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CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Liquor

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 transported, imported, brought, or shipped into the state does not exceed nine 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. 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 sick and diseased persons from possessing and using alcoholic liquor for the treatment of *bona fide* patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in compounding of prescriptions of licensed physicians;

D. 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;

E. 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;

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

G. 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

H. 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 when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §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 such property. (Neb. Rev. Stat. §53-186.01)

B. It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this city.

C. Except as provided in Neb. Rev. Stat. §53-186, it is unlawful for any person to consume an alcoholic beverage (1) in a public parking area or on any highway in this city or (2) inside a motor vehicle while in a public parking area or on any highway in this city.

D. 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.

E. 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)

SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE; SPECIAL PERMIT

A. It shall be unlawful for any person owning, operating, managing, or conducting any bottle club, 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 such premises pursuant to the Nebraska Liquor Control Act. It shall also be unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the act or unless a special permit has been granted for the same by the City Council.

B. Upon application for a special permit for the consumption of alcoholic liquor on public streets or other public places, the City Council may permit such consumption on such terms and conditions as it may determine. Written application must be made to the city clerk and the same must be acted upon at a special or regular meeting of the City Council. The terms and conditions for issuance of a special permit shall be set forth in the minutes of the meeting at which such application is considered.

C. This section 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. §53-168.06)

SECTION 5-105: 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)

SECTION 5-106: 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)

SECTION 5-107: 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 or for a bottle club 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 or for a bottle club 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 5-108: 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 5-109: OTHER BUSINESS ON PREMISES

Retail licensees in this city shall not permit any other person to use his or her licensed premises for the purpose of carrying on within such licensed premises any business activity of such other persons in any of its phases, such as solicitation, sales, service, delivery, storage or otherwise.

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: SIGNS

A. No retailer licensed in this city shall use an exterior sign describing or with reference to his or her liquor business larger than 600 square inches, and only one such sign shall be used at any time.

B. No retailer licensee shall use an interior sign describing or with reference to, his or her liquor business larger than 28 square feet, including its frame, and no brand name included in said sign shall exceed 100 square inches.

C. All signs in or about any licensed retail premises shall be considered exterior signs when the same, in whole, at all times cannot be conveniently read by those within that portion of the licensed premises normally occupied by customers or the general public, exclusive of entry way or entry hall.

SECTION 5-112: PREREQUISITES TO DELIVERY OF LICENSE

Any retail license issued or renewed by the Nebraska Liquor Control Commission for a licensee within this city shall be delivered to said licensee by the city clerk but any such license shall not be delivered to a licensee who does not exhibit receipts showing payment of the occupation tax levied under Section 5-302 of this code, payment of the license fee, payment of the publication fee for giving notice of the hearing before the City Council on any application for license and, if a renewal, payment of the publication

fee of the automatic renewal notice provided for in this code.

SECTION 5-113: 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 5-114: HOURS OF SALE

A. For the purposes of this section, (1) "on-sale" shall be defined as alcoholic liquor sold by the drink for consumption on the premises of the licensed establishment; (2) "off-sale" shall be defined as alcoholic liquor sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be lawful for any licensed person or persons or their agents to sell any alcoholic liquor within the City only during the hours provided herein:

<i>Alcoholic Liquor (except Beer and Wine)</i>	
Daily	
On and Off Sale	7:00 a.m. to 2:00 a.m.

(Ord. Nos. 504, 2/2/04; 522, 4/10/11)

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

D. No person(s) shall consume any alcoholic liquor on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic liquor on said premises.

E. 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 liquor is prohibited by this section.

(Neb. Rev. Stat. §53-179) (Am. Ord. No. 522, 4/10/11)

SECTION 5-115: KEG SALES; REGISTRATION; KEG ID NUMBERS; PROHIBITED ACTS

A. When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18 and 92/100ths or more liters, the seller shall record (1) the date of sale, (2) the keg identification number, (3) the purchaser's name and address and (4) the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military identification contains a picture of the purchaser, together with (5) the purchaser's signature. Such record shall be on a form prescribed by the

Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. Such records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

B. Licensees shall place a label bearing a keg identification number on each keg at the time of retail sale. Any person who unlawfully tampers with, alters, or removes the keg identification number from a beer container after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of an offense.

