

CHAPTER 10: BUSINESS REGULATIONS

Article

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ARTICLE 1. ALCOHOLIC BEVERAGES

§ 10-101 ALCOHOLIC BEVERAGES; DEFINITIONS.

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

§ 10-102 ALCOHOLIC BEVERAGES; LICENSE REQUIRED.

It shall be unlawful for any person to manufacture for sale, sell, keep for sale, or to barter any alcoholic liquors within the Municipality unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (*Ref. 53-102 RS Neb.*)

§ 10-103 ALCOHOLIC BEVERAGES; RETAIL ESTABLISHMENTS AND BOTTLE CLUBS; LOCATION.

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

(1) For which a license to sell alcoholic liquor at retail or for a bottle club has been granted by the Nebraska Liquor Control Commission for two (2) years continuously prior to making of application for license;

(2) To hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935; or

(3) To a college or university in the state which is subject to section 53-177.01 RS Neb.

(B) If a proposed location for the sale at retail of any alcoholic liquor or for a bottle club is within one hundred fifty (150) feet of any church, a license may be issued if the Commission gives notice to the affected church and holds a hearing as prescribed in section 53-133 RS Neb. if the affected church submits a written request for a hearing. (*Ref. 53-177 RS Neb.*)

(C) Unless otherwise exempted by section 177.01 RS Neb., no alcoholic liquor, other than beer, shall be sold for consumption on the premises within three hundred (300) feet from the campus of any college or university within the Village, except that this section:

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

(2) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to section 53-124.15 RS Neb. (Ref. 53-177.01 RS Neb.)

(Amended by Ord. Nos. 10-009, 5/3/10; 11-004, 7/11/11; 12-03, 3/5/12; 16-11, 4/6/16; 19-01, 5/1/19)

Statutory reference:

State Commission may waive 300-foot requirement, see section 53-177.01 RS Neb.

§ 10-104 ALCOHOLIC BEVERAGES; ACCESS TO DWELLINGS.

Except in the case of hotels and clubs no alcoholic liquor shall be manufactured or sold at retail or wholesale upon any premise which has any access which leads from such premise to any other portion of the same building or structure used for dwelling or lodging purposes, and permitted to be used or kept accessible for use by the public. This section does not prevent any connection between the premises and such other portion of the building or structure which is used only by the licensee, his or her family, or personal guests.. (Ref. 53-178 RS Neb.) (Amended by Ord. No. 17-11, 12/6/17)

§ 10-105 ALCOHOLIC BEVERAGES; LICENSE DISPLAYED.

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 premise. (Ref. 53-148 RS Neb.)

§ 10-106 ALCOHOLIC BEVERAGES; 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, boat, or special party bus licenses;

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

(3) A person who is not a resident of this state and legally able to work in this State;

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

(5) A person who has been convicted of or has pleaded guilty to any Class 1 misdemeanor pursuant to Chapter 28, Art. 3, 4, 7, 8, 10, 11, or 12 RS Neb., or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this division on May 18, 1983, shall not prevent any person holding a license on that date from retaining or renewing that license if the conviction or plea occurred prior to May 18, 1983;

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

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

(8) A partnership, unless one (1) of the partners is a resident of this State and unless all the members of that partnership are otherwise qualified to obtain a license;

(9) A limited liability company, unless one (1) of the members is a resident of this State and unless all the members of that company are otherwise qualified to obtain a license;

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

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

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

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

(a) The licensed business will be the sole property of the applicant; and

(b) The licensed premises will be properly operated.

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

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

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

(B) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent. *(Ref. 53-125 RS Neb.) (Amended by Ord. Nos. 168, 10/6/80; 204-83, 12/5/83; 17-12, 12/6/17; 21-01, 2/3/21)*

§ 10-107 LIQUOR LICENSING STANDARDS.

The Board of Trustees for the Village of Hallam hereby adopts the following criteria as a statement of the needs and standards in the Village of Hallam regarding the licensing of alcoholic beverage retail and bottle outlets. The criteria are to be used in evaluating an application for retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor or for the expansion or change in location of the premises, in accordance with the Nebraska Liquor Control Act. The burden of proof and persuasion shall always be on the party filing the application. As used herein, the term "Applicant" and "Licensee" are synonymous.

1. The following standards are not necessarily of equal value and are not intended to be computed as a mathematical formula. Rather, they are standards which can be weighed and cumulated positively and negatively. In making its determination, the Liquor Control Commission should weigh each of the following consideration:

a. The adequacy of existing law enforcement resources and services in the area.

b. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking.

- c. Zoning restrictions.
- d. Sanitation or sanitary conditions on or about the proposed licensed premises.
- e. The existing population, and projected growth, both city-wide and within the area to be served.
- f. The existing liquor licenses, the class of such licenses, and the distance and times of travel to such licenses.
- g. The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.
- h. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

I. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic beverages.

- j. Other information and data that may be reasonably be considered pertinent to the issuance of a license.

2. The applicant must demonstrate fitness, willingness and ability to properly provide the service proposed in conformance with all provisions, requirements, needs and regulations provided for in the Nebraska Liquor Control Act. In determining whether the applicant has met this burden, the following criteria must be considered:

- a. The type of management and control to be exercised over the premises.
- b. The background information of the applicant, including, but not necessarily limited to, information contained in the public records of the Nebraska Liquor Control Commission.
- c. Past compliance with state laws and liquor regulations and municipal ordinances and regulations.
- d. Any incident in which the applicant has forfeited bond to appear in court or has been convicted of violating bond to appear in court to answer charges of having committed a felony, or charges of having violated any law or ordinance enacted in the interest of good morals and decency or relating to alcoholic liquors.
- e. Any incident when the applicant was actually convicted of violating a felony or any law or ordinance enacted in the interest of good morals and decency.

3. In the appropriate circumstance an applicant must demonstrate the following:
 - a. If the application is for an on-sale license, whether it is adjunct to a legitimate food service operation as evidenced by the percent of gross income allocated to food and liquor, and by the type and extent of kitchen facilities.
 - b. If any entertainment is to be offered, that it is appropriate and nondisruptive to the neighborhood where the premises are located and to the community at large.
 - c. If the application is for Class "B," "C," and "D" License, that it is for premises which are separate and distinct from any other business activity.

(Ref. 53-134 RS Neb.) (Ord. No. 86-228, 7/2/86)

§ 10-107.01 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; MUNICIPAL EXAMINATION.

