

CHAPTER 5 – BUSINESS REGULATIONS

ARTICLE 1 – ALCOHOLIC LIQUOR

- SECTION 5-101: DEFINITIONS**
- SECTION 5-102: ACQUISITION AND POSSESSION**
- SECTION 5-103: DRINKING ON PUBLIC PROPERTY; MOTOR VEHICLES;
OPEN ALCOHOLIC BEVERAGE CONTAINERS**
- SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE**
- SECTION 5-105: CITY POWERS AND DUTIES**
- SECTION 5-106: LICENSE REQUIRED; LICENSEE REQUIREMENTS**
- SECTION 5-107: LOCATION**
- SECTION 5-108: LICENSE APPLICATION; ISSUANCE**
- SECTION 5-109: SANITARY CONDITIONS**
- SECTION 5-110: DISPLAY OF LICENSE**
- SECTION 5-111: HOURS OF SALE**
- SECTION 5-112: KEG SALES; REGISTRATION; KEG ID NUMBERS;
PROHIBITED ACTS**
- SECTION 5-113: CATERING LICENSES**
- SECTION 5-114: INSPECTIONS**
- SECTION 5-115: OWNER OF PREMISES**
- SECTION 5-116: VIOLATION BY AGENT OR EMPLOYEE OF LICENSEE**
- SECTION 5-117: HIRING MINORS**
- SECTION 5-118: MINORS AND INCOMPETENTS**
- SECTION 5-119: MINOR'S PRESENCE**
- SECTION 5-120: PREMISES ALSO USED AS DWELLING**
- SECTION 5-121: SALES FOR CASH ONLY**
- SECTION 5-122: ORIGINAL PACKAGE**
- SECTION 5-123: CONDUCT PROHIBITED ON LICENSED PREMISES**
- SECTION 5-124: GAMBLING**
- SECTION 5-125: AUTOMATIC LICENSE RENEWAL; PROTESTS**
- SECTION 5-126: CITIZENS' COMPLAINT**
- SECTION 5-127: COMPLAINT INITIATED BY COUNCIL**
- SECTION 5-128: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC
OR QUASI-PUBLIC PROPERTY**

ARTICLE 2 – PEDDLERS AND SOLICITORS

- SECTION 5-201: GREEN RIVER ORDINANCE**
- SECTION 5-202: SOLICITOR'S BUSINESS LICENSE**

ARTICLE 3 – OCCUPATION TAXES

- SECTION 5-301: PURPOSE**
- SECTION 5-302: LEVY AUTHORIZED**
- SECTION 5-303: COLLECTION DATE**

SECTION 5-304: CERTIFICATES
SECTION 5-305: FAILURE TO PAY

ARTICLE 4 – HOUSING ANTI-DISCRIMINATION POLICY

**SECTION 5-401: ANTI-DISCRIMINATION CODE; ADOPTED BY
REFERENCE**

ARTICLE 5 – RAILROAD COMPANIES

SECTION 5-501: SAFE CROSSING
SECTION 5-502: SPEED LIMIT
SECTION 5-503: PUBLIC CROSSING; OBSTRUCTING TRAFFIC

ARTICLE 6 – MOBILE FOOD VENDORS

SECTION 5-601: PURPOSE
SECTION 5-602: DEFINITIONS
SECTION 5-603: PERMIT REQUIRED
SECTION 5-604: PERMIT TYPES
SECTION 5-605: APPLICATION; REQUIREMENTS
SECTION 5-606: ZONING COMPLIANCE
SECTION 5-607: OPERATIONAL REQUIREMENTS
SECTION 5-608: GENERATOR USE; RESIDENTIAL AREAS
SECTION 5-609: PUBLIC PROPERTY; CITY APPROVAL
SECTION 5-610: CONDUCT PROHIBITED
SECTION 5-611: FEES
SECTION 5-612: ENFORCEMENT AND REVOCATION

ARTICLE 7 – PENAL PROVISION

SECTION 5-701: VIOLATION; PENALTY

CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Liquor

SECTION 5-101: DEFINITIONS

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

SECTION 5-102: ACQUISITION AND POSSESSION

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

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

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

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

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

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

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

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

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

(Neb. Rev. Stat. §§53-168.06, 53-175, 53-194.03)

SECTION 5-103: DRINKING ON PUBLIC PROPERTY; MOTOR VEHICLES; OPEN ALCOHOLIC BEVERAGE CONTAINERS

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.

