

TITLE XI: BUSINESS REGULATIONS

Chapter

110.ALCOHOLIC BEVERAGES

111.SALES AND ADVERTISING

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

General Provisions

- 110.01 Definitions
- 110.02 Sale or gift to minor or mentally incompetent person prohibited
- 110.03 Consumption in public places or places open to the public; restrictions
- 110.04 Removal of intoxicated persons from public or quasi-public property

Licenses Required

- 110.20 Manufacture, sale, delivery, and possession; general prohibitions; exceptions
- 110.21 Acquisition and possession; restrictions
- 110.22 Licensee requirements
- 110.23 Licenses; city powers and duties
- 110.24 Licensed premises; inspections
- 110.25 License renewal; city powers and duties
- 110.26 Catering licenses
- 110.27 Display of license
- 110.28 Owner of premises or agent; liability
- 110.29 Licensee; liability for acts of officer, agent, or employee
- 110.30 Citizen complaints

Retail Establishments

- 110.45 Location
- 110.46 Access to dwellings
- 110.47 Sanitary conditions
- 110.48 Hours of sale
- 110.49 Credit sales prohibited
- 110.50 Spiking beer prohibited
- 110.51 Original package required
- 110.52 Minor's presence restricted
- 110.53 Keg sales; requirements; prohibited acts

GENERAL PROVISIONS**§ 110.01 DEFINITIONS.**

For purposes of this chapter, the definitions found in Neb. RS 53-103 shall be used.

§ 110.02 SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED.

No person shall sell, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. (Neb. RS 53-180) Penalty, see § 10.99

Statutory reference:

Authority, see Neb. RS 17-135

§ 110.03 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. RS 53-186(2), it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (Neb. RS 53-186)

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

(C) It shall be unlawful for any person to bring any liquor or any alcoholic beverages onto Chimney Rock Golf Course, which is a licensed premise under the Nebraska Liquor Control Act. All liquor and alcoholic beverages consumed on the Chimney Rock Golf Course shall be purchased at the golf course. No liquor or alcoholic beverages purchased off-site may be consumed or possessed on the golf course property. (Ord. 757, passed 4-8-2014)

§ 110.04 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 the intoxicated person to his or her home or to place the person in any hospital, clinic, alcoholism center, or with a medical

doctor as may be necessary to preserve life or to prevent injury. The effort at placement shall be deemed reasonable if the officer contacts such facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If these efforts are unsuccessful or are not feasible, the officer may then place the intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours.

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

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

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

QUASI-PUBLIC PROPERTY. Private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Neb. RS 53-1,121) Penalty, see § 10.99

LICENSES REQUIRED

§ 110.20 MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS.

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

(B) Nothing in this chapter shall prevent:

Bayard - Business Regulations

- (1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;
- (2) The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;
- (3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of that hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;
- (4) The possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;
- (5) Persons who are 16 years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;
- (6) Persons who are 16 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;
- (7) Persons who are 16 years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or
- (8) Persons who are 19 years old or older from serving or selling alcoholic liquor in the course of their employment.
(Neb. RS 53-168.06)
Penalty, see § 10.99

§ 110.21 ACQUISITION AND POSSESSION; RESTRICTIONS.

- (A) It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any other person other than one duly licensed to handle alcoholic liquor under this chapter and the Nebraska Liquor Control Act unless within specific exemptions or exceptions provided in this chapter or the Act.
(Neb. RS 53-175)
- (B) It shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into this state for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of 9 liters in any 1 calendar month.
(Neb. RS 53-194.03)
Penalty, see § 10.99

§ 110.22 LICENSEE REQUIREMENTS.

(A) No license shall be issued to:

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

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

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

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

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

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

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

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

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

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

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

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

(13) Except as provided in this division, an applicant whose spouse is ineligible under this

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

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

(b) The licensed premises will be properly operated.

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

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

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

(B) When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or person who is mentally incompetent.

