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CHAPTER 10 – BUSINESS REGULATIONS

Article 1 –Alcoholic Beverages

§10-101 DEFINITIONS.

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

§10-102 LICENSE REQUIRED.

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

§10-103 LOCATION.

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two years, hotels offering restaurant service, regularly organized clubs, or restaurants where the selling of alcoholic liquors is not the principal business carried on, if the said hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college within the City. (Neb. Rev. Stat. §53-177)

§10-104 DWELLINGS.

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

§10-105 LICENSE DISPLAYED.

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

§10-106 LICENSEE REQUIREMENTS.

It shall be unlawful for any person or persons to own an establishment that sells at retail any

alcoholic beverages unless said person is a resident of the county in which the premises are located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony; a person who has never been associated with or kept a house of ill fame; a person who has never been convicted of or pleaded guilty to a crime or misdemeanor opposed to decency and morality; a person who has never had a liquor license revoked for cause; a person whose premises for which a license is sought meets standards for fire safety as established by the State Fire Marshal; or a person who has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms or where the request is limited to on premises sale of beer only in a restaurant. (Neb. Rev. Stat. §53-124.07, 53-125)

§10-107 (Reserved for Future Use)

§10-108 LIQUOR LICENSE RENEWAL.

Retail liquor licenses issued by the Liquor Control Commission and outstanding may be automatically renewed in the absence of a request by the City Council to require the said licensee to issue an application for renewal. The City Clerk, upon notice from the Commission, between February 20 and March 5 of each year shall cause to be published one time in a legal newspaper in or of general circulation in the City a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City; provided, Class C license renewal notices shall be published between the dates of August 20 and September 5 of each year. The City Clerk shall then file with the Commission proof of publication of said notice on or before March 12 of each year, or September 12 of each year for Class C licenses. In the event that written protests are filed by three or more residents of the City against said license renewal, the City Clerk shall deliver the protests to the City Council, which shall thereupon proceed to notify the Commission that the said licensee shall be required to submit an application. (Neb. Rev. Stat. §53-135, 53-135.01)

§10-109 LICENSES; CITY POWERS AND DUTIES.

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

(B) During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery license, the City Council may make and submit to the Commission recommendations relative to the granting or refusal to grant such license to the applicant. (Neb. Rev. Stat. §53-131(2))

(C) The City Council, with respect to licenses within the corporate limits of the City and with respect to Class D-1 licenses outside the corporate limits but within the extraterritorial zoning jurisdiction of the City, has the following powers, functions, and duties with respect to retail, bottle club, and craft brewery licenses:

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

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

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

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

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133;

(7)(a) Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City, one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

(b) The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The City Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice. Failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs. (Neb. Rev. Stat. §53-134)

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

(a) The license fee if by the terms of Neb. Rev. Stat. §53-124(5) the fee is payable to the City Treasurer;

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

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

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

(2) Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license. (Neb. Rev. Stat. §53-132(4))
(Am. by Ord. Nos. 638, 7/5/00; 684, 11/4/02)

§10-110 OWNER OF PREMISES.

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

§10-111 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 or omission or violation of any law or ordinance if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee. 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 personally. (Neb. Rev. Stat. §53-1,102)

§10-112 MINORS AND INCOMPETENTS.

It shall be unlawful for any person or persons to sell or make a gift of any alcoholic liquors or to procure any such alcoholic liquors for any minor or other person who is mentally, physically, or otherwise incompetent, whether due to natural disabilities or the prior consumption of alcoholic beverages. (Neb. Rev. Stat. §53-180)

§10-113 CREDIT SALES.

No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; provided, nothing herein contained shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests. (Neb. Rev. Stat. §53-183)

§10-114 SPIKING BEER.

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed, to serve or offer for sale any beer to which there has been added any alcohol or permit any person or persons to add alcohol to any beer on the licensed premises of such licensee. (Neb. Rev. Stat. §53-174)

§10-115 ORIGINAL PACKAGE.

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. (Neb. Rev. Stat. §53-184)

§10-116 MINOR'S PRESENCE.

It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by his parent or legal guardian and unless said minor remains seated with and under the immediate control of the said parent or legal guardian. (Neb. Rev. Stat. §53-147)

§10-117 HOURS OF SALE.

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

Alcoholic Liquors and Beer and Wine	
Daily (including Sunday)	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.