(1) Any person or persons desiring to obtain a license to sell alcoholic liquor at retail shall file an application with the Liquor Control Commission. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. Rev. Stat. 53-131, the Governing Body shall fix a time and place at which a hearing will be held, and at which time the Governing Body shall receive evidence, under oath, either orally, or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than forty-five (45) days after the receipt of notice from the Commission. The Governing Body may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; 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 Governing Body may authorize its agent, the Municipal Clerk or the Municipal Attorney, to act on its behalf.

(2) Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the Municipality one (1) time not less than seven (7), nor more than fourteen (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 Governing Body in support of or in protest against the issuance of such license may do so at the time of the hearing.

(3) The Governing Body shall, after the hearing provided in subsection (1), approve or deny the application within forty-five (45) days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The Municipal Clerk shall thereupon mail or deliver to the Commission a copy of the resolution within ten (10) days of the decision to approve or deny the application.

(4) Any resolution denying an application rendered by the Governing Body shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail. (Ref. 53-131, 53-132, 53-134, RS, Neb.) (Amended by Ord. Nos. 204-83, 12/5/83; 212-84, 10/3/84; 86-229, 7/2/86; 4-90, 4/9/90; 92-8, 6/1/92)

§ 10-107.02 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS.

The Governing Body shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The Governing Body shall only consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the Governing Body to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

- a. The adequacy of existing law enforcement resources and services in the area;
- b. The recommendation of the Police Department or any other law enforcement agency;
- c. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking;
- d. Zoning restrictions and the Village zoning and land-use policies;
- e. Sanitation or sanitary conditions on or about the proposed licensed premises;
- f. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- g. The existing population and projected growth within the jurisdiction of the Governing Body and within the area to be served;
- h. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that issued such licenses;

I. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;

j. Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in Neb. Rev. Stat. section 53-101.01 ;

k. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. Rev. Stat. section 53-102;

l. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

m. Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

n. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

o. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;

p. Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the Governing Body, any other governmental board or agency of the Governing Body, any other governmental unit, or any court of law;

q. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Commission or Governing Body or the employees of the Commission or Governing Body in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;

r. Proximity of and impact on schools, hospitals, libraries, parks, and public institutions;

s. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

t. Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "licensee." (Ref. 53-134 RS Neb.) (Amended by Ord. No. 6-90, 4/9/90)

§ 10-107.03 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE.

A. *Notice.* Notice of a hearing held pursuant to Neb. Rev. Stat. section 53-134 shall be given to the applicant by the Municipal Clerk and shall contain the date, time, and location of the hearing. Two (2) 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 Governing Body 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 their testimony in narrative fashion or by question and answer. The Governing Body or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s).

The Governing Body 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 such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to perform such function who shall notify the Municipal Attorney of his/her representation prior to the start of the hearing.

The order of the proceeding is as follows:

1. Exhibits will be marked in advance by the Clerk and presented to the Municipal Attorney during the presentation;
2. Presentation of evidence, witnesses, and arguments by applicant;
3. Testimony of any other citizens in favor of such proposed license;
4. Examination of applicant, witnesses or citizens by Municipal Attorney, Governing Body, or duly appointed agent;
5. Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;
6. Presentation of evidence and witnesses by opposition;

7. Testimony of any other citizens in opposition to such proposed license;
8. Presentation of evidence by Municipality and law enforcement personnel;
9. Cross-examination by applicant;
10. Rebuttal evidence by both parties, and by Municipality administration and agent;
11. Summation by applicant and opposition spokesperson, if any.

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

Any member of the Governing Body and the Municipal Attorney may question any witness, call witnesses, or request information.

All witnesses shall be sworn.

The Governing Body may make further inquiry and investigation following the hearing.

The Governing Body or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s). (*Ref. 53-134 RS Neb.*) (*Ord. No. 5-90, 4/9/90*)

§ 10-107.04 ALCOHOLIC BEVERAGES; CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under section 53-124 RS Neb. a craft brewery license, a microdistillery license, or a farm winery license may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, or farm winery license.

(B) Any person desiring to obtain a catering license shall file with the Commission:

- (1) An application in triplicate original upon such forms as the Commission prescribes; and
- (2) A license fee of one hundred dollars (\$100.00) payable to the Commission, which fee shall be returned to the applicant if the application is denied.

(C) (1) When an application for a catering license is filed, the Commission shall notify, by registered or certified mail, return receipt requested with postage prepaid:

- (a) The Clerk of the village in which such applicant is located; or
- (b) If the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located.

(2) The Board of Trustees and the Commission shall process the application in the same manner as provided in section 53-132 RS Neb.

(D) The Governing Body, with respect to catering licensees within its liquor license jurisdiction as provided in section 53-132(5) RS Neb. may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court of the county in which the local governing body is located.

(E) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body as provided in section 53-132(5) RS Neb. The tax may not exceed double the license fee to be paid under this section. *(Ref. 53-124.12 RS Neb.) (Ord. No. 92-9, 6/1/92) (Amended by Ord. Nos. 95-16, 6/5/95; 97-17, 6/2/97; 00-02, 5/1/00; 2002-08, 7/1/02)*

§ 10-107.05 ALCOHOLIC BEVERAGES; SPECIAL DESIGNATED LICENSE; DESIGNATION OF VILLAGE CLERK OF THE VILLAGE OF HALLAM TO ACT AS AGENT.

Pursuant to the Nebraska Liquor Control Act of the State of Nebraska, the Village Clerk of the Village of Hallam is hereby appointed agent for the Village for making recommendation, to approve or deny the application for special designated permit license, to the Nebraska Liquor Control Commission. In making his or her recommendation, the Village Clerk should consult with the Chairperson of the Board and follow guidelines established by the Nebraska statutes and the ordinances of the Village for the issuance of said license. *(Ord. No. 07-018, 12/5/07)*

§ 10-108 ALCOHOLIC BEVERAGES; LIQUOR LICENSE RENEWAL.

(A) A retail or bottle club license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the Commission in the absence of a written request by the Board of Trustees to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the Village shall file a formal application for a license, and while the application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If that license expires within sixty (60) days following the annexation date of the area, the license may be renewed by order of the Commission for not more than one (1) year. *(Ref. 53-135 RS Neb.)*

(B) The Village 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 and each bottle club license within the Municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Village Clerk by three (3) or more residents of the Municipality on or before February 10, or August 10 for Class C licenses, the Board of Trustees 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 Board of Trustees may request a licensee to submit an application as provided in section 53-135 RS Neb. (Ref. 53-135.01 RS Neb.)