(Neb. Rev. Stat. §§53-167.02, 53-167.03)

SECTION 5-116: 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[2])

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 5-105 (City Powers and Duties). (Neb. Rev. Stat. §53-124.12)

SECTION 5-117: RIGHT OF ENTRY

The mayor, any member of the City Council, the county sheriff or any deputy or the city attorney shall have the right to enter any licensed premises at any time for the purpose of determining whether or not the licensee is violating any provision of the Nebraska Liquor Control Act or of this article to examine and inspect said premises.

SECTION 5-118: 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 5-119: 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: SALE FOR RESALE

No retail licensee in this city shall engage, directly or indirectly, in any transaction including or conspiring as to the resale of any liquors owned by him or her as a licensee, nor shall such licensee so permit the sale or delivery of any such liquors in such quantities as would place a reasonable-minded person on notice that such liquor might be intended for resale.

SECTION 5-122: ADVERTISING; UNLAWFUL SALES; PRIZES

Advertising by licensees in this city shall not contain misrepresentation or misleading statements. No sales shall be promoted or made by any licensee by unlawful means. Alcoholic liquors shall not be offered or delivered by any licensee as a prize.

SECTION 5-123: 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 5-124: TRANSPORTATION OF LIQUOR OF RETAIL LICENSEES

No retail licensee in this city shall permit the transportation of alcoholic liquor from his or her licensed premises for storage purposes in any manner for any purpose or to any location other than has been expressly authorized in writing by the Commission.

SECTION 5-125: NO DELIVERY AFTER CLOSING HOURS

No retail licensee in this city operating any premises open to the public shall act as retainer or keeper of liquor for customers or other persons for the purpose of delivering

or disposing of such liquor after closing hours as provided by state law, ordinance or resolution or on days when sales are prohibited.

SECTION 5-126: 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 private use and not for resale. (Neb. Rev. Stat. §53-184)

SECTION 5-127: GAMBLING

Unless sanctioned by Nebraska law, no licensee in this city holding a license covering any premises open to the public for the sale of intoxicating liquor or beer shall directly or indirectly permit gambling on or in the licensed premises; nor shall he or she permit the operation or possession of any payoff gambling device, slot machine or punch-board, mechanical or otherwise, whether payoff is in cash or merchandise, in, on or about the licensed premises.

SECTION 5-128: 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. 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.

C. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the City as provided in Neb. Rev. Stat. §53-135.01 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 5-129: 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.

SECTION 5-130: 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 5-127 (Citizens' Complaint), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

SECTION 5-131: 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 5-132: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

A. County sheriffs, Nebraska State Patrol troopers, and any other law enforcement officers with power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable

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

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

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

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

E. For purposes of this section, "public property" shall mean any public right of way, street, highway, alley, park, or other state-, county-, or city-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121)

Article 2 – Nonresident Sales

SECTION 5-201: REGISTRATION

A. Any nonresident salesperson who does not have a regularly maintained route on a weekly basis, intending to sell or attempting to sell at retail any merchandise, magazines, books or other items of value or attempting to take orders or subscriptions for the same within the corporate limits of the City shall, prior to making any attempt to sell such items, register with the city clerk. The clerk shall require satisfactory evidence of identification, including photographs, product to be sold, principal place of business, employer's name and address, telephone numbers, address if employed, and such other additional evidence necessary for identification and location.

B. Upon registration, the city clerk shall have authority to issue a sales permit to such person. There shall be a daily charge per salesperson, as set by the City Council by resolution and kept on file in the office of the city clerk, to be paid at the time such permit is issued by the clerk. Said permit shall be valid for three days from date of issuance. The clerk may also require written satisfactory recommendation or approval from the Better Business Bureau or such other organization as to said salesperson and his or her product and business prior to issuing such permit.

SECTION 5-202: EXCEPTIONS

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

SECTION 5-203: DUTY TO CARRY AND DISPLAY PERMIT

The sales permit as herein provided shall at all times be carried on the person of said salesperson and shall be displayed by him or her upon the request of any citizen of the City or any law enforcement officer of the City.

