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect energy providers' obligations under this ordinance.

(B) *When due and payable; manner of payment; franchise fee billing.* Energy providers shall report and pay any amount payable under this chapter on a semi-annual basis. Such payment shall be made no more than 30 days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City to an energy provider. Every energy provider shall list the franchise fee collected from customers as a separate item on bills for utility service issued to its customers.

(C) *Obligation to collect.* The City shall provide copies of annexation ordinances to energy providers on a timely basis to ensure appropriate franchise fee collection from customers within the City's corporate limits. An energy provider's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of 60 days after such energy provider's receipt of the annexation ordinance pertaining to such area, or (b) such time as is reasonably necessary for such energy provider to identify the customers in the annexed area obligated to pay the franchise fee.

(D) *City's right to examine records; underpayments and overpayments.* The City shall have access to and the right to examine, during normal business hours, such books, receipts, files, records and documents of an energy provider as is necessary to verify the accuracy of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any underpayment by an energy provider shall be paid within 30 days of recalculation of the amount due, and any overpayment by an energy provider shall be deducted from the next payment of such franchise fee due by such energy provider to the City.

(Ord. 2958, 4/17/07)

§ 110.11 TELEPHONE AND TELECOMMUNICATIONS COMPANIES.

(A) *Occupation tax levied.* Commencing February 5, 2008, there is hereby levied upon every person, firm, partnership, corporation, or association engaged in the business of offering or providing telecommunication services to the public for hire in the City of Fairbury an occupation tax of 5% on the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services; and other telecommunication services as follows:

(1) Basic local exchange services shall include the access and transmission of two-way switched communications within the City, including local telephone and telecommunication services;

(2) "Inter-exchange services" shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the City or (b) terminates with an end user within the City, and is charged to a service address within the City regardless of where the charges are actually paid;

(3) Mobile services shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the City regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services; and

(4) Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City of Fairbury, regardless of where the charges are actually paid.

(B) *Internet usage excepted.* Taxation for Internet usage shall be excepted as contained in The Internet Tax Freedom Act, 47 U.S.C. §151.

(C) *When due and payable; manner of payment; penalty for late payment.* On or before the last day of each and every month, said companies shall pay to the City of Fairbury a percentage of the gross receipts as provided in Subsection (A) from the preceding month as an occupation tax, provided that if the total amount due and payable is less than \$10.00, then the occupation tax shall be due and payable on May 1 each year. Such businesses shall be entitled to a credit for any occupation tax or other similar tax based on gross receipts, satisfactorily documented or verified as paid to any other jurisdiction upon any gross receipts taxed herein. All deferred payments shall draw interest at the rate of 1% per month. After default for six months, a penalty of 5% shall be added in addition to the interest charges.

(D) *Report of gross receipts; City's right of inspection.* Every company taxed by this division shall make a report to the Mayor and City Council of all income and gross receipts of such company during the period for which such tax is due. Said report shall be submitted to the City Treasurer on the last day of each month and shall be a full, complete and detailed statement of the income and gross receipts, omitting any exemptions provided for in Subsection (A) hereof, and said statement shall be duly verified and sworn to by the officer(s) in charge of the business. All such businesses shall at any reasonable times during business hours permit the City, through its officers, agents or representatives, to inspect the books and records of any such business for the purpose of verifying such report(s).

(Ord. 2972, 3/4/08)

FRANCHISES

§ 110.20 COMMUNITY ANTENNA TELEVISION SERVICE; RATE INCREASES.

Approval of a rate increase for a person or entity furnishing community antenna television service shall be required and shall be made by the City Council which granted the franchise to that person or entity. This approval shall be made by ordinance or resolution. Prior to voting on a rate increase, the City Council shall hold at least two public meetings at which the rate payers and the franchisee may comment on the programming content and rates of the franchise. At least 30 days prior to the first meeting held to examine programming content and rates, each rate payer or subscriber shall be notified by a billing statement or other written notice when and where the public meeting shall be held. This notice shall also provide information as to what rates are proposed by the franchisee for consideration by the City Council. (Neb. RS 18-2201 and 18-2206)

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

General Provisions

111.01 Definitions

Licensing

- 111.15 Location restrictions
- 111.16 Dwellings
- 111.17 License display required
- 111.18 Licensee requirements
- 111.19 License renewal; municipal powers and duties
- 111.20 Catering licenses
- 111.21 License application hearing; notice; procedure

Operating Regulations

- 111.35 Sales to minors and incompetents
- 111.36 Credit sales restricted
- 111.37 (Reserved)
- 111.38 Original package required
- 111.39 Presence of minors restricted
- 111.40 Hours of sale
- 111.41 Sanitary conditions
- 111.42 Consumption in public places; restrictions
- 111.43 Acquisition and possession; restrictions

Administration and Enforcement

- 111.60 Municipal powers and duties
- 111.61 Owner of premises or agent; liability

- 111.62 Licensee; liability for acts of officer, agent, or employee
- 111.63 Removal of intoxicated persons
- 111.64 Inspections
- 111.65 Citizen complaints

GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

All words and phrases herein used are to have the definitions applied thereto as defined in the Liquor Control Act of this state. (Neb. RS 53-103)

LICENSING

§ 111.15 LOCATION RESTRICTIONS.

