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CHAPTER 5 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

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 OF ALCOHOLIC BEVERAGES

A. It shall be unlawful for any person to have possession of any alcoholic liquor, which shall have been acquired otherwise than from a licensee duly licensed to sell same to such person under the provisions of the Nebraska Liquor Control Act;

B. Nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his/her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought, or shipped into the State for personal use does not exceed one gallon at any one time or in excess of two gallons in any one calendar month, nor prevent 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 it is made solely for the use of the maker, his/her family and his/her guests;

C. Nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his/her profession, or

any hospital or institution caring for the sick and diseased persons, from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution;

D. Any drug store employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians;

E. 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 shall not be prohibited by this section;

F. Persons who are 16 years old or older may carry beer from grocery stores when they are accompanied by a person not a minor, persons who are 16 years old or older may handle beer containers and beer in the course of their employment in grocery stores, and persons who are 16 years old or older may remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses, or busboys, by any restaurant, club, hotel, or similar organization; and provided further, that persons who are 19 years old or older may serve or sell alcoholic liquor in the course of their employment. (Neb. Rev. Stat. §53-102, 53-164.01, 53-175)

SECTION 5-103: LICENSES; CITY POWERS AND DUTIES

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

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

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

1. To cancel or revoke for cause retail, bottle club, or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;
2. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act, to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination;
3. To receive a signed complaint from any citizen within its jurisdiction that

any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;

4. To receive retail license fees, bottle club license fees, and craft brewery license fees as provided in Neb. Rev. Stat. §53-124 and pay the same to the city treasurer after the license has been delivered to the applicant;
5. To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent or attorney to act on its behalf;
6. To cancel or revoke on its own motion any license if, upon notice and hearing as provided in Section 5-131 (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. Rev. Stat. §53-133;
7. (a) Upon receipt from the Commission of the notice and copy of application as provided in Neb. Rev. Stat. §53-131, to fix a time and place for a hearing at which the City Council shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City, one time not less than seven and not more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

(b) The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the City Council shall cause to be recorded in the minute record of their 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.

(Neb. Rev. Stat. § 53-134)

D. When the Nebraska Liquor Control Commission mails or delivers to the city clerk a license issued or renewed by the commission, the clerk shall deliver the license to the licensee upon proof of payment of:

1. The license fee if, by the terms of Neb. Rev. Stat. §53-124(5), the fee is payable to the city treasurer;
2. Any fee for publication of notice of hearing before the City Council upon the application for the license;
3. The fee for publication of notice of renewal, if applicable, as provided in Neb. Rev. Stat. §53-135.01; and
4. Occupation taxes, if any, imposed by the City.

E. Notwithstanding any ordinance or charter power to the contrary, the City shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the City in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license. (Neb. Rev. Stat. §53-132(4)) (Am. by Ord. No. 02-08, 5/14/02)

SECTION 5-104: LICENSE REQUIRED

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

SECTION 5-105: LICENSEE REQUIREMENTS

It shall be unlawful for any person 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. Ch. 28, Arts. 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. §53-124.03, 53-125)

SECTION 5-106: LOCATION

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

consumption on the premises within 300 feet from the campus of any college within the City. (Neb. Rev. Stat. §53-177)

SECTION 5-107: ACTION ON APPLICATION FOR LICENSE

A. Upon receipt from the Nebraska Liquor Control Commission of the notice and copy of the application provided for in Neb. Rev. Stat. § 53-131, the city clerk shall present it to the mayor and the City Council at their next meeting, and they shall fix a time and place at which a hearing will be had and evidence taken under oath from any person desiring to be heard on the propriety of the issuance of the license in question.