SECTION 5-204: HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesperson or peddler to solicit any individual between the hours of 5:00 p.m. and 9:00 a.m. unless they have a previous appointment with the resident or residents of the premises solicited.

Article 3 – Plumbers

SECTION 5-301: LICENSED PLUMBER DEFINED

The term "licensed plumber" as used in the ordinances of this city is hereby defined to denote any person to whom a plumber's license has been duly issued or renewed, as hereinafter provided, which has not been revoked or terminated by lapse of time.

SECTION 5-302: PROCEDURE TO OBTAIN LICENSE

Any person wishing to obtain a license as a plumber shall file in the office of the city clerk a written application asking to become a licensed plumber and stating his or her willingness to be governed in all respects by the ordinances of said city and all rules and regulations now in effect or hereafter to be adopted by said city concerning its utility systems. Such application shall be presented by the city clerk to the City Council at its next meeting thereafter held, and upon the City Council being satisfied of the business capacity, qualifications and good reputation of the applicant and of his or her worthiness to receive a license, and upon payment to the city clerk of a license fee as set by resolution by the City Council and filing with the city clerk of a bond with corporate surety to be approved by the City Council in the penal sum of \$2,000.00, conditioned upon his or her indemnifying and keeping harmless the City from all liability for any damage arising from any negligence or unskilled act in doing or protecting his or her work, or from any unfaithful or inadequate work done in pursuance of his or her license, and conditioned upon restoration of the streets, alleys, sidewalks and pavements over the pipes that may be laid, and filling all excavations made so as to leave said streets, alleys, sidewalks and pavements in as good condition as found, and keeping and maintaining the same in good order to the satisfaction of the City Council for the period of one year next thereafter and that he or she will pay all fines that may be imposed upon him or her for a violation of any of the ordinances, rules and regulations adopted by this city and in force during the term of the license, said council may grant to such applicant a license to be issued by the city clerk, authorizing the applicant to engage in business as a licensed plumber in said city for and during the then current municipal year. Said license and bond shall cover all employees of the applicant.

SECTION 5-303: RENEWAL OF LICENSES

Any license granted as provided in the preceding section may be renewed from year to year at the option of the City Council, on application therefor, upon payment of the license fee for the year and the renewal of applicant's bond. Said fee shall be as set by resolution by the City Council and kept on file in the office of the city clerk.

SECTION 5-304: TERM OF LICENSE

The term of each license or renewal may be revoked at any time, at the option of the City Council.

SECTION 5-305: FEES TO BE PAID TO CITY TREASURER

The city clerk shall pay over to the city treasurer all license fees collected pursuant to this article.

Article 4 – Occupation Taxes

SECTION 5-401: 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 and in such amounts as set by ordinance and placed 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 5-402(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. (Neb. Rev. Stat. §17-525)

SECTION 5-402: LEVY AUTHORIZED; LIQUOR LICENSES

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. The City Council shall have authority, by ordinance, to impose an occupation tax of not more than \$5.00 per annum on each fire insurance corporation, company or association doing business in the City for the use, support and benefit of the volunteer Fire Department. The city clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax, the clerk shall pay over the proceeds thereof to the city treasurer, who shall credit the same to a fund to be known as “special occupation tax fund” for the benefit of the Fire Department. Upon proper claim filed by the fire chief and allowed by the City Council, the treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department as hereinbefore provided.

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

D. Liquor license fees and occupation taxes shall be deposited with the city treasurer at the time the application for license is made, whether such application be filed with the city clerk or the Nebraska Liquor Control Commission, and the treasurer shall hold such occupation tax as a trust fund until the application is finally passed on. If the application is refused and license denied, then the amount thereof shall be returned to the applicant without interest. The tax year for such fees and taxes shall commence on May 1 each year and end on April 30 the next succeeding year; provided, during any license year no license shall be issued unless the fee tax for the full license year shall have been deposited with the city treasurer as hereinabove provided, regardless of the time when the application for license shall have been made; no reduction shall be made in the amount of the fee or tax regardless of the time when the application for license shall have been made and regardless of the time when such license is issued.