(B) No person or persons shall consume any alcoholic beverages on licensed premises for a period of longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. For the purposes of this section, "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

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

(Neb. Rev. Stat. §53-179) (Am. by Ord. Nos. 340, 4/5/82; 362, 9/6/83; 540, 1/3/96; 780, 3/18/10; 812, 10/1/12)

(Continued below)

§10-118 (Reserved for Future Use)

§10-119 (Reserved for Future Use)

§10-120 REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

(A) Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others or who is otherwise incapacitated from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

(B) For purposes of this section, “public property” shall mean any public right-of-way, street, highway, alley, park, or other state, county, or city-owned property.

(C) For the purposes of this section, “quasi-public property” shall mean and include private or publicly-owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.

(Neb. Rev. Stat. §53-1,121) (Ord. No. 513, 9/6/94)

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

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. Rev. Stat. §53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. Rev. Stat. §53-186(1))

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This subsection does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages. (Neb. Rev. Stat. §53-186.01)

(Ord. No. 637, 7/5/00)

Article 2 – Peddlers and Hawkers

§10-201 REGULATION.

To prevent the sale of fraudulent, dangerous, and unhealthful goods and services and to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, all peddlers, and hawkers shall, before doing business within the City, register with the City Clerk. Said registration shall contain all the necessary information and documents required for the protection of the residents of the City. Any peddler or hawker doing business within the City shall be subject to any fees, occupation taxes, and other rules and regulations which the City Council deems appropriate for the purposes stated herein. (Neb. Rev. Stat. §17-134, 17-525, 17-562)

§10-202 HOURS OF SOLICITATION.

It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of 5:00 P.M. and 9:00 A.M. unless they have a previous appointment with the resident or residents of the premises solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper permit on his person at all times. (Neb. Rev. Stat. §17-134, 17-562)

§10-203 EXCEPTIONS.

Nothing herein shall be construed to apply to any person or persons selling produce raised within the county, to wholesale salesmen soliciting merchants directly, or to a representative of a non-profit or charity organization soliciting on behalf of that organization. (Neb. Rev. Stat. §17-562)

Article 3 – Plumbers

§10-301 REGISTRATION REQUIRED.

No person shall hereafter engage in or work at the business of a Master Plumber or Journeyman Plumber in the City until he shall have registered as a Master Plumber or Journeyman Plumber. Application for registration shall be made in writing to the City Clerk, showing the name and residence of the applicant, the business location of the applicant, and such other information as may be required.

§10-302 EXAMINATION.

(A) Before the applicant shall be registered as a Master Plumber or Journeyman Plumber, he shall submit to an examination to determine his fitness and competency to engage in the business, which examination shall be given by the Utilities Superintendent as hereinafter provided. Such applicant, after having by said examination shown himself to the satisfaction of the Utilities Superintendent to be fit, competent, and qualified to engage in the business of Master Plumber or Journeyman Plumber, and upon payment of the required registration fee, shall be registered and given a Certificate of Registration signed by the Utilities Superintendent. Any applicant who fails to pass the required examination shall not be eligible to take the examination again until six months have elapsed.

(B) The examination shall consist of two parts: (1) written examination, which shall count as 50%; and (2) personal interview and past experience, which shall count as 50%.

(C) The examination shall be passed to the satisfaction of the Utilities Superintendent. A grade of 75% shall be considered as passing. An examination fee set by resolution of the City Council shall be paid to the City Clerk upon application for a license. Non-resident applicants upon approval of the Utilities Superintendent, shall be granted a one job license (Neb. Rev. Stat. §18-1907, 18-1910)

§10-303 BOND.

Before a license is issued by the Utilities Superintendent, the applicant shall file with the City Clerk a bond in an amount set by resolution of the City Council and on file at the office of the Clerk, signed by one or more sufficient sureties to be approved by the City Council or a surety bond of the same amount issued by an approved corporate surety company. Said bond shall contain the condition that the applicant shall defend, save, keep harmless, and indemnify the City from all liabilities, claims, damages, judgments, costs, and expenses of every nature and description caused by the willful or negligent conduct of the plumber while engaged in the business of plumbing. The provisions of this section may be satisfied by the applicant depositing with the Clerk an insurance policy providing public liability and property damage insurance to the City and the general public in the same amount as the bond, executed by an insurance company authorized to do business in the State of Nebraska; provided, an endorsement approved as to form by the City Attorney shall be attached to and become part of each and every such liability insurance policy deposited with the City, and said endorsement shall con-

tain each and every condition of said bond required by the City Council. The obligee of said bond or the beneficiary of said insurance policy shall be the City, and action may be maintained thereon by anyone injured by a breach of the conditions of said bond or of the covenants contained in the required endorsement on said policy of insurance for a period of one year after the completion of any plumbing work

§10-304 REGISTRATION OF FIRM.