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within that distance when the establishment has been licensed by the State Liquor Control Commission at least 2 years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the hotel, club, or restaurant was licensed and in operation prior to May 24, 1935, or to a college or university in the state which is subject to section 53-177.01; and further provided that if a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty feet of any church, a license may be issued if the State 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. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college within the municipality, except as provided by law. (Neb. RS 53-177, 177.01) Penalty, see § 10.99

§ 111.16 DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from the premises to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing herein shall prevent any connection with the premises, and such other portion of the building which is used only by the licensee, his or her family, or personal guests. (Neb. RS 53-178) Penalty, see § 10.99

§ 111.17 LICENSE DISPLAY REQUIRED.

Every licensee under the State 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. RS 53-148) Penalty, see § 10.99

§ 111.18 LICENSEE REQUIREMENTS.

(A) No license shall be issued to:

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

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

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

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

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

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

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

(8) A partnership, unless 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, if any officer or director of the limited liability company or any member having an ownership interest in the aggregate of more than twenty-five percent of such company would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (A)(1) and (A)(3) of this section, or if a manager of a limited liability company licensee would be ineligible to receive a license under this section for any reason;

(10) A corporation, if any officer, manager, or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of that corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in divisions (A)(1) and (A)(3) of this section, except that a manager of a corporate licensee shall be a resident of this state. This division shall not apply to railroad licenses;

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

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

(13) Except as provided in this division, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such an applicant shall become eligible for a liquor license only if the State Liquor Control Commission finds from the evidence that the public interest will not be infringed upon if the license is granted. It shall be *prima facie* evidence that when a spouse is ineligible to receive a liquor license, the applicant is also ineligible to receive a liquor license. This prima facie evidence shall be overcome if it is shown to the satisfaction of the Commission:

- (a) The licensed business will be the sole property of the applicant; and
- (b) The licensed premises will be properly operated.

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

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

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

(B) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent.
(Neb. RS 53-125) (Am. Ord. 2278, 10-4-83) Penalty, see § 10.99

§ 111.19 LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES.

(A) A retail license issued by the commission and outstanding 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 thirty 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.

(B) Any licensed retail premises located in an area which is annexed to the City shall file a formal application for a license, and 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 sixty days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year. (Neb. RS 53-135)

(C) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the municipality, 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 municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Municipal Clerk by three or more residents of the municipality on or before February 10, or August 10

for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. RS 53-135. (Neb. RS 53-135.01) (Am. Ord. 2278, 10-4-83) Penalty, see § 10.99

§ 111.20 CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124(6), a craft brewery license, a microdistillery license, or a farm winery license may obtain an annual catering license by filing an application and license fee with the State Liquor Control Commission. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, microdistillery license, or farm winery license.

(B) When an application for a catering license is filed, the commission shall notify the City Clerk of the receipt of the application. The commission shall include with such notice one copy of the application by mail or electronic delivery. The City Council and the commission shall process the application in the same manner as provided in Neb. Rev. Stat. 53-132.

(C) The City Council with respect to catering licensees within its liquor license jurisdiction may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the district court of the county in which the City is located.

(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) (Ord. 2437, 10-4-88) (Am. Ord. 2532, 2-18-92; 2639, 2-21-95; 2716, 8-5-97; 2821, 2-6-01) Penalty, see § 10.99

§ 111.21 LICENSE APPLICATION HEARING; NOTICE; PROCEDURE.

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

(B) *Procedure.* Hearings will be informal and conducted by the Municipal Attorney. The intent is an inquiry into the facts, not an adversarial action. Each witness may present his or her testimony in narrative fashion or by question and answer. The City Council or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s).

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

(2) The order of the proceeding is as follows:

(a) Exhibits will be marked in advance by the Clerk and presented to the Municipal Attorney during the presentation;

(b) Presentation of evidence, witnesses, and arguments by the applicant;

(c) Testimony of any other citizens in favor of the proposed license;

(d) Examination of applicant, witnesses, or citizens by the Municipal Attorney, City Council, or duly appointed agent;

(e) Cross-examination of the applicant, witnesses, or citizens by the spokesperson for opposition, if any;

(f) Presentation of evidence and witnesses by the opposition;

(g) Testimony of any other citizens in opposition to the proposed license;

(h) Presentation of evidence by the municipality and law enforcement personnel;

(i) Cross-examination by the applicant;

(j) Rebuttal evidence by both parties, and by municipality administration and agent; and

(k) Summation by the applicant and the opposition spokesperson, if any.