E. The city treasurer shall credit such license fees to the school fund of the local school district. He or she shall credit such occupation taxes to the general fund of the City. Upon the failure of any such applicant to pay such fee or tax as provided by this section, it shall be mandatory upon the mayor and council to pass a resolution denying the application for a license or requesting the Liquor Control Commission to deny such application; such resolution shall state the reason therefor and shall be forwarded to the Nebraska Liquor Control Commission
(Neb. Rev. Stat. §§17-525, 35-106, 53-132) (Ord. No. 2022-03-01, 4/4/22)

SECTION 5-403: 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 5-404: 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 4-104: DUTIES OF PARTIES LIABLE

It is hereby made the duty of each and every person, firm, association or corporation to pay the tax levied against him, her, them or it at the time the same becomes due as provided in Section 4-103.

SECTION 4-105: PAID TO TREASURER; NOT ASSIGNABLE

The tax herein levied shall be paid in cash to the city treasurer or other person designated by resolution of the mayor and City Council who, upon the payment thereof, shall issue receipt therefor to the person, persons, partnership, firm or corporation paying the same, properly dated and specifying on behalf of whom and for what the sum is paid. The city treasurer's receipt shall be the warrant and proper authority of any person to carry on and conduct the business specified in said receipt and for which the money has been paid. Said receipt shall not be assignable.

SECTION 5-405: 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 5-406: 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 5-407: NO REFUND

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

Article 5 – Railroads

SECTION 5-501: SAFE CROSSING

It shall be the duty of every railroad company doing business in or traveling through the City to keep in a suitable and safe condition the crossings and right of way in the City. 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 said company to make whatever repairs may be deemed necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail or neglect to repair and correct the said condition as aforesaid 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. Rev. Stat. §§17-551, 17-552)

SECTION 5-502: SPEED

It shall be unlawful for any railroad company, its employees, or agents to operate a railroad engine, locomotive, or other vehicle on its tracks within or through the City at a speed in excess of 25 miles per hour. (Neb. Rev. Stat. §§17-551, 17-552)

SECTION 5-503: OBSTRUCTING TRAFFIC

It shall be unlawful for any railroad company, its employees, or agents operating a railroad through the City to obstruct traffic on any public street, except in the event of an emergency, for longer than 15 minutes at one time. (Neb. Rev. Stat. §§17-551, 17-552)

SECTION 5-504: OBSTRUCTING VIEW AT CROSSING 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 25 feet of the crossing of any such railroad track and a public road within the corporate limits of the City; provided, however, in no instance shall any person who is authorized to control the movement of such railroad car within such distance be prevented from reasonably conducting his or her business. (Neb. Rev. Stat. §74-1323)

Article 6 – Fair Housing Act

SECTION 5-601: ADOPTED BY REFERENCE

There is hereby adopted and incorporated for reference for the City of St. Edward the Nebraska Fair Housing Act. Pursuant to such act, the City Housing Authority will provide housing referral and counseling services which assist minorities, women, single parent households, elderly and the handicapped seeking housing within the jurisdiction of St. Edward. The City will encourage local employers to cooperate in efforts to find housing for their employees and to promote equal housing choices within the community. The area of jurisdiction shall be all land within the corporate limits of the City. (Neb. Rev. Stat. §§20-301 through 20-344)

Article 7 – Hay Lots

(Ord. No. 2020-04-01, 4/6/20)

SECTION 5-701: LICENSE REQUIRED

All owners of property within the city limits of the City of St Edward wishing to use their property for the production and cutting of hay must first obtain a hay lot license from the City.

SECTION 5-702: APPLICATION

A. An application for a hay lot license can be obtained from the city office and must be submitted to said office by the first day of April each year. Hay lot licenses shall be good only for the calendar year in which they are granted and all applicants must submit a new application each year.

B. The cost of the hay lot license, as set by the City Council by resolution, shall be paid at the time of application.

C. Properties that are zoned as A-I Agricultural according to the St. Edward Comprehensive Zoning Map are still required to obtain a license but there will be no license fee for such properties.