Any firm may be registered hereunder as a Master Plumber in the name of such firm, provided that such firm shall have a Master Plumber who is duly registered as provided in this article. Such Master Plumber must be a bona fide officer of the firm or an employee who is regularly employed by the firm and is actually engaged in the planning, superintending, and practical installation of plumbing and drainage. Said Master Plumber listed and registered by such firm shall be in actual charge of and responsible for the installation, removal, or repair of any plumbing or drainage work done by such firm. Before the firm shall be registered as a Master Plumber, there shall be filed with the City Clerk a certificate from the Utilities Superintendent showing the fitness and competency of the individual or individuals who are qualified as Master Plumbers and who shall be in charge of the firm's plumbing and drainage laying activities. One individual must also qualify as a Master Plumber to enable said firm to hold a Master Plumber's license, and in case said individual withdraws from or ceases to be connected with the firm, the City shall forthwith revoke the registration of the firm.

§10-305 EXPIRATION AND RENEWAL OF REGISTRATION.

All registrations shall expire on the 31st day of December of the year in which they are issued and shall not be assignable. Any Certificate of Registration may be renewed at the time of its expiration without an examination upon the recommendation of the Utilities Superintendent and upon payment of the required registration fee. (Neb. Rev. Stat. §18-1908)

§10-306 NONRESIDENT RE-APPLICATION.

Should a nonresident licensee re-apply for a job license within a period of one year, the re-examination of said applicant may be waived subject to the approval of the Utilities Superintendent and upon payment of the registration fees.

§10-307 LAPSED REGISTRATIONS.

Any person registered under the provisions of this article as a Master Plumber or Journeyman Plumber who does not renew his Certificate of Registration for a period of 15 months after the expiration of same shall pay the examination fee required by this article for a Master Plumber or Journeyman Plumber and shall submit himself to an examination by the Utilities Superintendent before such person can be again registered hereunder.

§10-308 REVOCATION OF CERTIFICATE OF REGISTRATION.

The City Council by a majority vote shall have power to revoke any Master Plumber's or

Journeyman Plumber's Certificate of Registration upon the recommendation of the Utilities Superintendent, if the same was obtained through error or fraud or if the recipient thereof is shown to be grossly incompetent or has a second time willfully violated any of the provisions of the city Plumbing Code. If a Certificate of Registration is revoked, the holder of the same shall not apply for registration for one year after such revocation (Neb. Rev. Stat. §18-1909)

§10-309 UNLAWFUL TRANSFER OF CERTIFICATE.

No registered plumber shall allow his name to be used by another person, directly or indirectly, to obtain a permit for the installation of any work. If any registered plumber violates this provision, the City Council shall forthwith revoke the Certificate of Registration issued to such plumber. In addition to having his Certificate of Registration revoked, such Master Plumber may be prosecuted under the violation section of the city Plumbing Code

§10-310 FEES.

The City Clerk shall collect all registration and renewal fees as occupation taxes and shall credit the same to the General Fund. The City Council shall have the right to classify plumbers for the purpose of setting registration and renewal fees in such categories as it may in its discretion set. Such categories are hereby declared to be reasonable and non-discriminatory. The actual amounts of the registration and renewal fees shall be on file at the office of the City Clerk. (Neb. Rev. Stat. §18-1911)

§10-311 EXCEPTIONS.

The provisions of this article relating to plumbers shall not apply to any public utility company or companies serving the City and its inhabitants under a franchise agreement with the City or its agents and employees and shall not be construed as a limitation or restriction upon any franchises heretofore granted by the City.

Article 4 – Electricians**§10-401 LICENSE REQUIRED.**

No person shall install any electric apparatus within the corporate limits of the City without first having obtained a license to do so as hereinafter provided. The Electrical Inspector shall recommend and the Utilities Superintendent shall issue licenses to each person who has been issued a valid and unexpired electrician's license by the State of Nebraska; provided, said persons shall have complied with the other terms and conditions precedent to the issuance of licenses as required in this article. In the event that the applicant holds a license issued by the State of Nebraska, the license required herein shall be in the form of an occupation tax certificate. Application for a license shall be made to the City Clerk in writing showing the name and residence of the applicant, the business location of the applicant, and such other information as may be required. (Neb. Rev. Stat. §81-566)

§10-402 CLASSIFICATION OF LICENSE.