(Amended by Ord. Nos. 165, 1/31/80; 204-83, 12/5/83; 19-01, 5/1/19)

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

(A) The Board of Trustees is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, craft brewery, and microdistillery licensees carried on within the corporate limits of the village.

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

(C) The Board of Trustees, with respect to licenses within the corporate limits of the city, has the following powers, functions, and duties with respect to retail, bottle club, craft brewery, and microdistillery licenses:

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

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

(a) Within thirty (30) days after determining that such violation has occurred;

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

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

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

(4) To receive retail, bottle club, craft brewery, and microdistillery license fees as provided in 53-124 and 53-124.01 RS Neb. and pay the same, after the license has been delivered to the applicant, to the Village Treasurer;

(5) To examine or cause to be examined any applicant or any retail, bottle club, craft brewery, or microdistillery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee, except as otherwise provided for bottle club licensees under state law, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Board of Trustees 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 53-134.04 RS Neb., it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within thirty (30) days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in 53-133 RS Neb.;

(7) Upon receipt from the Commission of the notice and copy of application as provided in 53-131 RS Neb., to fix a time and place for a hearing at which the Board of Trustees shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of the hearing shall be published in a legal newspaper in or of general circulation in the city, one (1) time not less than seven (7) and not more than fourteen (14) days before the time of the hearing. The notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the Board of Trustees in support of or in protest against the issuance of the license may do so at the time of the hearing. The hearing shall be held not more than forty-five (45) days after the date of receipt of the notice from the Commission, and after the hearing the Board of Trustees shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The Village 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;

(8) To review and authorize an application by a retail, bottle club, craft brewery, farm winery, or microdistillery licensee for a temporary expansion of its licensed premises within the jurisdiction of the local governing body to an immediately adjacent area owned or leased by the licensee or to an immediately adjacent street, parking lot, or alley, not to exceed fifty (50) days for calendar year 2020 and, for each calendar year thereafter, not to exceed fifteen (15) days per calendar year, as provided in 53-123.12 and 53-129 RS Neb.; and

(9) To review and authorize an application by a craft brewery, farm winery, or microdistillery licensee that holds a promotional farmers market special designated license for a permit to use such promotional farmers market special designated license to sell or dispense alcoholic liquor, which the holder is licensed to produce, at a farmers market within the jurisdiction of the local governing body as provided in section fourteen of this act. The local governing body shall electronically notify the Commission within five (5) days after authorization of any permit pursuant to this division.

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the Village Clerk a retail, craft brewery, or microdistillery license issued or renewed by the Commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

(a) The license fee if by the terms of 53-124 RS Neb. the fee is payable to the Village Treasurer;

(b) Any fee for publication of notice of hearing before the Board of Trustees upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in 53-135.01 RS Neb.; and

(d) Occupation taxes, if any, imposed by the city, except that Class J retail licensees shall not be subject to occupation taxes.

(2) Notwithstanding any ordinance or charter power to the contrary, the village 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 village in any sum which exceeds two (2) times the amount of the license fee required to be paid under the act to obtain that license. *(Ref. 53-131, 53-132, 53-134, 53-134.03 RS Neb.) (Amended by Ord. Nos. 169, 10/6/80; 204-83, 12/5/83; 00-04, 5/1/00; 2002-09, 7/1/02; 12-01, 3/5/12; 17-13, 12/6/17; 19-01, 5/1/19; 21-01, 2/3/21; 22-03, 5/4/22)*

§ 10-110 ALCOHOLIC BEVERAGES; OWNER OF PREMISES.

The owner of any premise used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of these laws to the same extent as the said licensee if the owner shall knowingly permit the licensee to use the said licensed premise in violation of any Municipal Code section or Nebraska Statute. *(Ref. 53-1,101 RS Neb.)*

§ 10-111 ALCOHOLIC BEVERAGES; EMPLOYER.

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

§ 10-112 ALCOHOLIC BEVERAGES; CLEAR VIEW.

(Repealed - Ord. No. 139, 12/5/77)

§ 10-113 ALCOHOLIC BEVERAGES; MINORS; PROHIBITED ACTS INVOLVING ALCOHOLIC LIQUOR.

(A) For purposes of this section, the definitions found in section 53-103.01 through 53-103.42 RS Neb. shall apply, including, but not limited to, the definitions of the terms alcoholic liquor, consume, minor, sale, and to sell.

(B) Except as provided in section 10-122 (Alcoholic Beverages; Manufacture, Sale, Delivery, and Possession; General Prohibitions; Exceptions), no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor as a part of a bona fide religious rite, ritual or ceremony or in his or her permanent place of residence.

(C) It shall be unlawful for any person under twenty-one (21) years of age to transport, consume, or knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. *(Ref. 53-180.02 RS Neb.) (Amended by Ord. Nos. 2002-10, 7/1/02; 11-006, 7/11/11)*

§ 10-113.01 ALCOHOLIC BEVERAGES; SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.

No person shall sell, furnish, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. *(Ref. 53-180 RS Neb.) (Ord. No. 12-02, 3/5/12)*

Statutory reference:

Authority, see section 17-135 RS Neb.

§ 10-114 ALCOHOLIC BEVERAGES; CREDIT SALES PROHIBITED.

(A) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

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

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

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

(3) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. *(Ref. 53-183 RS Neb.) (Ord. No. 12-04, 3/5/12) (Amended by Ord. No. 15-12, 5/4/15)*

§ 10-115 ALCOHOLIC BEVERAGES; SPIKING BEER.

(Repealed by Ord. No. 11-007, 7/11/11)

§ 10-116 ALCOHOLIC BEVERAGES; ORIGINAL PACKAGE.

(Repealed by Ord. No. 92-6, 6/1/92)

§ 10-117 ALCOHOLIC BEVERAGES; ACQUISITION AND POSSESSION; RESTRICTIONS.

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

(Ref. 53-175 RS Neb.)

(B) (1) Except as otherwise provided in this section, it shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into this state for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of nine (9) liters in any one (1) calendar month.

(2) Division (B)(1) of this section does not apply to a person importing alcoholic liquor from a holder of a retail direct sales shipping license or its equivalent, which alcoholic liquor is for personal use or for use by such person's family or guests, if the total amount imported by such person in any one (1) calendar year does not exceed one hundred and eight (108) liters.

(Ref. 53-194.03 RS Neb.) (Ord. No. 17-09, 12/6/17)

§ 10-118 ALCOHOLIC BEVERAGES; HOURS OF SALE.