(Neb. RS 53-125)

§ 110.23 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, craft brewery, and microdistillery licensees carried on within the corporate limits of the city.

(Neb. RS 53-134.03)

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

(Neb. RS 53-131)

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

(1) To cancel or revoke for cause retail, craft brewery, or microdistillery 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 that time examine the premises of the 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 these complaints in the manner provided in the Act;

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

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in § 110.30, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. The order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133; and

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

(Neb. RS 53-134)

Bayard - Business Regulations

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

(a) The license fee if by the terms of Neb. RS 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. RS 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 2 times the amount of the license fee required to be paid under the Act to obtain that license. (Neb. RS 53-132)

§ 110.24 LICENSED PREMISES; INSPECTIONS.

The City Council shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this chapter, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of this chapter or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Neb. RS 53-116.01)

§ 110.25 LICENSE RENEWAL; CITY POWERS AND DUTIES.

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

(B) The City Clerk shall cause to be published in a legal newspaper in or of general circulation in the city, 1 time between January 10 and January 30 of each year, individual notice in the form prescribed

by law of the right of automatic renewal of each retail liquor and beer license within the city, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the City Clerk by 3 or more residents of the city on or before February 10, or August 10 for Class C licenses, the City Council shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application as provided in Neb. RS 53-135.

(Neb. RS 53-135.01)

§ 110.26 CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124(5), a craft brewery license, a microdistillery license, or a farm winery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(B) Upon receipt from the Commission of the notice and a copy of the application as provided in Neb. RS 53-124.12, the City Council shall process the application in the same manner as provided in § 110.23.

(C) The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which that catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

(D) The City Council may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the City Council. The tax may not exceed double the license fee for a catering license.

(Neb. RS 53-124.12)

§ 110.27 DISPLAY OF LICENSE.

Every licensee under the Nebraska Liquor Control Act shall cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(Neb. RS 53-148) Penalty, see § 10.99

§ 110.28 OWNER OF PREMISES OR AGENT; LIABILITY.

If the owner of the licensed premises or any person from whom the licensee derives the right to possession of the premises, or the agent of that owner or person, knowingly permits the licensee to use the licensed premises in violation of the terms of the Nebraska Liquor Control Act or any city ordinance, that owner, agent, or other person shall be deemed guilty of a violation of the Act or ordinance to the same extent as the licensee and be subject to the same punishment.

(Neb. RS 53-1,101) Penalty, see § 10.99

§ 110.29 LICENSEE; LIABILITY FOR ACTS OF OFFICER, AGENT, OR EMPLOYEE.

Every act or omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act or any city ordinance by any officer, director, manager, or other agent or employee of any licensee, if the act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by the licensee personally.

(Neb. RS 53-1,102) Penalty, see § 10.99

§ 110.30 CITIZEN COMPLAINTS.

Any 5 residents of the city shall have the right to file a complaint with the City Council stating that any retail licensee subject to the jurisdiction of the City Council has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the Act. The complaint shall be in writing in the form prescribed by the City 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. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for that belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of the hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the City 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 Nebraska Liquor Control Commission as provided in Neb. RS 53-1,115.

(Neb. RS 53-134.04)

RETAIL ESTABLISHMENTS**§ 110.45 LOCATION.**

(A) It shall be unlawful for any person 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 for veterans, their wives or children. This prohibition shall not apply to any location within that distance when the establishment has been licensed by the Nebraska Liquor Control Commission at least 2 continuous years and to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where the selling of alcoholic liquors is not the principal business carried on, if the place of business was established for those purposes prior to May 24, 1935.

(B) No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college or university within the city, except that this section:

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

(2) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to Neb. RS 53-124.15.
(Neb. RS 53-177) Penalty, see § 10.99

§ 110.46 ACCESS TO DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which have any access which leads from the premises to any other portion of the same building or structure used for dwelling or lodging purposes, and which is permitted to be used or kept accessible for use by the public. This provision shall not prevent any connection between the premises and such other portion of the building or structure which is used only by the licensee, his or her family, or personal guests.