“Master Electrician” is hereby defined to be any person skilled in the planning, superintending, and practical installation of electrical equipment, who is familiar with the ordinances and regulations governing the same and who is competent to install, repair, or alter electrical equipment with the full responsibility of supervision, whether doing such work by himself or employing Journeyman Electricians and apprentices to assist him. It shall further apply to any person duly licensed as such by the State of Nebraska.

§10-403 EXAMINATION.

(A) In the event that the applicant is not a holder of a valid and unexpired license issued by the State of Nebraska, the applicant shall submit to an examination to determine his fitness and competency for executing the work covered by the license for which application is made, which examination shall be given by the Utilities Superintendent. Upon payment of the required fees, such applicant shall receive such license after having by said examination shown himself to the satisfaction of the Utilities Superintendent to be fit, competent and qualified to receive such license. Any person who fails to pass the required examination shall not be eligible to take the examination again until six months have elapsed.

(B) The examination shall consist of two parts: (1) written examination, which shall count as 50%; and (2) personal interview and past experience, which shall count as 50%.

(C) The examination shall be passed to the satisfaction of the Utilities Superintendent. A grade of 75% shall be considered as passing. An examination fee set by resolution of the City Council shall be paid to the City Clerk upon application for a license.

§10-404 BOND REQUIRED.

Before any electrician's license shall be issued by the Utilities Superintendent, the applicant shall execute and file with the City Clerk a bond in a sum set by resolution of the City Council

and on file at the office of the Clerk, to be approved by the Council and conditioned that the licensee shall indemnify and hold harmless the City from all liability caused by any negligent or intentional act arising from his electrical work or violation of this code and shall pay all fines imposed upon him for any violation thereof. The provisions of this section may be satisfied by the applicant depositing with the Clerk an insurance policy providing public liability and property damage insurance to the City and the general public in the same amount as the bond, executed by an insurance company authorized to do business in the State of Nebraska; provided, an endorsement, approved as to form by the City Attorney, shall be attached to and become part of each and every such liability insurance policy deposited with the City. Said endorsement shall contain each and every condition of said bond required by the City Council. The obligee of said bond or the beneficiary of said insurance policy shall be the City, and action may be maintained thereon by anyone injured by a breach of its conditions for a period of one year after the completion of any electrical work. (Am. by Ord. No. 521, 12/5/94)

§10-405 REGISTRATION OF FIRM.

Every firm shall have a Master Electrician who has met the requirements of the Utilities Superintendent and has thereby shown himself qualified to engage in the business of a Master Electrician as a bona fide officer or member of such firm. Before such firm shall be registered in its firm name as a Master Electrician, there shall be filed with the City Clerk a certificate from the Utilities Superintendent showing the fitness and competency of such officer or member of such firm to engage in the business of Master Electrician; provided, if, after a certificate of Registration is issued to such firm, such Master Electrician as an officer of such firm shall withdraw therefrom and cease to be connected therewith, then the City shall forthwith revoke the Certificate of Registration of such firm.

§10-406 EXPIRATION AND RENEWAL OF CERTIFICATE OF REGISTRATION.

Registration Certificates shall expire on the 31st day of December of the year in which they are issued and shall not be assignable. Any Certificate of Registration may be renewed at the time of its expiration without an examination upon the recommendation of the Utilities Superintendent and upon payment of the required registration fee. Any person registered as a Master Electrician who does not renew his Certificate of Registration for a period of 15 months after the expiration of same shall pay any registration fee required by this article for a Master Electrician and shall again prove his qualification to the Utilities Superintendent before such person can be again registered hereunder.

§10-407 REVOCATION OF CERTIFICATE OF REGISTRATION.

The City Council by a majority vote shall have power to revoke any Master Electrician's Certificate of Registration if the same was obtained through error or fraud or if the recipient thereof is shown to be grossly incompetent or has a second time willfully violated any of the provisions of the Electrical Code. If a Certificate of Registration is revoked, the holder of the same shall not apply for registration for one year after such revocation.

§10-408 UNLAWFUL USE.

No registered electrician shall allow his name to be used by another person, directly or indirectly, to obtain a permit for the installation of any work, and if any registered electrician violates this provision, the Utilities Superintendent shall forthwith revoke the Certificate of Registration issued to such electrician. In addition to having his Certificate of Registration revoked, such Master Electrician may be prosecuted under the penalty section of this Chapter.