It shall be unlawful for any person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

HOURS OF SALE**Alcoholic Liquors (except beer and wine)****Secular Days**

Off Sale.....	6:00 A.M. to 1:00 A.M.
On Sale.....	6:00 A.M. to 1:00 A.M.

Sundays

Off Sale.....	12:00 Noon to 1:00 A.M.
On Sale.....	12:00 Noon to 1:00 A.M.

Beer and Wine**Secular Days**

Off Sale.....	6:00 A.M. to 1:00 A.M.
On Sale.....	6:00 A.M. to 1:00 A.M.

Sundays

Off Sale.....	6:00 A.M. to 1:00 A.M.
On Sale.....	6:00 A.M. to 1:00 A.M.

Provided, that such limitations shall not apply after twelve (12:00) o'clock Noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to section 53-124(5) (C) and (H) Reissue Rev. Stat. of the State of Nebraska.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. *(Ref. 53-179 RS Neb.) (Amended by Ord. Nos. 102, 3/3/75; 77-131, 7/11/77; 91-8, 9/7/91)*

§ 10-119 ALCOHOLIC BEVERAGES; SANITARY CONDITIONS.

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons and said licensed premise shall be subject to any health inspections the Governing Body or the Municipal Police may make, or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the said sanitary conditions shall be made at all hearings concerning the application for, or renewal of, a liquor license. *(Ref. 53-118 RS Neb.)*

§ 10-120 ALCOHOLIC BEVERAGES; HIRING MINORS.

It shall be unlawful for any person to hire a minor regardless of sex under the age of nineteen (19) years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. *(Ref. 53-102 RS Neb.)*

§ 10-121 ALCOHOLIC BEVERAGES; CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS.

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

(B) It is unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, café, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, café, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under section 60-6,211.08 RS Neb. (Ref. 53-186.01 RS Neb.)

(Amended by Ord. Nos. 234, 11/3/86; 00-03, 5/1/00; 12-13, 3/5/12; 19-01, 5/1/19)

§ 10-122 ALCOHOLIC BEVERAGES; MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.

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

(B) Nothing in this Chapter shall prevent:

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

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

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

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

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

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

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

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

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

(Ref. 53-168.06 RS Neb.) (Amended by Ord. Nos. 170, 10/6/80; 96-16, 4/1/96; 2002-24, 7/1/02; 17-10, 12/6/17)

§ 10-123 ALCOHOLIC BEVERAGES; STATE LIQUOR LICENSE FEE.

(A) At the time application is made to the Nebraska Liquor Commission for a Class "C" Liquor License, and on the date of every subsequent renewal of said license, the licensee shall pay to the Municipal Treasurer in addition to all occupation taxes required by this Chapter, a fee of two hundred fifty (\$250.00) dollars as required by the Nebraska Liquor Commission, plus any fees for publication of notice of hearings before the Board of Trustees and any fees for publication of notice of renewal of said license.

(B) The Municipal Treasurer shall then transfer the two hundred fifty (\$250.00) dollar license fee to the School Fund of the district lying wholly or partially within the corporate limits of the Municipality.
(Ref. 53-124, 53-129, 53-138.01 RS Neb.) (Ord. No. 110, 7/7/75)

§ 10-124 ALCOHOLIC BEVERAGES; KEG SALES; REQUIREMENTS; PROHIBITED ACTS.

(A) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of five (5) or more gallons or 18.92 or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six (6) months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

(Ref. 53-167.02 RS Neb.)

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

(Ref. 53-167.03 RS Neb.) (Ord. No. 16-16, 4/6/16)

§ 10-125 ALCOHOLIC BEVERAGES; LICENSED PREMISES; INSPECTIONS.

(A) The Board of Trustees shall cause frequent inspections to be made on the premises of all retail licensees and bottle club licensees. If it is found that any such licensee is violating any provision of this chapter, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission, or is failing to observed in good faith the purposes of this chapter or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

(B) The Board of Trustees may inspect a charter bus providing service under a certificate of public convenience and necessity granted by the Public Service Commission when the owner or operator of the charter allows the consumption of alcoholic liquor in the charter bus by an individual who is twenty-one (21) years of age or older so long as the inspection is performed when the bus has stopped for the purpose of allowing passengers to embark or disembark. *(Ref. 53-116.01 RS Neb.) (Ord. Nos. 19-01, 5/1/19; 21-01, 2/3/21)*

§ 10-126 ALCOHOLIC BEVERAGES; BOTTLE CLUBS; CITIZEN COMPLAINTS.

Any five (5) residents of the Village shall have the right to file a complaint with the Board of Trustees stating that any retail licensee or bottle club licensee subject to the jurisdiction of the Board of Trustees has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. The complaint shall be in writing in the form prescribed by the Board of Trustees and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the Board of Trustees is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for that belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the Board of Trustees within thirty (30) days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in section 53-1,115 RS Neb. *(Ref. 53-134.04 RS Neb.) (Ord. No. 19-01, 5/1/19)*

ARTICLE 2. AMUSEMENTS

§ 10-201 BINGO; REGULATION.

Games of bingo shall be conducted within the Municipality in accordance with all laws of the Municipality and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing operation of said game. Application shall be made to the Municipal Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of an annual permit fee of ten (\$10.00) dollars. Said 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 Governing Body may designate. All permits so issued will automatically expire on March thirty-one (31), following their issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of ten (\$10.00) dollars. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted. *(Ref. 9-166 RS Neb.) (Amended by Ord. No. 154, 10/2/78)*

§ 10-202 BINGO; TAX.

(Repealed by Ord. No. 99-12, 10/4/99)

§ 10-203 BINGO; QUARTERLY REPORT.

(Repealed by Ord. No. 99-12, 10/4/99)

§ 10-204 BINGO; INCORPORATED REGULATION.

All applicable State statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this Article 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 such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. *(Ref. 9-101 through 9-123 RS Neb.)*

ARTICLE 3. BUSINESS ENTERPRISES

§ 10-301 BUILDING MOVING; REGULATION.

It shall be unlawful for any person, firm, or corporation to move or dismantle any building or structure within the Municipality without written permit to do so. Application may be made to the Municipal Clerk, and shall include the location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Municipal Police for approval of the proposed route over which the said building is to be moved. Upon approval of the Governing Body, the Municipal Clerk shall then issue the said permit; Provided, that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. No permit shall be required to move a building that is ten (10') feet wide, or less, and twenty (20') feet long, or less, and when in a position to move, fifteen (15') feet high or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as is necessary. (Ref. 17-207 RS Neb.)