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

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

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

1. The driver of the limousine or bus is prohibited from consuming alcoholic liquor; and
2. Alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

E. For purposes of this section:

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

2. "Highway" means a road or street including the entire area within the right of way;
3. "Open alcoholic beverage container" means any bottle, can, or other receptacle that (a) contains any amount of alcoholic beverage; and (b) is open or has a broken seal; or (c) the contents of which are partially removed; and
4. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. "Passenger area" does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.
5. "Limousine" shall mean a luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than fourteen persons behind the driver with a physical partition separating the driver's seat from the passenger compartment. "Limousine" does not include taxicabs, hotel or airport buses or shuttles, or buses.

(Neb. Rev. Stat. §§53-186.01, 60-6,211.08)

SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE

It shall be unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It shall also be unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the act. This division does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under Neb. Rev. Stat. §60-6,211.08. (Neb. Rev. Stat. §53-168.06)

SECTION 5-105: CITY POWERS AND DUTIES

A. The City Council is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail and craft brewery licensees, if permitted by the zoning ordinances, carried on within the corporate limits of the City.

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

license to the applicant.

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

1. To cancel or revoke for cause retail and 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 commission.
2. To enter or authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act ("the act") to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the Nebraska Liquor Control Act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated shall report such violation in writing to the executive director of the commission:
 - a. Within 30 days after determining that such violation has occurred;
 - b. Within 30 days after the conclusion of an ongoing police investigation;
or
 - c. Within 30 days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.
3. To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act.
5. To examine or cause to be examined any applicant for any retail or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf.

6. To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Neb. Rev. Stat. §53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within 30 days after the date of the order by filing a notice of appeal with the commission, which shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133.
7. Upon receipt from the commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing. Said hearing shall be held not more than 45 days after the date of receipt of the notice from the commission. After such hearing the City Council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The City Clerk shall mail to the commission by first-class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

D. When the Nebraska Liquor Control Commission notifies the City Clerk that an application for a license has been received, he or she shall notify the Commission of the fees imposed by the City to enable the Commission to assess such fees to the applicant prior to issuance of the license.

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

(Neb. Rev. Stat. §§53-131, 53-132, 53-134) (Am. Ord. No. 02-08, 5/14/02)

SECTION 5-106: LICENSE REQUIRED; LICENSEE REQUIREMENTS

A. 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.

B. 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 is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. Rev. Stat. Chapter 28, Articles 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state; 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. §53-102, 53-124.03, 53-125)

SECTION 5-107: LOCATION

A. Except as otherwise provided in subsection (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor or for a bottle club within 150 feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (1) to any location within such distance of 150 feet for which a license to sell alcoholic liquor at retail has been granted by the commission for two years continuously prior to making of application for license, or (2) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935.

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

SECTION 5-108: LICENSE APPLICATION; ISSUANCE

A. When a license is sought within the City, the Liquor Control Commission shall notify the City Clerk of receipt of an application and shall include one copy of the application with the notice. During the period of 45 days after the date of receipt by mail or electronic delivery of such application from the commission, the City Council may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

B. Retail licenses, bottle club licenses, craft brewery licenses, or microdistillery

licenses issued or renewed by the commission shall be mailed or delivered electronically to:

1. The City Clerk, who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (a) the license fee if by the terms of Neb. Rev. Stat. §53-124(6) 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 as provided in Neb. Rev. Stat. §53-135.01, and (d) occupation taxes, if any, imposed by the City; or
2. The licensee, upon confirmation from the City Clerk that the necessary fees and taxes described herein have been received by him or her.