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

(4) Any member of the City Council and the Municipal Attorney may question any witness, call witnesses, or request information.

(5) All witnesses shall be sworn.

(6) The City Council may make further inquiry and investigation following the hearing.

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

(Neb. RS 53-134) (Ord. 2470, 12-5-89)

OPERATING REGULATIONS

§ 111.35 SALES TO MINORS AND INCOMPETENTS.

It shall be unlawful for any person or persons to sell, furnish, give away, 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

§ 111.36 CREDIT SALES RESTRICTED.

(1) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a pass-book, 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.

(2) Nothing in this section shall prevent:

(a) 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;

(b) 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

(c) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Neb. RS 53-183) Penalty, see § 10.99

§ 111.37 (Reserved).

§ 111.38 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) (Am. Ord. 2531, 2-18-92) Penalty, see § 10.99

§ 111.39 PRESENCE OF MINORS RESTRICTED.

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 that establishment unless that minor is accompanied by his or her parent or legal guardian, and unless that minor remains seated with, and under the immediate control of, the parent or legal guardian. (Neb. RS 53-147) Penalty, see § 10.99

§ 111.40 HOURS OF SALE.

(A) (1) It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the municipality except during the hours provided herein.

<i>Type of Beverage</i>	<i>Type of Sale</i>	<i>Days</i>	<i>Hours of Sale</i>
Alcoholic liquors (except beer and wine)	Off sale	Monday thru Saturday	6:00 a.m. to 1:00 a.m.
Alcoholic liquors (except beer and wine)	Off sale	Sunday	12:00 noon to 1:00 a.m.
Alcoholic liquors (except beer and wine)	On sale	Monday thru Saturday	6:00 a.m. to 1:00 a.m.
Alcoholic liquors (except beer and wine)	On sale	Sunday	12:00 noon to 1:00 a.m.
Beer and wine	Off sale	Monday thru Saturday	6:00 a.m. to 1:00 a.m.
Beer and wine	Off sale	Sunday	6:00 a.m. to 1:00 a.m.
Beer and wine	On sale	Monday thru Saturday	6:00 a.m. to 1:00 a.m.
Beer and wine	On sale	Sunday	6:00 a.m. to 1:00 a.m.

(2) Provided, that these limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to Neb. RS (1943) 53-124(5)(C) and (H).

(B) (1) No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on the premises.

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

OFF SALE. Alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

ON SALE. Alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.

(C) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(Neb. RS 53-179) (Am. Ord. 2279, 10-4-83; 2579, 10-19-93) Penalty, see § 10.99

§ 111.41 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 the licensed premises shall be subject to any health inspections the City Council or the municipal police may make, or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning those sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license. (Neb. RS 53-118) Penalty, see § 10.99

§ 111.42 CONSUMPTION IN PUBLIC PLACES; RESTRICTIONS.

(A) Except when the State Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), 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 that property. (Neb. RS 53-186(1))

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe, 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 the premises pursuant to the State Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for the premises pursuant to the Act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. RS 53-186.01) (Am. Ord. 2822, 2-6-01) Penalty, see § 10.99

§ 111.43 ACQUISITION AND POSSESSION OF LIQUOR; RESTRICTIONS.

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

(B) Nothing in this chapter shall prevent:

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

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

(3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of that hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

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

(5) Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

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

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

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

(Neb. RS 53-168.06) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 111.60 MUNICIPAL POWERS AND DUTIES.

(A) The City Council is authorized to regulate by ordinance, not inconsistent with the State Liquor Control Act, the business of all retail, bottle club, or craft brewery licensees carried on within the corporate limits of the municipality. (Neb. RS 53-134.03)

(B) During the period of 45 days after the date of receiving from the State Liquor Control Commission an application for a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery 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(2))

(C) The City Council, with respect to licenses within the corporate limits of the municipality, has the following powers, functions, and duties with respect to retail, bottle club, and craft brewery licenses:

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

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the State 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 that determination;

(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 those complaints in the manner provided in the Act;

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

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery 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 § 111.65 of this code (citizen complaints), it determines that the licensee has violated any of the provisions of the State Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. This 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) (a) 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 this hearing shall be published in a legal newspaper in or of general circulation in the municipality, 1 time not less than 7 and not more than 14 days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of the license may do so at the time of the hearing.

(b) 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 their proceedings a resolution recommending either issuance or refusal of the license. The Municipal Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. RS 53-134)

(D) (1) When the State Liquor Control Commission mails or delivers to the Municipal Clerk a license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon proof of payment of:

(a) The license fee if by the terms of Neb. RS 53-124(5) the fee is payable to the Municipal 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 municipality.