§ 10-302 BUILDING MOVING; DEPOSIT.

At such time as the building moving has been completed, the Municipal Police shall inspect the premise and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from the Municipal Police, the Municipal Clerk shall return the corporate surety bond,

cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as pre-scribed by law. (*Ref. 17-207 RS Neb.*)

ARTICLE 4. OCCUPATION TAXES

§ 10-401 OCCUPATION TAX; AMOUNTS.

For the purpose of raising revenue an occupation tax is hereby levied on the following businesses:

Fire Insurance Companies	\$ 5.00
Retailers of all Alcoholic Beverages, including beer on sale, off sale or both, per year . . .	\$200.00

Provided, that in the event any business does not exist on the date when the occupational tax herein provided for is due and payable pursuant to Section 10-403 of the Hallam Municipal Code, the occupational tax shall be prorated for the year of the tax. The proration of the occupational tax shall be as follows:

If the business to be taxed under this Section begins operation during the first three-month period following the date when said tax is due and payable, the tax paid shall be one hundred (100%) per cent of the tax provided for in this Section; if the business is begun during the second three-month period following the date when such tax is due and payable, the tax shall be seventy-five (75%) per cent of the tax provided in this Section; if the business begins during the third three-month period following the date when such tax is due and payable, the tax shall be fifty (50%) per cent of that herein provided; if the business begins during the fourth three-month period following the date when such tax is due and payable, such tax shall be twenty-five (25%) per cent of the tax provided in this Section. (*Amended by Ord. Nos. 111, 7/7/75; 77-134, 8/19/77*)

§ 10-402 OCCUPATION TAX; FIRE INSURANCE COMPANIES.

For the use, support, and maintenance of the Municipal Fire Department all revenue realized from the occupation tax on Fire Insurance Companies shall be appropriated to the Fire Department Fund. (*Ref. 35-106 RS Neb.*)

§ 10-403 OCCUPATION TAX; COLLECTION DATE.

All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly 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 the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. (*Amended by Ord. No. 140, 12/5/77*)

§ 10-404 OCCUPATION TAX; CERTIFICATES.

The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate 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.

§ 10-405 OCCUPATION TAX; FAILURE TO PAY.

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

§ 10-406 OCCUPATION TAX; LEVIES AUTHORIZED.

(A) The Village shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the Village 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 sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 RS Neb., or which is exempt from tax under section 77-2704.24 RS Neb. The occupation tax shall be imposed in the manner provided in section 18-1208 RS Neb., except that section 18-1208 RS Neb. does not apply to an occupation tax subject to section 86-704 RS Neb. 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 Village. (*Ref. 17-525 RS Neb.*)

(B) The Board of Trustees shall have authority, by ordinance, to impose an occupation tax of not more than five dollars (\$5.00) per annum on each fire insurance corporation, company, or association, doing business in the city, for the use, support, and benefit of volunteer fire departments, regularly organized under the laws of the state regulating the same. The Village 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

Village Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer fire department. Upon proper claim filed by the Chief of the Fire Department and allowed by the Board, 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. (*Ref. 35-106 RS Neb.*)

(C) Notwithstanding any ordinance or charter power to the contrary, the Village 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 Village in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license. (*Ref. 53-132 RS Neb.*) (*Ord. No. 13-04, 2/4/13; Amended by Ord. No. 15-11, 5/4/15*)

Statutory reference:

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

ARTICLE 5. COMMUNITY ANTENNA TELEVISION SERVICE

[Editor's Note: Article 5 was adopted in its entirety by Ordinance No. 83-195, passed July 11, 1983]

§ 10-501 COMMUNICATION AND MEDIA SERVICES FRANCHISE GRANT.

The Governing Body has granted to Zito Media, a non-exclusive franchise and authority to construct, maintain, and operate a communications and media transmission and distribution system within the Municipality. Actual details of the Agreement, and the present rate, charges, and fees are available at the Municipal Clerk's office. *(Amended by Ord. Nos. 04-001, 4/5/04; 14-01, 1/6/14)*

§ 10-502 COMMUNITY ANTENNA TELEVISION SERVICE; RIGHT CONFERRED BY FRANCHISE.

A. This article confers upon the Grantee the non-exclusive right, authority, power and franchise to establish, construct, acquire, own, operate, and maintain a Community Antenna Television Service System within the Village of Hallam, and to render, furnish and sell such service to the inhabitants of the Village and its environs and to use and occupy the streets and certain other public places within the corporate limits of the Village as the same now exists or may hereafter exist for its lines, cables and other transmission equipment, including the right to enter and construct, erect, locate, relocate, repair, and rebuild in, on, under, along, over, and across the streets, alleys, avenues, lanes, bridges, and to make use of other public property and places and locations approved by the Village Engineer, in the Village, all towers, poles, cables, amplifiers, conduits, and other facilities owned, leased or otherwise used by Grantee for the furnishings of Community Antenna Television Service with the Village during the continuance of the franchise hereby granted and in accordance with the laws and regulations of the United States of America, the State of Nebraska and the Village of Hallam, Nebraska.

B. The poles used for the Grantee's distribution system shall be those erected and maintained by anyone authorized to maintain poles in the street or public ways, when and where practicable. It is contemplated that reasonable standard pole attachment agreements will be entered into between Grantee and other Franchisees, Grantee shall have the right to set its own pole lines for its distribution system, however, when it deems it economically feasible to do so. In any areas where electric or telephone utilities are now underground, the Grantee will lay its cable underground.

C. The Village reserves the right to regulate the erection, construction or installation of any facilities by the Grantee and to designate where such facilities are to be placed within the public ways and places.

§ 10-503 COMMUNITY ANTENNA TELEVISION SERVICE; INSTALLATION OF CABLE SYSTEM.

A. The Grantee shall have commenced and accomplished a significant construction of the Community Antenna Television Service System facilities authorized in this Article within twelve (12) months after the effective date of this Article, and shall thereafter equitably and reasonably extend energized trunk cable to such percentage of its franchised area as will accomplish completion of the cable system within fifteen (15) months after the effective date of this Article.

B. The installation of the cable system shall be in accordance with the requirements of the National Electric Safety Code of the American Insurance Association, latest edition, all applicable laws, ordinance rules and regulations of the FCC, the State of Nebraska, and of the Village affecting electrical installations and building, now or hereafter in effect.

C. The Grantee, subject to the rights of adjoining property owners, at its expense, shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee, all trimming to be done under the supervision and direction of the Village.