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

D. Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.
(Neb. Rev. Stat. §53-131, 53-132, 53-134)

SECTION 5-109: SANITARY CONDITIONS

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

SECTION 5-110: DISPLAY OF LICENSE

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

SECTION 5-111: HOURS OF SALE

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

any licensed person or persons or their agents to sell any alcoholic liquor within the City only during the hours provided herein:

Alcoholic Liquors (Including Beer & Wine) On and Off Sale	Begin Sale	End Sale
Daily	6:00 A.M.	2:00 A.M. the following day

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

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

(Neb. Rev. Stat. §53-179) (Am. Ord. Nos. 95-12, 12/12/95; 2009-9, 5/12/09; 2011-05, 4/12/11; 2016-15, 7/12/16)

SECTION 5-112: KEG SALES; REGISTRATION; KEG ID NUMBERS; PROHIBITED ACTS

A. When any person licensed to sell alcoholic liquor at retail sells beer for consumption off the premises in a container with a liquid capacity of five or more gallons or 18 and 92/100ths or more liters, the seller shall record (1) the date of sale, (2) the keg identification number, (3) the purchaser's name and address and (4) the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military identification contains a picture of the purchaser, together with (5) the purchaser's signature. Such record shall be on a form prescribed by the Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months. Such records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

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

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

SECTION 5-113: CATERING LICENSES

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission. (Neb. Rev. Stat. §53-124.12[2])

B. Upon receipt from the commission of the notice and copy of the application the City Council shall process the application in the same manner as provided in Section 5-105 (City Powers and Duties). (Neb. Rev. Stat. §53-124.12)

SECTION 5-114: INSPECTIONS

The Liquor Control Commission and City Council shall cause frequent inspections to be made on the premises of all retail and bottle club licensees and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. Rev. Stat. §53-116.01)

SECTION 5-115: OWNER OF PREMISES

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person, knowingly permits the licensee to use such licensed premises in violation of the terms of the Nebraska Liquor Control Act, such owner, agent, or other person shall be deemed guilty of a violation of the act to the same extent as such licensee and be subject to the same punishment. (Neb. Rev. Stat. §53-1,101)

SECTION 5-116: VIOLATION BY AGENT OR EMPLOYEE OF LICENSEE

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act by any officer, director, manager, or other agent or employee of any licensee, if such act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of such employer or licensee, and such employer or licensee shall be punishable in the same manner as if such act or omission had been done or omitted by him or her personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-117: HIRING MINORS

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

SECTION 5-118: MINORS AND INCOMPETENTS

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

SECTION 5-119: 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 minor is accompanied by his or her parent or legal guardian and unless the minor remains seated with and under the immediate control of said parent or legal guardian. (Neb. Rev. Stat. §53-134.03)

SECTION 5-120: PREMISES ALSO USED AS DWELLING

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

SECTION 5-121: SALES FOR CASH ONLY

No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered. If any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law. Nothing in this section shall prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or guests of members and charged to the accounts of the said members or guests in accordance with the bylaws of any such club; and nothing in this section shall prevent (A) any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel and charged to the accounts of such guests, or (B) any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Neb. Rev. Stat. §53-183)

SECTION 5-122: ORIGINAL PACKAGE

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. Rev. Stat. §53-184)

SECTION 5-123: CONDUCT PROHIBITED ON LICENSED PREMISES

No licensee in this City shall engage in, allow, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls, or unnecessary

noise; or allow, permit or suffer the licensed premises to be used in such a manner as to create public censure or become a nuisance, public or private. (Neb. Rev. Stat. §53-134.03)

SECTION 5-124: GAMBLING

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

SECTION 5-125: AUTOMATIC LICENSE RENEWAL; PROTESTS

A. An outstanding retail license issued by the commission may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within 30 days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the City Council.

B. The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the City one time between January 10 and January 30 each year individual notice of the right of automatic renewal of each retail liquor and beer license within the City in the form prescribed by law; provided, Class C license renewal notices shall be published between July 10 and July 30 each year. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. Rev. Stat. §53-135.

C. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the City as provided in Neb. Rev. Stat. §53-135.01 and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.
(Neb. Rev. Stat. §§53-135, 53-135.01)

SECTION 5-126: CITIZENS' COMPLAINT

A. Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail licensee or bottle club licensee subject to the jurisdiction of the council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the council 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.

B. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The said complaint shall in all cases be disposed of by the council within 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 Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.
(Neb. Rev. Stat. §53-134.04)

SECTION 5-127: COMPLAINT INITIATED BY COUNCIL

The City Council may on its own motion by resolution fix the time and place for a hearing on whether a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission, or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 5-126 (Citizens' Complaint), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

SECTION 5-128: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

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

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

C. The law enforcement officer who acts in compliance with this section shall

be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions.