D. The application must contain the following: (1) the name of the party wishing to be licensed, (2) the street address of the party wishing to be licensed, (3) the street address or legal description, if no address assigned, of the property for which the license is sought, (4) the intent of the party in regards to using the property for hay, (5) the vegetation currently growing on the property for which the license is sought, and (6) an affidavit stating that the party seeking the license will in fact use the property for the production and cutting of hay during the mowing season for which the license is sought.

E. No licenses will be approved for partial lots.

SECTION 5-703: REVIEW OF APPLICATIONS

Applications will be received and reviewed by the city administrator for the City of St. Edward (hereinafter “administrator”). This person shall have the authority to both approve and deny any and all applications submitted as long as the reasons for doing so are reasonable. All applications must be reviewed and either approved or denied within three business days of receipt of the application by the administrator. If any party seeking a license wishes to appeal the decision of the administrator he or she may do so by filing a written appeal to the City Council and the matter will be placed on the agenda for the next scheduled meeting.

SECTION 5-704: INSPECTION OF PROPERTY

All properties for which a license is requested will be inspected by a city employee upon application to verify the contents of the application and provide further information to the Administrator. By signing and submitting the application for licensure, the party seeking to be licensed grants the city employee permission to enter on and inspect the property to be licensed. This permission shall be limited to any and all property which will be used directly in the production and cutting of hay.

SECTION 5-705: REQUIREMENTS

If a party is granted a hay lot license, then they will be subject to the following provisions:

A. All hay lots must be mowed at least twice each season; once during the month of June and once during the month of September.

B. Variances:

1. If the licensed party wishes to mow the property early, he or she may request a variance from the administrator. Such variance must be requested at least three days in advance of the intended date of mowing.
2. If the licensed party is unable to mow the property during the required month and needs additional time, the party may request a variance from the Administrator. Such variance must be requested at least 7 days prior to the end of the month in which mowing is required.
3. Variances will be reviewed and approved or denied within three (3) business days.

C. Mowing of the property under this section shall include the mowing of the entire property under the ownership of the licensed party including but not limited to the ditches, fence lines, areas in between the sidewalk and street, and trimming around all objects and structures. It shall also include the removal of all hay from the property.

D. Once the property is properly mowed according to this section, the hay must be removed from the property within 14 days of the date of mowing.

SECTION 5-706: FAILURE TO MEET REQUIREMENTS

Failure to meet the conditions set forth in Section 5-705 herein shall result in revocation of the party's hay lot license and may subject the party to criminal liability for a nuisance under Section 3-504 (Notice Procedure; Abatement) of the municipal code.

SECTION 5-707: REVOCATION OF LICENSE

The process for license revocation shall be as follows:

A. The administrator shall mail a letter by first class mail to the delinquent party at the address listed as the mailing address on his or her application. The letter shall state that the party has failed to meet the requirements of the hay lot license and that said license is being revoked. It shall list the specific violation that is alleged by the City. The letter shall also state that the party has seven days in which to appeal this revocation by submitting a written appeal to the administrator.

B. If the party fails to correct the grievance or file a response to the notice letter within seven days, then the license will be officially revoked and all rights and privileges of said license will be forfeited,

C. If the party corrects the grievance within the seven-day period, then the license will be reinstated.

D. If the party timely submits a written appeal, the appeal will be reviewed by the administrator, who shall have the power to either approve or deny the appeal as long as such decision is based on reasonable grounds. Such appeal shall be ruled upon within three business days of receipt by the administrator.

E. If the party seeks to appeal the administrator's ruling on the appeal, a second appeal may be submitted to the City Council to be addressed at its next scheduled meeting. During the period in between the denial of the first appeal and the hearing at the council meeting, the license will be considered revoked and the City may treat the property as an unlicensed hay lot during this time.

F. If the party's appeal to the City Council is granted, then his or her license will be reinstated but the party will still be responsible for any and all costs of bringing the property into compliance. If the party's appeal is denied by the City Council, then the license will remain revoked and the property will be treated as unlicensed.

SECTION 5-708: EXEMPTION

Any and all properties located within one mile of the city limits of the City that are used for the production and cutting of hay and licensed as such by a hay lot license shall be exempted from all other provisions of Section 3-504 (Notice Procedure; Abatement) of the municipal code.

Article 8 – Penal Provision

SECTION 5-801: 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.