§10-409 FEES.

The City Clerk shall collect all registration and renewal fees as occupation taxes and shall credit the same to the General Fund. The City Council shall have the right to classify electricians for the purpose of setting registration and renewal fees in such categories as it may in its discretion set. Such categories are hereby declared to be reasonable and nondiscriminatory. The actual amounts of the registration and renewal fees shall be on file at the office of the City Clerk.

§10-410 NONRESIDENTS.

Nonresident applicants, upon satisfying the requirements prescribed for resident electricians, shall be granted a one job license. Should the nonresident reapply for a one job license within a period of one year, the reexamination of said applicant may be waived subject to the approval of the Utilities Superintendent and upon payment of the registration fees.

§10-411 EXCEPTIONS.

The provisions of this article relating to electricians shall not apply to any public utility company or companies serving the City and its inhabitants under a franchise agreement with the City or its agents and employees and shall not be construed as a limitation or restriction upon any franchises heretofore granted by the City.

Article 5 – Junkyards

§10-501 DEFINITIONS.

The following definitions shall be applied throughout this article. Where no definition is specified, the normal dictionary usage of the word shall apply.

"Junk" as used in this code shall include scrap metals; scrap materials, whether they are liquids, solids, or gases; branches of trees; and dismantled or wrecked automobiles, tractors, and machinery or parts thereof.

"Junk collector" shall be construed to mean any person going from place to place or house to house collecting or buying iron, copper, brass and zinc scraps, rags, bottles, or old paper and selling the same to a junk dealer.

"Junk dealer" as used in this code is hereby defined as meaning and shall include any person engaged in the business of buying, selling, receiving, collecting or dealing in metal scraps, scrap iron, metals of any kind and in any form, bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; or the storage of iron, metals or junk.

"Junkyard" as used in this code is hereby defined as meaning and shall include any place in the City where or from which any person shall conduct, engage in, or carry on the business of junk dealer as herein defined.

§10-502 REGULATION.

It shall be unlawful for any person to own, operate, or hold open for public use any junkyard as herein defined without first obtaining a license to do so from the City. Application for a license to own, operate, or hold open for public use any junkyard shall be made in writing to the City Clerk and shall require such information and documents or copies thereof that the City Council deems necessary to determine whether to grant or reject the said application. Upon approval of the application, the Clerk shall issue the license upon the payment of a fee set by resolution of the City Council. The licensee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the City Council may determine to be beneficial to the City. Any such bond shall be set by resolution of the Council and will be conditioned upon the faithful observance of the provisions of this code, the bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junkyard.

§10-503 OWNER'S RESPONSIBILITY.

The owner of the premises upon which a junkyard is located shall be equally responsible with the operator, director, or employee thereof to see that the provisions of this code will not be

violated. In the event the provisions of this code are violated, he shall be equally liable with the operator, director, or employee for the said violation of the provisions herein.

§10-504 INSPECTIONS.

The City Police, health officials, and the City Council shall have the power and authority to inspect and examine the premises on which a junkyard is located, provided the said inspection is at a reasonable time. Upon a finding that the owner, operator, director, or employee has allowed a health or safety hazard to develop, the City Council shall give written notice to the owner to remove the said health hazard within 30 days. (Neb. Rev. Stat. §28-1037)

§10-505 NUISANCE.

Any junkyard that becomes a danger to the public health or is not operated in the manner herein provided shall be deemed to be a public nuisance after the said 30-day period of grace. The City Council may then request the City Attorney to prosecute the owner, operator, director, or employee of the said nuisance for violation of the provisions of this article. (Neb. Rev. Stat. §28-1038)

§10-506 RECORDS.

Any person who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles at the time the same was received and the name, residence, and description of the person doing the selling. The said book, as well as the article purchased, shall be at all reasonable times subject to the inspection of the City Council or any member of the City Police. (Neb. Rev. Stat. §69-204)

§10-507 PREMISES.

Any area or parcel of land used as a junkyard shall not have more than two entrances and two exits, each of which shall not exceed 15 feet in width at the perimeter of the premises. Such premises or parcel of land shall be enclosed with either a solid nontransparent wall or fence or link-weave steel wire, or combination thereof, with a minimum height of 7 feet from the ground level, except for entrances and exits. The fence shall not contain any poster or advertising of any kind except one sign of the licensee not exceeding 100 square feet.

§10-508 RODENTS.