D. The Grantee shall at its expense protect, support, temporarily disconnect, relocate or remove any property of the Grantee located upon streets, rights-of-way and easements of the Village, when required by the Village because of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks or any other type of structure or improvement by the Village; if the Grantee fails to do so, the Village may cause the necessary work to be completed and Grantee shall pay the Village the cost thereof within ten (10) days after receipt of any itemized account.

E. In case of any disturbance of pavement, sidewalk, driveway, street or other surface Grantee shall, at its own expense and in a manner approved by said Village, remove, replace, and restore all such surface so disturbed in as good condition as before the work involving such disturbance was done. Failure of the Grantee to replace and restore such pavement within seventy-two (72) hours after

completion of the Grantee's work shall authorize the Village to cause proper restoration to be made and the expense thereof charged to the Grantee which shall be paid by the Grantee within ten (10) days after receipt of an itemized account of such costs.

§ 10-504 COMMUNITY ANTENNA TELEVISION SERVICE; RELOCATION OF PROPERTY.

The Grantee, at the request of any person holding a permit issued by the Village, shall temporarily remove, raise or lower its wires or cables to permit the moving of buildings or equipment. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the Grantee may require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire or cable change.

§ 10-505 COMMUNITY ANTENNA TELEVISION SERVICE; RATES AND CHARGES.

A. All rates and charges made by the Grantee for its service shall be fair, reasonable, just and uniform.

B. Grantee shall have the authority to promulgate such rules and regulations, terms and conditions of its business as shall reasonably be necessary to enable the Grantee to exercise its rights and perform its services under this franchise and to assume an uninterrupted service to each and all of its customers.

C. Grantee may charge the following for installation of services to each customer:

1. For the first ninety (90) days from and after the date when the system is ready for operation, all installation shall be free.

2. No installation fee shall be charged to schools, educational facilities or three (3) public buildings located in or adjacent to the Village.

3. Grantee may charge no more than the following for installation services to each customer:

Basic Cable Installation - \$15 plus tax
Extra Outlet Installation - \$10 plus tax per outlet
HBO Installation - \$10 plus tax
Cinemax Installation - \$10 plus tax
Transfer Charge - \$10 plus tax
Reconnection Charge - \$10 plus tax

No more than \$20 for any two (2) of the above charges per trip per customer and no more than \$25 for any three (3) or more of the above charges per trip per customer.

D. Grantee may charge up to the following rates to its customers:

1. For a single outlet per dwelling unit or business: \$12.00 per month plus tax.
2. For each additional outlet per dwelling unit or business: \$2.00 per month plus tax.
3. Optional movie or special shows channels or services shall be at the rate of \$12.00 per month plus tax each.
4. For basic hookup plus two (2) movie or special shows channels: \$36.00 per month plus tax.
5. No charge will be made to schools served without movie or special show options.

E. Subject to any statutory changes which specifically require the modification of this procedure during the term of this franchise, prior to the Grantee increasing any rates herein set forth, or establishing charges for services not herein identified, Grantee shall make an application to the Board of Trustees requesting the approval of any such rate increases or new rates. Approval of any such requests must be made by ordinance. Upon the Grantee herein requesting approval of rate changes or the implementation of new rates, the Board of Trustees shall hold at least two (2) public meetings at least ten (10) days apart with publication of such meeting made at least five (5) days in advance of such meeting in a newspaper of general circulation within the community to permit the ratepayers and the franchisee to comment on programming content and rates, each ratepayer, subscriber or customer, shall be notified by Grantee of when and where such public meeting shall be held. The notices required herein shall provide information as to what rates are proposed by the Grantee for consideration by the Board of Trustees.

§ 10-506 COMMUNITY ANTENNA TELEVISION SERVICE; CARRIAGE OF SIGNALS.

Grantee shall distribute as its basic system no less than ten (10) channels airing programming of at least ten (10) different stations or producers. Producers or stations may from time to time be changed by Grantee. The initial distribution shall be of the following:

KMTV-NBC, Omaha NETV - Lincoln
WOWT-CBS, Omaha Nickelodeon
KETV-ABC, Omaha WGN - Chicago, Illinois
KOLN-CBS, Lincoln WTBS - Atlanta, Georgia
Cable News Network ESPN - Sports Network

§ 10-507 COMMUNITY ANTENNA TELEVISION SERVICE; INDEMNIFICATION.

The Grantee agrees to hold and save said Village harmless from any and all liability that may arise out of the construction, maintenance, operation or use of Grantee's system and works and the providing of such services and to provide and keep in force adequate liability insurance therefor, to the extent of bodily injury limits of \$500,000 - \$500,000 and a property damage limit of \$300,000 - \$300,000, naming the Village as an additional insured, as its interest may appear. Grantee shall also provide and maintain insurance under a Broad Form Automobile policy, with \$100,000 - \$300,000 - \$100,000 coverage limits and Workmen's Compensation insurance with statutory limits. All insurance shall be issued by a company authorized to do business in the State of Nebraska and shall be provided before the Grantee, its successors or assigns thereof, shall commence the construction or other operations mentioned in this Section. The Village shall notify the Grantee's representative or employee in the Village, if any, within forty-five (45) days after the presentation of any demand or claim that may arise, whether by suit or otherwise, against the Village. Grantee shall maintain on file with the Village Clerk at all times, a current certificate of insurance. All insurance policies shall provide for not less than thirty (30) days notice of cancellation.

§ 10-508 COMMUNITY ANTENNA TELEVISION SERVICE; PAYMENT TO VILLAGE.

In consideration of the rights, privileges, and franchise hereby granted, and as compensation to the Village for the use of its public ways and places by the Grantee, and to properly regulate the activities of Grantee, the Grantee shall, on or before the last day of January and the last day of July of each year to which this franchise is effective, pay to the Village a sum equal to three (3%) per cent of the gross basic subscriber revenues for cable television service within the existing corporate limits of the Village for the preceding six (6) month period ending on the last day of December and the last day of June, respectively. The books of Grantee shall be open to inspection by authorized agents of the Village at all reasonable times to verify the accuracy of the computation and correctness of the report which shall accompany payment. Grantee shall keep books and records pursuant to established practices using generally accepted accounting procedures. In addition to the current year, said books and records shall be retained for a period of at least five (5) years.

§ 10-509 COMMUNITY ANTENNA TELEVISION SERVICE; EASEMENTS.

Nothing herein shall be deemed as requiring the Village to provide the Grantee with any easements, rights-of-way, or other public property except that already possessed by the Village and approved by it for the use of Grantee. Any additional easements or rights-of-way required by Grantee shall be acquired by Grantee at its own cost and expense. Grantee shall not enter upon any privately owned property without the express written consent of the title-holder thereof so to do.