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

(Neb. RS 53-132(4)) (Am. Ord. 2278, 10-4-83; 2823, 2-6-01) Penalty, see § 10.99

§ 111.61 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 State Liquor Control Act or any municipal 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

§ 111.62 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 State Liquor Control Act or any municipal 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

§ 111.63 REMOVAL OF INTOXICATED PERSONS.

(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 that 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 those facilities or doctors 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. 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.

(B) 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. 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.

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

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

QUASI-PUBLIC PROPERTY. Includes 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

§ 111.64 INSPECTIONS.

It shall be the duty of the City Council to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the State Liquor Control Act or regulations of the State Liquor Control Commission, or is failing to observe in good faith the purposes of the Act, the license may be suspended, canceled, or revoked after the licensee has been given an opportunity to be heard by the City Council. (Neb. RS 53-146)

§ 111.65 CITIZEN COMPLAINTS.

Any 5 residents of the municipality shall have the right to file a complaint with the City Council stating that any retail or bottle club licensee, subject to the jurisdiction of the City Council, has been or is violating any provision of the State Liquor Control Act or the rules or regulations issued pursuant thereto. The 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. If the City Council is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for that belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint; provided, that 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, this resolution shall be deemed the final order for purposes of appeal to the State Liquor Control Commission as provided by law. (Neb. RS 53-1,114) Penalty, see § 10.99

CHAPTER 112: TOBACCO

Section

112.01 Retail sales; license required

§ 112.01 RETAIL SALES; LICENSE REQUIRED.

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall file with the Municipal Clerk a written application on forms provided by the municipality, stating the name of the person, partnership, limited liability company, or corpo-

ration for whom the license is desired and the exact location of the place of business and shall deposit with the application a license fee in the amount of \$10. If the applicant is an individual, the application shall include the applicant's social security number. (Neb. RS 28-1422 and 28-1423) (Ord. 2777, 2-16-99)

CHAPTER 113: SALES AND ADVERTISING

Section

Peddlers and Hawkers

- 113.01 License required
- 113.02 Definitions
- 113.03 Hours of solicitation
- 113.04 Exceptions
- 113.05 Sales from stand; consent; license

Signs

- 113.20 Permit required
- 113.21 Permit application; issuance
- 113.22 Dimensions

Pawnbrokers

- 113.35 Permit required; fees and application; bond; restrictions

PEDDLERS AND HAWKERS

§ 113.01 LICENSE REQUIRED.

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 those sales, all peddlers and hawkers shall, before doing business within the municipality, make application for, and be issued a license. Application for a license shall be made to the Municipal Clerk upon forms supplied by the municipality, and shall contain all the necessary information, and documents required for the protection of the residents of the municipality. Any person or persons granted a peddler and hawker license shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any license so granted shall be subject to revocation for good and sufficient cause by the municipal police. (Neb. RS 17-134 and 17-525) Penalty, see § 10.99

§ 113.02 DEFINITIONS.

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

PEDDLERS and ***HAWKERS***. Include any person, firm, or corporation vending merchandise and services within the corporate limits who sell directly or indirectly, for present or

future delivery, whether sold by sample or by taking orders. Businesses and activities included in this definition shall include, but not be limited to, dealers in home improvements, termite control, tree servicing, insurance solicitation, magazine sales, book sales, novelties, tapestries, fruit and vegetable vendors, flea markets, and garage or yard sales or similar sales events that last longer than three days at a time or that occur more frequently than once every six months. (Neb. RS 17-134) (Am. Ord. 3033, 8-6-13)

§ 113.03 HOURS OF SOLICITATION.

It shall be unlawful for any solicitor, salesperson, or peddler to solicit any individual between the hours of 9:00 p.m., and 8:00 a.m., unless he or she has a previous appointment with the resident, or residents, of the premises solicited. It shall be unlawful at any hour for a solicitor, salesperson, or peddler to solicit without a proper permit on his or her person at all times. (Neb. RS 17-134 and 17-562) (Am. Ord. 2485, 12-18-90) Penalty, see § 10.99

§ 113.04 EXCEPTIONS.

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

§ 113.05 SALES FROM STAND; CONSENT; LICENSE.

Any person desiring to erect, establish, or maintain a stand or apparatus for the sale of popcorn, ice cream, cold drinks, vegetables, produce, fruit, or other commodities and wares shall present to the Municipal Clerk a written consent of the owner or occupant of the lot in front of which the sidewalk space or street space is located which is desired to be occupied for those sales purposes. The Municipal Clerk shall then present the written consent and the application to use the public ways and property for sales purposes to the City Council, which shall determine whether or not to grant the application. The licensee, upon being granted permission to use the sidewalk or street space, shall pay to the Municipal Clerk a permit fee which shall be in addition to any other license fee which might be required of certain classes of peddlers and hawkers as hereinbefore provided. The Municipal Clerk shall then issue a license whereon shall be prescribed the length of time, not exceeding one year, to permit the use of the area of the public ways and property prescribed thereon for the purposes set out in the license issued. Any license issued may be revoked at will by the City Council. (Neb. RS 17-134) Penalty, see § 10.99

SIGNS

§ 113.20 PERMIT REQUIRED.