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

E. For purposes of this section, "public property" shall mean any public right of way, street, highway, alley, park, or other state-, county-, or city-owned property. "Quasi-public property" shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress.
(Neb. Rev. Stat. §53-1,121)

Article 2 – Peddlers and Solicitors

(Article am. Ord. No. 2008-13, 9/9/08)

SECTION 5-201: GREEN RIVER ORDINANCE

A. *Going on Private Premises; Nuisance.* The practice of going in and upon private residences or public property in the City by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise and services, not having been requested or invited to do so by the owner(s) or occupant(s) of private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of, peddling or hawking the same, is hereby declared to be a nuisance and unlawful unless a solicitor's business license is acquired pursuant to Section 5-202 herein.

B. *Duties of Officers.* The law enforcement officers of the City are hereby required and directed to suppress all unlawful nuisances described in the foregoing section and are empowered upon proper complaint to arrest in the manner authorized by law any and all persons complained of engaged in such unlawful practices.

C. *Charitable, Not-For-Profit Organizations.* These regulations shall not be construed to prohibit or in any manner restrict the solicitation of sales or orders for sales by charitable, not-for-profit organizations, provided that such organizations shall register at the office of the City Clerk prior to the initiation of any solicitations.

D. *Penalty.* Any person violating any of the provisions herein shall, upon conviction thereof, be subject to a fine not to exceed \$100, imprisonment not to exceed 30 days, license revocation, or any combination thereof. Each day that a violation continues shall constitute a separate and distinct offense and shall be punishable as such.

SECTION 5-202: SOLICITOR'S BUSINESS LICENSE

A. *License Required.* In order to carry on the activities set forth in Section 5-401 herein, an application for a solicitor's business license must be completed and approved by the City in addition to the payment of a license fee to the City Clerk as more fully set forth below.

B. *Not Assignable or Transferable.* No license granted by the City shall be assignable or transferable, nor shall such license authorize any person to do business or act under it except the person named therein, nor at more than one place. There shall be no refunds.

C. *License Period.* Unless otherwise provided, licenses shall commence and endure from their date of issuance until the 31st day of December of the year in which the license was issued.

D. *License Fee; When Payable; Time Period; Amount.* All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which fees are required. No license shall be issued until the fee is paid. The amount of the fee shall be set by ordinance of the City Council and shall be on file at the office of the City Clerk for public inspection during office hours. There shall be no prorating of the fee.

E. *Payment or Fees; Receipt.* The City Clerk or designated representative shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the license issued, the kind of business, to whom issued and, if possible, the exact location where the business is to be carried on.

F. *Contents of License.* Unless otherwise provided, all licenses shall be dated on the date of their issue and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire. The person having such license shall be authorized to carry on the business therein named.

G. *Record Book.* The City Clerk or designated representative shall keep a book in which shall be entered the name of each person licensed, his/her address, the date of the license, the purpose for which it is granted, the amount paid and other required application information.

H. *Display of License.* Any person doing business as a solicitor-peddler is required to have his/her license available for inspection upon request.

I. *Background Check.* All applications will result in an investigation of the applicant's background by a committee consisting of the City's chief law enforcement officer, City Administrator and the Mayor or their designated representatives. If it is found that the applicant has been convicted of a felony or a crime involving moral turpitude within the past ten years, the application shall be denied in writing. The denial of an application shall include the reasons for denial and notification to the applicant that no license will be issued. All applicant convictions of felonies or crimes involving moral turpitude more than ten years ago will be considered by the committee on a case by case basis.