§ 10-510 COMMUNITY ANTENNA TELEVISION SERVICE; FRANCHISE TERMINATION.

The Village may terminate the franchise and all rights therein granted in the event the Grantee or its successors or assigns thereof shall fail to comply with any of the terms and conditions of this Article following thirty (30) days after written notice to Grantee of its failure to comply. The Village may exercise such right of termination by mailing notice thereof by Registered Mail or Certified Mail to the Grantee. Upon termination of this franchise, either by reason of this Section or the expiration of the term of this lease, Grantee shall within six (6) months of the termination, at its expense, remove all its equipment and property from the public and private property except property owned by Grantee.

§ 10-511 COMMUNITY ANTENNA TELEVISION SERVICE; PUBLICATION COSTS.

The Grantee will pay to the Village a sum to cover the ordinance publication costs when presented with the bill by the Village, and the costs of any other publication required by this Article.

§ 10-512 COMMUNITY ANTENNA TELEVISION SERVICE; LOCAL OFFICE OR AGENT.

Grantee shall maintain a local office, or local agent, in the Village, or provide toll-free telephone service, so as to provide adequate service during all usual business hours, and have a listed telephone so that messages, complaints and requests for service or repairs or adjustments may be received at any time without toll charges.

§ 10-513 COMMUNITY ANTENNA TELEVISIONS SERVICE; SALE OR TRANSFER OF FRANCHISE.

This franchise shall not be sold, transferred, leased, or otherwise disposed of by the Grantee, without the prior consent of the Village, which consent shall not be unreasonably withheld. The Village may require such investigation of the proposed transferee as the Board of Trustees deems necessary at the expense of Grantee.

§ 10-514 COMMUNITY ANTENNA TELEVISION SERVICE; SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The invalidity of any portion of this Article shall not abate, reduce or otherwise affect any consideration or other obligation required of Grantee by the franchise granted hereunder.

§ 10-515 COMMUNITY ANTENNA TELEVISION SERVICE; LOCATION OF FACILITIES.

Grantee shall file with the Village and obtain approval thereof a proper map showing and describing the exact location and proposed location of all of its facilities within the Village's streets, alleys, approved public ways, and dedicated easements. Grantee shall secure from the Village Engineer, approval for the location of, the erection of either above or below ground facilities so as not to interfere with existing public utility franchises, excluding herefrom the necessity of securing prior approval of the Village if and when said Grantee obtains pole attachment agreements with existing public utilities for the joint use of poles that may be now existing or may be hereafter erected by such public utility franchise other than by this Article. Grantee shall provide the Village two (2) copies of "as-built" drawings showing the precise location of all of Grantee's facilities and keep said drawings current.

§ 10-516 COMMUNITY ANTENNA TELEVISION SERVICE; RULES AND REGULATIONS.

This franchise is granted subject to all rule-, regulation-, resolution-, and ordinance making authority of the Board of Trustees and nothing herein shall be construed to restrict or limit such powers.

ARTICLE 6. FRANCHISES

§ 10-601 FRANCHISE; NATURAL GAS.

The Governing Body has granted to Minnegasco, a division of Arkla, Inc., the authority to construct, maintain, and operate a gas transmission and distribution system within the Municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office.

§ 10-601 FRANCHISE; NATURAL GAS; FRANCHISE TAX.

The Village hereby establishes a franchise tax on every natural gas company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas. The details of the franchise tax and present rates are available at the Municipal Clerk's office. (*Ord. No. 07-016, 12/5/07*)

ARTICLE 7. TOBACCO AND CIGARETTES

§ 10-701 TOBACCO AND CIGARETTES; LICENSE TO SELL; ISSUANCE.

Licenses for the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material to persons twenty-one (21) years of age or over shall be issued to individuals, partnerships, limited liability companies, and corporations by the Village Clerk upon application duly made as provided in this chapter. (Ref. 28-1421 RS Neb.) (Ord. Nos. 15-08, 5/4/15; 20-01, 1/8/20; 21-01, 2/3/21)

Statutory reference:

Licenses required, see section 28-1420 RS Neb.

Prohibited sales, see section 28-1421 RS Neb.

§ 10-702 TOBACCO AND CIGARETTES; LICENSE APPLICATION.

Every person, partnership, limited liability company, or corporation desiring a license under sections 28-1420 to 28-1429 RS Neb. shall file with the Village Clerk a written application stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application the amount of the license fee provided in this chapter. If the applicant is an individual, the application shall include the applicant's social security number. (Ref. 28-1422 RS Neb.) (Ord. No. 15-08, 5/4/15)

§ 10-703 TOBACCO AND CIGARETTES; LICENSE TERM; FEES.

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

(B) The license fee for any person, partnership, limited liability company, or corporation selling at retail shall be ten dollars (\$10.00).

(C) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than one hundred fifty thousand (150,000) cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco in any form, at wholesale, shall pay a license fee of one hundred dollars (\$100.00), and if such combined annual sales amount to less than one hundred fifty thousand (150,000) cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco, the annual license fee shall be fifteen dollars (\$15.00). No wholesaler's license shall be issued in any year on a less basis than one hundred dollars (\$100.00) per annum unless the applicant

shall file with the application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, electronic nicotine delivery systems, and packages of tobacco in every form have not exceeded in the aggregate one hundred fifty thousand (150,000) annually and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of an offense, and such wholesaler's license shall be revoked until the full license fee is paid.

(D) If application for license is made after July 1 of any calendar year, the fee shall be one-half (½) of the fee provided in this section. (Ref. 28-1423 RS Neb.) (Ord. No. 15-08, 5/4/15; 20-01, 1/8/20)

§ 10-704 TOBACCO AND CIGARETTES; RIGHTS OF LICENSEE.

(A) The license, provided for in this chapter, when issued, shall authorize the sale of cigars, tobacco, electronic nicotine delivery systems, cigarettes, and cigarette material by the licensee and employees, to persons twenty-one (21) years of age or over, at the place of business described in the license for the term therein authorized, unless the license is forfeited as a result of court action as provided in section 28-1425 RS Neb. (Ref. 28-1424 RS Neb.)

(B) If the license is revoked and forfeited pursuant to section 28-1425 RS Neb., all rights under the license shall at once cease and terminate. (Ref. 8-1425 RS Neb.) (Ord. Nos. 15-08, 5/4/15; 20-01, 1/8/20; 21-01, 2/3/21)

Statutory reference:

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

§ 10-705 TOBACCO AND CIGARETTES; DISPOSITION OF FEES.