It shall be unlawful for any person or persons to erect or cause to be erected any advertising display, sign, or other construction in the parkways or on other municipal property without first obtaining a permit. (Neb. RS 17-140) Penalty, see § 10.99

§ 113.21 PERMIT APPLICATION; ISSUANCE.

Any person or persons wishing to erect or cause to be erected any advertising display, sign, or other construction for the purpose of advertising on or over any municipal property shall make

an application to the Municipal Clerk. The application shall contain all the necessary information and documents which the City Council deems appropriate. The City Council shall then assign to a Sign Committee the duty to consider the application, to visit the proposed location of the contemplated construction, and to recommend the acceptance or rejection of the proposed application. The Sign Committee shall consist of the Mayor, the Line Superintendent, the Chief of Police, and the City Attorney, except when the City Council shall appoint some other official or person to fill 1 or more of the Sign Committee positions. If the City Council accepts the application, it shall then direct the Municipal Clerk to issue the permit. Any person or persons granted a sign permit shall be subject to any fees, taxes, or other rules and regulations which the City Council deems appropriate. Any permit so granted shall be subject to revocation for good and sufficient cause by the City Council. (Neb. RS 17-140) Penalty, see § 10.99

§ 113.22 DIMENSIONS.

It shall be unlawful for any person or persons to erect or cause to be erected any signs, posts, awning posts, billboard advertisements, or mercantile displays upon any street or sidewalk; provided, signs may be erected, and fastened to buildings at least 8 feet above the sidewalks if they are constructed in such a way as not to exceed 3 feet in length. Electrical illuminated signs may be erected not to extend beyond the building more than 8 feet, but must be fastened to the building at least 12 feet above the sidewalks. Nothing herein shall be construed to apply to any sign or signs erected prior to the passage of this section that are not an immediate danger to the residents of the municipality. (Neb. RS 17-140) Penalty, see § 10.99

PAWNBROKERS

§ 113.35 PERMIT REQUIRED; FEES AND APPLICATION; BOND; RESTRICTIONS.

(A) Every person engaged in the business of pawnbroking shall pay to the City Treasurer for a permit to carry on business the sum of \$50 per year or the sum of \$25 for every 6 months. This permit shall be obtained by filing an application with, and having the application approved by, the City Council of the city or an officer or agency designated by the City Council for that purpose.

(B) The application shall contain the following information:

- (1) The name and address of the owner and the manager of the business;
- (2) If the applicant is a corporation, a copy of the articles of incorporation and the names of its officers and shareholders;
- (3) The exact location where the business is to be conducted; and
- (4) The exact location where any goods, wares, and merchandise may be stored or kept if other than the business location.

(C) When reviewing applications for a permit required by this section, the City Council or delegated officer or agency shall take into consideration the criminal record, if any, of the applicant and, if the applicant is a corporation, of its officers and shareholders. No permit shall be issued to any applicant who has been convicted of a felony and, if the applicant is a corporation, no permit shall be issued when any officer or shareholder has been convicted of a felony.

(D) The person shall also give bond to the city in the sum of \$5,000 with surety to be approved by the Mayor, conditioned for the faithful performance by the principal, of each and all of the trusts imposed by law or by usage attached to pawnbrokers.

(E) No person shall be allowed to do business in more than one location under one permit. Each permit shall state the place where the business is to be carried on, and shall not be assigned. Goods, wares, and merchandise shall be kept or stored only at those locations specifically listed in the permit application.

(F) It shall be unlawful for any person not having a permit as required in this section or Neb. RS 69-202 to display any sign or advertisement stating that money is lent on goods or that goods are purchased as described in Neb. RS 69-201.

(Neb. RS 69-202) (Ord. 2681, 5-6-97) Penalty, see § 10.99

CHAPTER 114: LOTTERY AND BINGO

Section

Bingo

- 114.01 License and permit
- 114.02 State regulations adopted

Lottery

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

BINGO

§ 114.01 LICENSE AND PERMIT.