(Neb. RS 53-178) Penalty, see § 10.99

§ 110.47 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. The 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 sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

Penalty, see § 10.99

Statutory reference:

Authority to regulate licensed premises, see Neb. RS 53-134.03

State sanitary rules and regulations authorized, see Neb. RS 53-118

§ 110.48 HOURS OF SALE.

(A) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m., including Sundays.

(B) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6 a.m. on any day, including Sundays.

(C) Nothing in this section shall 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. RS 53-179)

(Ord. 755, passed 11-12-2013)

Cross reference:

Local legislation regarding hours of sale, see Title XVII

§ 110.49 CREDIT SALES PROHIBITED.

No person shall sell or furnish alcoholic liquor at retail to any person on credit of any kind, barter, or services rendered, provided that 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 those members or guests in accordance with the bylaws of the club, and provided further that nothing in this section shall prevent any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing in the hotel or eating at the restaurant and charged to the accounts of those guests.

(Neb. RS 53-183) Penalty, see § 10.99

§ 110.50 SPIKING BEER PROHIBITED.

It shall be unlawful for any person or for any licensee to sell or offer for sale in this city any beer to which there has been added any alcohol or to permit any person to add alcohol to any beer on the licensed premises of that person or licensee.

(Neb. RS 53-174) Penalty, see § 10.99

§ 110.51 ORIGINAL PACKAGE REQUIRED.

No person, except a manufacturer or wholesaler, shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor. It shall be unlawful for any person to have in his or her possession for sale at retail any bottles, casks, or other

containers containing alcoholic liquor except in original packages. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale. (Neb. RS 53-184) Penalty, see § 10.99

§ 110.52 MINOR'S PRESENCE RESTRICTED.

It shall be unlawful for any person who owns, manages, or leases an establishment selling alcoholic beverages at retail to allow any minor under the age of 18 years of age to frequent or otherwise remain in the 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 the parent or legal guardian.

Penalty, see § 10.99

Statutory reference:

Authority to regulate, see Neb. RS 53-134.03

§ 110.53 KEG SALES; REQUIREMENTS; 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 5 or more gallons or 18.92 or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than 6 months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense.

(Neb. RS 53-167.02)

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

(Neb. RS 53-167.03) Penalty, see § 10.99

CHAPTER 111: SALES AND ADVERTISING

Section

Peddlers and Solicitors

- 111.01 Definitions
- 111.02 License required
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal procedure
- 111.08 Exhibition of identification
- 111.09 Policy on soliciting
- 111.10 Notice regulating soliciting
- 111.11 Posted notice; solicitors to comply
- 111.12 Prohibited solicitation

PEDDLERS AND SOLICITORS

§ 111.01 DEFINITIONS.

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

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

Bayard - Business Regulations

PEDDLER. Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

§ 111.02 LICENSE REQUIRED.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the city.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof. Penalty, see § 10.99

§ 111.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than 10 days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 10.99

§ 111.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

Bayard - Business Regulations

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude; or
- (2) Has made willful misstatements in the application; or
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts;

will constitute valid reasons for disapproval of an application.

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least 10 days prior to the date set for the hearing.

§ 111.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application; or
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

(B) The order of the City Council after the hearing shall be final.

§ 111.08 EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than 1 place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The City Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 10.99

§ 111.09 POLICY ON SOLICITING.

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

§ 111.10 NOTICE REGULATING SOLICITING.

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately 3 inches by 4 inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO SOLICITORS INVITED"

(B) The letters shall be at least 1/3-inch in height.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

§ 111.11 POSTED NOTICE; SOLICITORS TO COMPLY.

(A) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in § 111.10 if any is attached, and be governed by the statement contained on the notice. If the notice states “NO SOLICITORS INVITED,” then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. Penalty, see § 10.99

§ 111.12 PROHIBITED SOLICITATION.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 111.10 above.

Penalty, see § 10.99