J. *Hours of Solicitation.* Any party obtaining a solicitor's business license pursuant to this section shall solicit within the residential districts of the City only between the hours of 8:00 a.m. and 8:00 p.m. (Ord. No. 2009-17, 11/10/09)

K. *Food Vendors; Special Use Permit.* A food vendor who has obtained a solicitor's business license pursuant to this section may apply for a special use permit which will allow additional hours of solicitation in the Commercially Zoned Business District of the City. Said vendor may submit an application for operating up to 20 designated times from 8:00 p.m. through 1:30 a.m. the next day. An additional fee shall

be assessed for each special use permit. Said fee shall be set by the City Council and shall be on file at the office of the City Clerk for public inspection during office hours.
(Ord. No. 2009-17, 11/10/09)

Article 3 – Occupation Taxes

SECTION 5-301: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation tax upon such occupations and businesses carried on within the corporate limits of this city and in such amounts as set by ordinance and placed on file with the City Clerk; and every person, firm, association or corporation carrying on the occupation or business specified within the limits of the City shall pay to the city treasury the sum named as a tax upon such occupation or business. All money so collected shall be credited to the general fund. The said money shall be and remain under the control of the City Council for such use and purpose as other monies belonging to the general fund. (Neb. Rev. Stat. §17-525) (Am. Ord. No. 2019-04, 6/25/2019)

SECTION 5-302: LEVY AUTHORIZED

A. The City shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the City and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under Neb. Rev. Stat. §53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under Neb. Rev. Stat. §77-2704.24. The occupation tax shall be imposed in the manner provided in Neb. Rev. Stat. §18-1208, except that Neb. Rev. Stat. §18-1208 does not apply to an occupation tax subject to Neb. Rev. Stat. §86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the City.

B. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license. (Neb. Rev. Stat. §17-525, 35-106, 53-132) (Am. Ord. No. 2019-04, 6/25/2019)

SECTION 5-303: COLLECTION DATE

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

§17-525)

SECTION 5-304: 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, the name of the person and the business that paid the said tax. The said 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. (Neb. Rev. Stat. §17-525)

SECTION 5-305: FAILURE TO PAY

If any person, company, or corporation fails or neglects to pay the occupation tax as provided on the day it becomes 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. (Neb. Rev. Stat. §17-525)

Article 4 – Housing Anti-Discrimination Policy

SECTION 5-401: ANTI-DISCRIMINATION CODE; ADOPTED BY REFERENCE

It is hereby declared to be the policy of the City in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunities to all persons to live in decent housing facilities regardless of race, color, religion, sex or national origin and, to that end, to prohibit discrimination in housing by any persons. In order to effectuate this policy, the City has adopted a code prohibiting discrimination in housing. One copy of the most recent edition of said code shall be on file in the City Clerk's office and available for public inspection during office hours. The provisions of the Anti-Discrimination Code shall be controlling throughout the City and throughout its zoning jurisdiction.

Article 5 – Railroad Companies

SECTION 5-501: SAFE CROSSING

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

SECTION 5-502: SPEED LIMIT

It shall be unlawful for any railroad company, its employees, or agents to operate a railroad engine, locomotive, or other vehicle on its tracks within or through the City at a speed in excess of 50 miles per hour. (Neb. Rev. Stat. §§17-551, 17-552)

SECTION 5-503: PUBLIC CROSSING; OBSTRUCTING TRAFFIC

A. A public railroad crossing is hereby established on Second Street between Main Street and the Hickman city park. Such railroad crossing is hereby established and open to the general public and shall be maintained in a reasonable manner.

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

Article 6 – Mobile Food Vendors

SECTION 5-601: PURPOSE

The purpose of this section is to establish permitting, operational, and enforcement standards for mobile food vending units within the City and its extraterritorial zoning jurisdiction in order to protect public health, safety, and welfare and ensure consistency with the City of Hickman Zoning Regulations.

SECTION 5-602: DEFINITIONS

“Mobile food vending unit” shall mean any self-contained food truck, trailer, or cart designed and operated for the preparation and sale of food or beverages.

“Mobile vendor” shall mean any person or entity operating a mobile food vending unit.

“Roaming vendor” shall mean a mobile vendor operating from a motorized unit that travels along public streets and sells directly from the unit.

SECTION 5-603: PERMIT REQUIRED

It shall be unlawful for any person to operate a mobile food vending unit within the corporate limits of the City or its extraterritorial zoning jurisdiction without first obtaining a mobile food vendor permit.