Games of bingo shall be conducted within the municipality in accordance with all laws of the municipality and the state if the game of bingo is played for or involves profit or gain. Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of the game. Application shall be made to the Municipal Clerk for this permit. The application form shall contain such information and documents or copies thereof as the City Council deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the City Council shall immediately direct the Municipal Clerk to issue the license to the applicant upon the payment of an annual permit fee of \$10. This license shall be subject to revocation at

any time for good cause. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the City Council may designate. All permits so issued will automatically expire on September 30, following their issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of \$10. This fee shall be credited to the general fund. The permit shall be on display at any place where a game of bingo is conducted. (Am. Ord. 2316, 8-21-84) Penalty, see § 10.99

§ 114.02 STATE REGULATIONS ADOPTED.

All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this chapter as if repeated verbatim herein, and violation of any state statute will be a distinct and separate offense against the municipality as well as against the state. Violators thereof shall be separately prosecuted by the municipality for each of these offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. Penalty, see § 10.99

LOTTERY

§ 114.15 LICENSE REQUIRED; DISPLAY.

(A) It shall be unlawful for any person to engage in the occupation of conducting games of chance or lottery activities within the city without first obtaining a license to do so. Every person desiring a license shall make application to the Municipal Clerk. Accompanying each application shall be:

(1) A sworn statement by the applicant that he or she will be responsible for compliance with rules and regulations for each game of chance or lottery which he or she supervises; and

(2) A sworn statement by the applicant that he or she will be responsible for the proper utilization of gross receipts pursuant to all applicable federal, state, and local laws.

(B) Every license issued under the provisions of this section shall be conspicuously displayed at the place where the game of chance or lottery is conducted. The license fee for engaging in the occupation of conducting games of chance or lotteries within the city shall be \$50 for each location wherein that activity is conducted.

(C) The provisions of this section shall not apply to persons conducting a lottery pursuant to the provisions of the State County and City Lottery Act. (Ord. 2492, 11-6-90) Penalty, see § 10.99

§ 114.16 PARTICIPATION RESTRICTIONS.

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

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

(C) Nothing shall prohibit the following persons from playing the lottery conducted by the municipality as long as the person is 19 years of age or older:

(1) Any member of the City Council, a municipal official, or the immediate family of such a member or official; or

(2) An owner or officer of an authorized sales outlet location for the municipality.

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

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

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

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

(b) A person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes.

(Neb. RS 9-646) (Ord. 2607, 6-21-1994) (Am. Ord. 2677, 2-18-97; 2776, 2-16-99) Penalty, see § 10.99

§ 114.17 SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS.

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

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

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

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

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

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

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

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

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

CHAPTER 115: CONSTRUCTION CONTRACTORS

Section

Plumbers

- 115.01 Certificate of registration
- 115.02 Job permit required
- 115.03 Inspections required

Electricians

- 115.15 Job permit required
- 115.16 Inspection and certificate required
- 115.17 Unlawful connections

PLUMBERS

§ 115.01 CERTIFICATE OF REGISTRATION.

(A) No person, partnership, corporation, or other legal entity shall hereafter engage in or work at the business of a plumber installing or making repairs in any building, except a residential dwelling, but not larger than a 4-family dwelling, until he or she shall have registered with the City Clerk as a plumber doing work in the city. Application for registration shall be made in writing to the City Clerk, showing the name and residence of the applicant, business location, and other information as may be required. If the applicant is a holder of any current plumbing

license, a copy of that license shall be provided. The fee for application for certificate of registration shall be set by resolution adopted by the City Council and shall be paid at the time of application.

(B) Before the applicant can be registered to do plumbing in the city, he or she shall state his or her willingness to be governed by the rules and regulations now and hereafter adopted by the City Council concerning his or her business. All plumbing work shall be done to comply with the standards set forth in the National Standard Plumbing Code. The applicant shall deposit with the City Clerk an insurance policy providing public liability and property damage insurance to the city and general public, minimum liability insurance in the amount of \$100,000 for each person, \$300,000 for each accident, and \$100,000 for property damage.

(C) Certificates of registration shall expire on December 31 each year, and shall not be assignable. Certificates of registration, at the time of their expiration, may be renewed by paying the renewal filing fees as set out by resolution adopted by the City Council and without filing a new application. Any person who does not renew his or her certificate of registration by April 1 after expiration of the same, shall be required to reapply and pay filing fees as required. (Ord. 2477, 11-6-90) Penalty, see § 10.99

§ 115.02 JOB PERMIT REQUIRED.

(A) It shall be unlawful for any person, partnership, corporation, or other legal entity to install or repair any sanitary plumbing in any building, except a single-family dwelling or a farm or ranch structure, within the zoning jurisdiction of the municipality without a permit issued by the municipality.

(B) The applicant for a job permit shall pay a permit fee set by resolution of the City Council.

(C) It shall be the duty of the applicant to keep all job permits on the premises where the work is being done for which the job permits were issued until the time that the work is completed. (Neb. RS 18-1915, 18-1916, and 18-1918) (Am. Ord. 2406, 8-18-87) Penalty, see § 10.99

§ 115.03 INSPECTIONS REQUIRED.