All money collected as license fees under the provisions of this chapter shall be paid over by the Village Clerk to the treasurer of the school fund for the Village. (Ref. 28-1426 RS Neb.) (Ord. No. 15-08, 5/4/15)

§ 10-706 TOBACCO AND CIGARETTES; TRANSFER OF LICENSE.

In case of the sale of a business where the owner has a license hereunder, the Village Clerk may authorize such license to be transferred to the purchaser. In case of a change of location by any licensee hereunder, the Clerk may transfer such license to the new location. (Ref. 28-1428 RS Neb.) (Ord. No. 15-08, 5/4/15)

§ 10-707 TOBACCO AND CIGARETTES; REISSUANCE OF REVOKED AND FORFEITED LICENSE.

In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in section 28-1425 RS Neb., no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture. (*Ref. 28-1429 RS Neb.*) (*Ord. No. 15-08, 5/4/15*)

ARTICLE 8. LOTTERY

§ 10-801 LOTTERY: CONTRACT FOR OPERATION; SALE OUTLET LOCATIONS; APPROVAL REQUIRED: QUALIFICATION STANDARDS.

(A) *Operator.* Pursuant to approval by vote of the electors, keno/lottery is hereby established in the Village of Hallam, and “Daily Double Keno Outlets,” is hereby designated as the keno operator pursuant to contract with the Village.

(B) *Sales Outlet Locations.* The lottery operator shall not operate the lottery at a sales outlet location without prior approval of the sales outlet location by the Governing Body. The Governing Body shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed herein.

(C) *Qualification Standards.* Any individual, sole proprietorship, partnership, or corporation which seeks to have its location approved as an authorized sales outlet location shall:

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

(2) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether felony or misdemeanor, involving gambling activity or moral turpitude;

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

(4) 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;

(5) Be licensed to sell liquor on the premises, and on premises liquor sales shall actually be provided during a majority of the time keno play is offered;

(6) Have sufficient capacity to accommodate persons who may wish to come to the location to observe or play keno, or to engage in all activities conducted on the premises;

- (7) Have sufficient facilities to permit the sales of keno tickets;
- (8) Provide proper security for the keno lottery operations and associated activities;
- (9) Have no tax delinquencies, tax liens, or other tax compliance deficiencies, whether federal, state or local, against the business property or the business, furthermore, the proposed owner, lessee, or other manager of the location must not have been convicted of, forfeited bond upon a charge of, or a charge of, or pleaded guilty to or nolo contendere to, forgery, theft, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude under any state or federal law.

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

(E) *Notification.* The Governing Body shall notify the Department of Revenue of all approved lottery locations within thirty (30) days of approval. (*Ord. No. 08-019, 7/7/08*) (*Amended by Ord. Nos. 08-026, 8/4/08; 17-08, 12/6/17*)

§ 10-802 LOTTERY; PARTICIPATION; RESTRICTIONS.

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

(2) 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 such time as he or she is actually working at such lottery while on duty.

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

(a) Any member of the Governing Body, a municipal official, or the immediate family member or official; or

(b) An owner or officer of an authorized sales outlet location for the Municipality.

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

(5) For purposes 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 GOVERNING BODY OR A MUNICIPAL OFFICIAL.

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

2. 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. (Ord. No. 08-025, 8/4/08)

Statutory reference:

State provisions on participation restriction, Section 9-646 RS Neb.

ARTICLE 9. ITINERANT SALES

§ 10-901 ITINERANT SALES; APPLICATION; REGULATIONS.

(A) To prevent the sale of fraudulent, dangerous, and unhealthy goods and services, and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all itinerant sales personnel shall, before doing business within the Municipality, make application for, and be issued a permit. This regulation shall apply to all sales made, or solicited by, businesses or organizations having no permanent business office or store building located in the Municipality.

(B) Application for said permit shall be made to the Municipal Clerk's office and shall contain the necessary information required thereby and identification and documents required for the protection of the residents of the Municipality. Upon approval by the Municipal Clerk's Office, the Municipal Clerk shall then have authority to issue a sales permit to said approved applicant. Each person granted a permit shall pay a fee of twenty-five dollars (\$25.00), for a seasonal permit, to the Municipality, and upon payment to the Municipal Clerk may issue a sales permit to such approved applicant. Such permit shall be valid for a period of time not to exceed one hundred twenty (120) continuous days, as determined by the Municipal Clerk. The date of its expiration shall be clearly marked on the permit. A sales permit shall be required for each person desiring to do business within the Municipality. Any person or persons granted such permit shall be subject to any occupation taxes and other rules and regulations which the Governing Body deems appropriate for the purposes stated herein. Any person or person granted such permit shall also provide proof of to the Municipal Clerk of any necessary state or federal licensing and sales tax permits. Any permit so granted shall be subject to revocation for good and sufficient cause by the Municipal Clerk. The permit fee may be waived by the Municipality for sales by not-for-profit organizations, and/or for seasonal sales events, including, but not limited to, weekly farmers market. *(Ord. No. 14-11, 8/4/14)*

§ 10-902 ITINERANT SALES; HOURS OF SOLICITATION.

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of eight (8:00) o'clock p.m., and eight (8:00) o'clock a.m., unless they have a previous appointment with the resident, or residents, of the premise solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his person at all time. *(Ord. No. 14-11, 8/4/14)*

§ 10-903 ITINERANT SALES; REGULATIONS; EXCEPTIONS.

The provisions of this Article shall not extend to individuals calling on retail merchants in the corporate limits of the Village for the purpose of taking orders or selling of merchandise for resale by such merchants. *(Ord. No. 14-11, 8/4/14)*

§ 10-904 ITINERANT SALES; DEFINITION.

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

TRANSIENT MERCHANT, ITINERANT MERCHANT, or ITINERANT VENDOR. Any person, firm, or corporation, whether as owner, agent, consignee, or employee, and whether a resident of the Municipality or not, who engages temporarily within the Municipality in the business of selling and delivering goods, wares or merchandise or taking orders for goods or merchandise to or at homes, apartments, or other residential premises in the Municipality. (*Ord. No. 14-11, 8/4/14*)

ARTICLE 10. PENAL PROVISION

§ 10-1001 VIOLATION; PENALTY.

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred (\$500.00) dollars. A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.) (Amended by Ord. Nos. 00-15, 6/5/00; 08-026, 8/4/08)*