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

ORDINANCE NO. 927

AN ORDINANCE TO AMEND ARTICLE 6 FIREWORKS OF THE MUNICIPAL CODE OF THE CITY OF ORD, NEBRASKA; TO PROVIDE AN EFFECTIVE DATE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT AND ORDERING THE PUBLICATION OF SAID ORDINANCE IN PAMPHLET FORM, REPEALING ANY ORDINANCES OR OTHER PROVISIONS IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ORD, NEBRASKA:

Section 1. That the Mayor and City Council of Ord, Nebraska, do hereby amend Article 6 Fireworks Vendors of the Municipal Code of the City of Ord, to read as follows:

Article 6 - Fireworks

§10-601 FIREWORKS; DEFINITIONS

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them:

DISTRIBUTOR means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both;

JOBBER means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail;

RETAILER means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers;

SALE includes barter, exchange, or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

FIREWORKS means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations;

CONSUMER FIREWORKS means any of the following devices that (i) meet the requirements set forth in 16 C.F.R. parts 1500 and 1507, as such regulations existed on January 1, 2010, and (ii) are tested and approved by a nationally recognized testing facility or by the State Fire Marshal:

- (A) Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., as such regulations existed on January 1, 2010;
- (B) Any small device designed to produce audible effects such as a whistling device;

- (C) Any ground device or firecracker containing fifty milligrams or less of explosive composition; or
- (D) Any aerial device containing one hundred thirty milligrams or less of explosive composition.
- (E) Class C explosives as classified by the United States Department of Transportation shall be considered consumer fireworks.
- (F) Consumer fireworks does not include:
 - (i) Rockets that are mounted on a stick or wire and project into the air when ignited, with or without report;
 - (ii) Nighttime parachutes;
 - (iii) Fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature;
 - (iv) Firecrackers that contain more than fifty milligrams of explosive composition; and
 - (v) Fireworks that have been tested by the State Fire Marshal as a response to complaints and have been deemed to be unsafe.

DISPLAY FIREWORKS means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks includes, but is not limited to, firecrackers containing more than one hundred thirty milligrams of explosive composition, aerial shells containing more than forty grams of explosive composition, and other display pieces which exceed the limits for classification as consumer fireworks. Class B explosives, also known as 1.3G explosives, as classified by the United States Department of Transportation in 49 C.F.R. 172.101, as such regulation existed on January 2, 2010, shall be considered display fireworks.

Statutory reference:

Related state law provisions, see Neb. RS 28-1241

§10-602 FIREWORKS; GENERALLY

Except as provided in section 10-604, it shall be unlawful for any person to possess, sell, offer for sale, bring into the city limits or discharge any fireworks other than consumer fireworks.

Penalty, see §10-1101

Statutory reference:

Related state law provisions, see Neb. RS 28-1244

§10-603 FIREWORKS; UNLAWFUL THROWING

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework, or any object which explodes upon contact with another object:

- (a) From or into a motor vehicle,

- (b) onto any street, highway, or sidewalk;
- (c) at or near any person;
- (d) into any building; or
- (e) into or at any group of persons.

Penalty, see §10-1101

Statutory reference:

Related state law provisions, see Neb. RS 28-1242

§10-604 FIREWORKS; UNLAWFUL DISCHARGE; SPECIAL PERMIT

(1) Discharge of fireworks.

(a) A person commits the offense of discharging fireworks if he or she discharges fireworks except consumer fireworks during the period beginning at 8:00 a.m. on June 25 and ending July 4 at 11:59 p.m. of each year. Consumer fireworks can be discharged only during said period of time between the hours of 8:00 a.m. and 10:00 p.m. on June 25 through and including July 3, and between the hours of 8:00 a.m. and 11:59 p.m. on July 4.

(b) However, a person may discharge consumer fireworks at times other than those times designated herein upon obtaining a special permit to do so, which permit may be issued if approved by the Governing Body upon application.

(2) It shall further be unlawful to discharge fireworks within 300 feet of a fireworks stand, gasoline station, or any commercial area where flammable materials are stored, or in or on any public park.

§10-605 FIREWORKS; PUBLIC DISPLAYS

(1) No person shall conduct a public exhibition or display of fireworks without first procuring a display permit from the State Fire Marshal. Such application for a display permit shall be accompanied by a fee as provided in Neb. Rev. Stat. 28-1239.01. Said display permit shall also be filed with the City Clerk prior to the exhibition or display.