(A) The Plumbing Inspector shall inspect all plumbing work in process of construction, alteration, or repair within the municipality's jurisdiction, and for which a permit either has or has not been granted, and shall require any plumbing work not being done in accordance with law to be stopped and shall cause plumbing to be removed, if, after notice to the owner or plumber doing the work, he or she shall find the work or any part thereof to be defective.

(B) It shall be the duty of the plumber to notify the Plumbing Inspector when plumbing work is ready to be inspected. Inspections shall be held at such stages as may be prescribed. (Neb. RS 18-1912 and 18-1913) (Am. Ord. 2407, 8-18-87) Penalty, see § 10.99

ELECTRICIANS

§ 115.15 JOB PERMIT REQUIRED.

(A) It shall be unlawful for any person, partnership, corporation, or other legal entity to install electrical equipment in commercial or industrial buildings or buildings designated for public use, including installation both inside and outside of the buildings, within the zoning jurisdiction of the municipality without a permit issued by the municipality.

(B) The applicant for a job permit shall pay a permit fee set by resolution of the City Council.

(C) It shall be the duty of the applicant to keep all job permits on the premises where the work is being done for which the job permits were issued until the time that the work is completed.

(Neb. RS 18-1915, 18-1916, and 18-1918) (Am. Ord. 2408, 8-18-87) Penalty, see § 10.99

§ 115.16 INSPECTION AND CERTIFICATE REQUIRED.

(A) All electrical installations within the zoning jurisdiction of the municipality for which a permit is required shall be subject to inspection as hereinafter provided. At or before commencement of any electrical installation which is required by law to be inspected, the person responsible for the installation shall forward a request for inspection to the certified Electrical Inspector completed in the manner prescribed by the certified Electrical Inspector.

(B) Where the Electrical Inspector finds the installation to be in conformity with the provisions of this code, he or she shall issue to the person, firm, or corporation making the installation a certificate of approval, with a duplicate copy for delivery to the owner, authorizing the use of the installation and connection to the supply of electricity, and shall notify the supplying agency of this authorization.

(C) If, upon inspection, the installation is not found to be fully in conformity with the provisions of this code, the Electrical Inspector shall at once forward to the person, firm, or corporation making the installation a written notice stating the defects which have been found to exist.

(Neb. RS 81-5,100) (Am. Ord. 2409, 8-18-87) Penalty, see § 10.99

§ 115.17 UNLAWFUL CONNECTIONS.

It shall be unlawful for any person, firm, or corporation to make connections from a supply of electricity, to supply electricity to any electrical equipment, or to use or operate equipment, for the installation of which a permit is required, or which has been disconnected or ordered to be disconnected by the Electrical Inspector, until that connection or use has been authorized by the Electrical Inspector. Penalty, see § 10.99

CHAPTER 116: RAILROADS

Section

- 116.01 Safe crossing conditions; maintenance
- 116.02 Ditches, drains, and culverts along tracks
- 116.03 Obstruction of traffic restricted
- 116.04 Lighting and signals
- 116.05 Obstruction of view at crossings prohibited

§ 116.01 SAFE CROSSING CONDITIONS; MAINTENANCE.

It shall be the duty of every railroad company doing business in or traveling through the municipality to keep in a suitable and safe condition the crossings and rights-of-way in the municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the City Council may, by resolution, call upon the company to make whatever repairs it may deem necessary to correct the dangerous condition. Notice of this resolution shall be served upon the local agent of that company. In the event that the railroad shall fail or neglect to repair and correct the condition as stated above within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein. (Neb. RS 17-143, 17-144, 17-551, 17-552, and 75-414) Penalty, see § 10.99

§ 116.02 DITCHES, DRAINS, AND CULVERTS ALONG TRACKS.

Any railroad company owning, maintaining, or operating a railroad within the municipality shall construct and keep in repair ditches, drains, and culverts along and under its railroad tracks at all places within the municipality, where the same may be necessary for the escape of water and the proper draining of the area on either side of the tracks. When any such drain, ditch, or culvert may be necessary, the City Council may, by resolution, call upon the railroad company to construct or repair the drain, ditch, or culvert and to place the same in a proper condition for the escape of water. A copy of this resolution shall be served upon the local agent of the railroad company whose duty it is to construct or keep in repair any such drain, ditch, or culvert within 14 days after the service thereof. (Neb. RS 17-552) Penalty, see § 10.99

§ 116.03 OBSTRUCTION OF TRAFFIC RESTRICTED.

It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the municipality to obstruct traffic on any public street, except in the event of an emergency, for a longer period than 10 minutes at one time. (Neb. RS 17-552) Penalty, see § 10.99

§ 116.04 LIGHTING AND SIGNALS.