A. A separate permit shall be required for each mobile food vending unit.

B. Permits shall be valid only for the dates, times, and locations approved by the City.

C. Roaming vendors operating within public streets shall also obtain a solicitor’s permit as required by this code.

SECTION 5-604: PERMIT TYPES

The City establishes the following mobile food vendor permit types:

A. Event Permit

1. Issued for a specific, city-approved event or activity.
2. Valid only for the duration of the event .
3. Not to exceed three consecutive days unless otherwise authorized by the City.

B. Short-Term Permit

1. Issued for vendor operations occurring over a defined, continuous period of time that does not follow a recurring schedule.
2. Valid for the approved date range specified on the permit.
3. Intended for limited duration operations.
4. Does not include recurring or regularly scheduled operations.

C. Recurring Permit

1. Issued for vendor operations occurring on a regular or repeating schedule at an approved location.
2. Requires defined days, hours, and location.
3. Includes operations occurring on a weekly, monthly, or other repeating basis.

SECTION 5-605: APPLICATION; REQUIREMENTS

Applicants shall submit the following:

- A. Completed permit application on a form provided by the City;
- B. Nebraska Department of Agriculture mobile food unit license;
- C. Nebraska sales tax permit number;
- D. Proof of current vehicle registration and commercial license plates;
- E. Site plan showing unit placement and pedestrian access, if stationary;
- F. Written authorization from the property owner, if operating on private property;
- G. Certificate of general liability insurance naming the City as certificate holder;
- H. Refuse disposal plan.

SECTION 5-606: ZONING COMPLIANCE

All mobile food vendors shall comply with Section 11.17 of the City of Hickman Zoning Regulations, as may be amended.

SECTION 5-607: OPERATIONAL REQUIREMENTS

All mobile vendors shall:

- A. Operate only during approved hours and in no case between 3:00 a.m. and 6:00 a.m.;
- B. Not operate more than one hour after the legal closing time of local bars;
- C. Maintain the premises in a clean and sanitary condition;
- D. Remove all refuse daily unless otherwise approved;
- E. Not emit excessive noise, odor, light, or vibration;
- F. Not obstruct pedestrian pathways, streets, or fire access;
- G. Operate as a self-contained unit and not utilize off-site utilities unless expressly approved;
- H. Not erect or leave in place any structures, seating, or equipment when not in operation;
- I. Maintain valid registration and licensing at all times.

SECTION 5-608: GENERATOR USE; RESIDENTIAL AREAS

When operating adjacent to or within a residential zoning district:

- A. Generators shall be operated in a manner that minimizes noise impacts to surrounding properties;
- B. Generators shall not create excessive or continuous noise that disturbs neighboring properties;
- C. The City may impose additional conditions or restrictions on generator use as part of permit approval.

SECTION 5-609: PUBLIC PROPERTY; CITY APPROVAL

- A. Operation of a mobile food vending unit on public property, including streets, parks, or other city-controlled areas, shall require prior approval by the City.
- B. The Mayor or City Administrator may approve mobile food vending on public property for:

1. Community events;
2. Festivals or City-sponsored activities;
3. Athletic events, including but not limited to baseball games;
4. Other similar uses determined to be in the public interest.

C. The City may impose conditions on such approval, including location, duration, number of vendors, and operational limitations.

D. Nothing in this section shall be construed to permit operation within the public right-of-way unless expressly authorized.

SECTION 5-610: CONDUCT PROHIBITED

No mobile vendor shall:

A. Operate in violation of Section 11.17 of the City of Hickman Zoning Regulations;

B. Operate without required permits or licenses;

C. Operate outside the approved location, dates, or hours specified in the permit;

D. Create a nuisance condition, including but not limited to excessive noise, odor, lighting, or unsanitary conditions;

E. Obstruct pedestrian or vehicular traffic;

F. Fail to maintain compliance with state health requirements.

SECTION 5-611: FEES

Permit fees shall be established by ordinance or resolution and maintained in the City's master fee schedule.

SECTION 5-612: ENFORCEMENT AND REVOCATION

A. The City may suspend or revoke a permit for:

1. Violation of this section;
2. Violation of the Zoning Regulations;
3. Failure to comply with permit conditions;
4. Health or safety violations;
5. Repeated complaints or nuisance conditions.

B. Upon revocation, the vendor shall immediately cease operations.

Article 7 – Penal Provision

SECTION 5-701: VIOLATION; PENALTY

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