(2) No display fireworks shall be sold or delivered by a licensed distributor to any person who is not in possession of an approved display permit.

Statutory reference:

Related state law provisions, see Neb. RS 28-1239.01

§10-606 FIREWORKS; WEATHER HAZARD

The Governing Body reserves the power to ban or further limit the sale/discharge of fireworks in the event of dry weather or other weather hazards.

§ 10-607 FIREWORKS; SALE.

It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks in this state unless such person has first obtained a license as a distributor, jobber, or retailer pursuant to Neb. Rev. Stat. 28-1246. A copy of said license shall also be filed with the City Clerk, prior to the commencement of any sales within the city limits. In addition, application shall be filed with the City Clerk upon a form supplied by the City, requesting such information and documents as the City Council may deem necessary as to whether to grant said license. Upon the determination to grant the license, the Council shall direct the City Clerk to collect the appropriate fee and issue said license. Any license so issued may be revoked at any time by the City Council upon proper notice and hearing, if one is requested by the licensee. It shall be unlawful to sell, hold for sale, or offer for sale any fireworks within the City except between June 25th and July 4th of each year.

Penalty, see §10-1101

Statutory reference:

Related state law provisions, see Neb. RS 28-1246

Section 2. That any ordinance or section passed and approved prior to the passage and approval of this ordinance and in conflict with its provisions, is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

PASSED AND ADOPTED this 1st day of July, 2019.

ATTEST:

CITY OF ORD

City Clerk

BY: _____
Mayor

Article 6 – Fireworks Vendors

§10-601 REGULATION.

It shall be unlawful for any person or persons to sell fireworks of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star- and comet-type color aerial shells without explosive charges for the purpose of making a noise. Color wheels, toy cap pistols and permissible caps may be sold at retail at all times; provided, all other fireworks named may be sold only between June 24 and July 5; provided, fireworks of any description are permissible for purposes of public exhibitions or displays as authorized by the City Council; and further provided, said vendor shall secure a license prior to such sales. Application shall be filed with the City Clerk upon a form supplied by the City, requesting such information and documents as the City Council may deem necessary as to whether to grant said license. Upon the determination to grant the license, the Council shall direct the City Clerk to collect the appropriate fee and issue said license. Any license so issued may be revoked at any time by the City Council upon proper notice and hearing, if one is requested by the licensee (Neb. Rev. Stat. §17-137, 28-1003.03 thru 28-1003.08)

Article 7 – Occupation Taxes

§10-701 AMOUNTS.

For the purpose of raising revenue, occupations subject to taxes and the amounts of such taxes shall be established by resolution from time to time by the Village Board. Said resolution shall be on file in the village office and shall be available for public inspection during office hours. Additional business designations and occupation tax rates shall be established by resolution. All persons and businesses shall be liable for the occupation tax provided.

§10-702 COLLECTION DATE.

All occupation taxes shall be due and payable on January 1 each year, except in the event that the said tax is levied daily. Upon the payment thereof by any person or persons to the City Clerk, he or she shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class A, B, D, H, and M liquor licenses, bowling alleys, and pawn shops shall be due and payable on May 1; occupation taxes collected from bingo establishments shall be due and payable on October 1. The revenue collected shall then be immediately deposited into the General Fund by the City Treasurer, who shall keep an accurate account of all revenue turned over. All forms and receipts herein mentioned shall be issued in duplicate and one copy shall then be kept by each party in the transaction. (Am. by Ord. No. 523, 1/3/95)

§10-703 CERTIFICATES.

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

§10-704 FAILURE TO PAY.

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

§10-705 GAMES OF CHANCE AND/OR LOTTERIES.

(A) *Definitions.* For the purposes of this article, the following definitions shall apply:

(1) "Games of chance and/or lotteries" shall mean those forms of gambling authorized by the State of Nebraska pursuant to Article III, Section 24 of the Constitution of the State of Nebraska.

(2) "Gambling device" shall mean any and all machines or devices used by a person

engaged in the occupation of conducting games of chance and/or lotteries.

(3) "Person engaged in the occupation of conducting games of chance and/or lotteries" shall mean any person who operates, owns or is the lessee of a place of business where any game of chance and/or lottery activity is conducted, whether or not any other type of business is conducted on the premises; or any person who either directly controls or manages the games of chance and/or lotteries or owns any machine or device used to engage in the occupation of games of chance and/or lotteries but does not sell, lease or deliver possession or custody of such a device to other persons.