It shall be the duty of all railroad companies owning, operating, and maintaining a railroad through the municipality to sufficiently light all crossings and to install as many signal systems as the City Council shall deem necessary at the expense of the company. (Neb. RS 17-561) Penalty, see § 10.99

§ 116.05 OBSTRUCTION OF VIEW AT CROSSINGS PROHIBITED.

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 50 feet of the crossing of any railroad track and a public road within the corporate limits of the municipality; provided, however, in no instance shall any person who is authorized to control the movement of the railroad car or cars within that distance be prevented from reasonably conducting his or her business. (Neb. RS 74-1323) (Ord. 2340, 10-15-85) Penalty, see § 10.99

CHAPTER 117: SALES TAX

Section

- 117.01 Sales tax imposed; administration; increase approved
- 117.02 Sales tax increase; revenues; infrastructure projects
- 117.03 Sales tax increase; termination

§ 117.01 SALES TAX IMPOSED; ADMINISTRATION; INCREASE APPROVED.

(A) Pursuant to the approval of the question by a majority of the qualified electors of the City of Fairbury, Nebraska, at the City's primary election held on May 11, 2010, following fulfillment of all requirements to submit the question to all qualified voters as provided by law, there is hereby adopted pursuant to the provisions of the Nebraska Revenue Act of 1967, Neb. Rev. Stat. §§ 77-2701 *et seq.*, as amended, and the Nebraska Local Option Revenue Act of 1969, Neb. Rev. Stat. §§ 77-27,142 *et seq.*, as amended, a sales and use tax effective as provided by law, of one-half of one percent (1/2%) upon the same transactions within the corporate limits of the City of Fairbury as the same may from time to time be extended, on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the aforementioned state statutes as the same may from time to time be amended.

(B) The administration of the sales and use tax imposed herein, the making of returns for the ascertainment and assessment, the provisions for tax claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected shall be as provided by the Nebraska Revenue Act of 1967, as amended, and the Nebraska Local Option Revenue Act of 1969, as amended.

(C) Pursuant to the approval of the question by a majority of the qualified electors of the City of Fairbury, Nebraska, at the City's general election held in November 2014, following fulfillment of all requirements to submit the question to all qualified voters as provided by law, there is now hereby adopted pursuant to the provisions of the Nebraska Revenue Act, Neb. Rev. Stat. §§ 77-27,142 *et seq.*, as amended, an increase of the local sales and use tax rate by an additional one-half of one percent from one and one-half percent (1½%) to two percent (2%), effective as provided by law, upon the same transactions that are sourced under the provisions of Neb. Rev. Stat. § 77-2703.01 to 77-2703.04 within the corporate limits of the City on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended.

(Ords. 2996, 6-1-10; 3046, 11-18-14)

§ 117.02 SALES TAX INCREASE; REVENUES; INFRASTRUCTURE PROJECTS.

(A) Revenues from the increased sales and use tax shall be used for such public infrastructure projects as are allowed pursuant to the Local Option Revenue Act, including, but not limited to, public highways and bridges and municipal roads, streets, bridges, and sidewalks; solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in Neb. Rev. Stat. § 18-2103; mass transit and other transportation systems, including parking facilities; and equipment necessary for the provision of municipal services.

(B) The City of Fairbury and the City of Fairbury Community Redevelopment Authority have entered into an interlocal agreement that created a separate administrative entity for purposes of the agreement, related to public infrastructure projects. Such interlocal agreement contains provisions relating to the long-term development of unified governance of public infrastructure projects in the City with respect to the parties, including but not limited to any such infrastructure projects as may be funded by revenues from the increased sales and use tax as noted above. A portion of the rate greater than one and one-half percent, such portion being at least one-eighth percent (1/8%), shall be imposed for the purpose of the interlocal agreement.
(Ord. 3046, 11-18-14)

§ 117.03 SALES TAX INCREASE; TERMINATION.

The increase in the sales and use tax shall terminate no more than ten years after the effective date of the increased sales and use tax or, if bonds are issued and the local option sales and use tax revenue is pledged for payment of such bonds, upon payment of such bonds and any re-funding bonds, whichever date is later, provided that:

(A) If proceeds equal to at least 1/8%, but less than 3/8%, of the rate greater than 1 1/2% are imposed for the purpose of funding the interlocal agreement between the City of Fairbury and the City of Fairbury Community Redevelopment Authority, which interlocal agreement is related to public infrastructure projects, there is no termination date for 1/4% of the amount;

(B) If proceeds equal to at least 3/8% of the rate greater than 1 1/2% are imposed for the purpose of funding the interlocal agreement between the City of Fairbury and the City of Fairbury Community Redevelopment Authority, which interlocal agreement is related to public infrastructure projects, there is no termination date for any of the increase.
(Ord. 3046, 11-18-14)