(4) "Distributor" shall mean any person who engages in the business of selling, leasing, or delivering possession or custody of gambling devices for consideration to a person engaged in the occupation of conducting games of chance and/or lotteries.

(B) *Occupation Tax.* An occupation tax is hereby imposed on each person engaged in the occupation of conducting games of chance and lottery activities within the City. Every person conducting games of chance and lottery activities within the City shall pay the tax in the amount and manner specified in subsection (3) below.

(C) *Amount of Occupation Tax for Persons Conducting Games of Chance and Lotteries.* The occupation tax for each person engaging in the occupation of conducting games of chance and lottery activities within the City shall be the maximum percent of the gross receipts received by said person in each quarter of a calendar year which the City is allowed to collect by law. Such percentage as actually determined may be set by resolution.

(D) *Amount of Occupation Tax for Distributor.* The occupation tax for engaging in the occupation of distributing gambling devices within the City shall be the maximum percent of the gross receipts received by a distributor in each quarter of a calendar year which the City is allowed to collect by law. Such percentage as actually determined may be set by resolution.

(E) *License Required.* It shall be unlawful for any person to engage in the occupation of conducting games of chance or lottery activities without first obtaining a license to do so.

(F) *License Application.* Every person desiring a license required by the provisions of this article shall make application to the City Clerk. Accompanying each application shall be:

(1) A sworn statement by each designated supervising member that such member will be responsible for compliance with rules and regulations for each occasion of a game of chance and/or lottery which he supervises.

(2) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, seller profits, compensation, reward or recompense will be paid to any person or organization not sanctioned by the laws of the State of Nebraska and the City of Ord and that all profits will be spent for a lawful purpose.

(G) *Display of License.* Every license issued under the provisions herein shall be con-

spicuously displayed at the place where the game of chance and/or lottery activity is conducted at all times during the conduct thereof.

(H) *License Fee.* The license fee for each location where games of chance and lotteries are conducted within the City shall be set by the City Council.

(I) *Exemption.* Nonprofit organizations that desire to participate in games of chance and/or lotteries and that are in compliance with the Small Lotteries and Raffles Act of the State of Nebraska are exempt from the provisions of this article.

Article 8 – Cable Television

§10-801 FRANCHISE.

To provide a franchise agreement for the operation of a cable television franchise within the City, Ord. No. 288, passed on December 18, 1978, as published in pamphlet form and on file with the City Clerk, is hereby adopted by reference in addition to all amendments thereto as though printed in full herein insofar as said ordinance does not conflict with the statutes of the State of Nebraska. (Ord. No. 288, 12/18/78)

Article 9 – Lottery

§10-901 LICENSING.

Licensing requirements are provided in Section 10-705.

§10-902 PARTICIPATION; RESTRICTIONS.

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

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

(C) Nothing shall prohibit any member of the City Council, a city official, or the immediate family of such member or official from playing the lottery conducted by the City as long as such person is 19 years of age or older.

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

(E) For purposes of this section, “immediate family of a member of the City Council or a city official” shall mean (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.

(Neb. Rev. Stat. §9-646) (Ord. No. 508, 6/6/94) (Am. by Ord. No. 608, 7/6/98)

Article 10 – Smoking Regulations

(Neb. Rev. Stat. §71-5729, 71-5730) (Article Adopted by Ord. No. 776, 3/1/10)

§10-1001 PROHIBITION.

Except as provided in Section 10-1002 hereafter, it is unlawful for any person to smoke in a place of employment or any public place within the City.

§10-1002 EXEMPTIONS.

The following are exempt from the provisions of this ordinance:

(A) Guestrooms and suites that are rented to guests and are designated as smoking rooms, except that not more than 20 percent of rooms rented to guests in an establishment may be designated as smoking rooms. All smoking rooms on the same floor shall be contiguous, and smoke from such rooms shall not infiltrate into areas where smoking is prohibited under the Nebraska Clean Indoor Air Act;

(B) Indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education; and

(C) Tobacco retail outlets.

§10-1003 VIOLATION; PENALTY.

Any person violating the terms of this ordinance shall be guilty of an offense and fined in a sum not exceeding \$25.00. Each day's violation shall constitute a separate offense.

Article 11 – Penal Provision

§10-1101 VIOLATIONS; PENALTY.

(A) 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 \$500.00. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B)(1) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(2) 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.

(Neb. Rev. Stat. §17-505, 18-1720, 18-1722) (Am. by Ord. No. 645, 7/5/00)