B. Notice of the time and place of such hearing shall be published in a legal newspaper in this city one time, not less than seven nor more than 14 days before the hearing. The said hearing shall be held not more than 45 days after the date of receipt of the notice and copy of the application by the city clerk. After said hearing, the mayor and City Council shall, by resolution, spread at large in the minute record of their proceedings, recommend either the issuance or the refusal of said license. The city clerk shall then mail to the Liquor Control Commission by first class mail, postage prepaid, a copy of the resolution, which shall state the cost of the published notice.
(Neb. Rev. Stat. §53-131, 53-132, 53-134)

SECTION 5-108: DISPLAY OF LICENSE

Every licensee under the Nebraska Liquor Control Act shall cause his/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 5-109: HOURS OF SALE

A. It shall be unlawful for any person or persons to sell at retail any alcoholic beverages during the hours that the polls are open on the day in which any statewide primary or general election is conducted. It shall further be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the City except during the hours provided herein:

Alcoholic Liquors (Except Beer & Wine)	Begin Sale	End Sale
Monday - Saturday	6:00 A.M.	2:00 A.M. the following day
Sunday	12 Noon	2:00 A.M. the following day
Beer & Wine	Begin Sale	End Sale
Monday - Saturday	6:00 A.M.	2:00 A.M. the following day
Sunday	6:00 A.M.	2:00 A.M. the following day

1. No person shall sell at retail or dispense any alcoholic liquor, including beer, and wine, on any day between 2:00 A.M. and 6:00 A.M.
2. No person shall sell at retail or dispense any alcoholic liquor, except beer and wine, between the hours of 6:00 A.M. and 12:00 noon on Sunday.
3. Alcoholic liquor may be sold at retail or dispensed from 12:00 noon on Sunday until 2:00 A.M. the following Monday.

SECTION 5-110: CHANGE OF PREMISES

Any retailer licensee desiring to transfer his/her license from one premises to another shall file a written request for permission to do so with the city clerk and shall also file with said clerk a sworn statement showing that the premises to which removal is to be made complies in all respects with the requirements of the Nebraska Liquor Control Act as amended. The city clerk shall present said application and statement to the next meeting of the mayor and City Council, who shall, by resolution, approve or disapprove the transfer. If they approve the transfer, such approval shall be endorsed on the license by the mayor and attested by the city clerk. No such transfer is valid until also approved by the Liquor Control Commission and licensee furnishes proof of payment of the state registration fee.

SECTION 5-111: PREMISES ALSO USED AS DWELLING

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

SECTION 5-112: 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 city law enforcement officers 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 5-113: ENTRY OF PREMISES FOR INSPECTION

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

SECTION 5-114: OWNER OF PREMISES

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

SECTION 5-115: EMPLOYER

The employer of any officer, director, manager, or employees working in a retail liquor establishment shall be held to be liable and guilty of any act or omission or violation of any law or ordinance, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, and each such act or omission shall be deemed and held to be the act of the employer, and will be punishable in the same manner as if the said act or omission had been committed by him/her personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-116: HIRING MINORS

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

SECTION 5-117: MINOR'S PRESENCE

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

SECTION 5-118: SALE TO 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 liquor, or to procure any such alcoholic liquor to or for any minor, or to any person who is mentally incompetent. (Neb. Rev. Stat. §53-180)

SECTION 5-119: SALES FOR CASH ONLY

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

SECTION 5-120: KEG SALES; REGISTRATION; KEG IDENTIFICATION 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 18.92 or more liters, the seller shall record the date of 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 such military

identification contains a picture of the purchaser, together with 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 5-121: SPIKING BEER

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

SECTION 5-122: ORIGINAL PACKAGE

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

SECTION 5-123: GAMBLING

Unless sanctioned by state 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/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 5-124: SALE FOR RESALE

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

SECTION 5-125: TRANSPORTATION OF LIQUOR

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

SECTION 5-126: NO DELIVERY AFTER CLOSING HOURS

No retail licensee in this city operating premises open to the public shall act as retainer or keeper of liquor for customers or other persons for the purpose of delivering or disposing of such liquor after closing hours as provided by state law, ordinance or resolution or on days when sales are prohibited.

SECTION 5-127: CONDUCT PROHIBITED ON LICENSED PREMISES

No licensee in this city shall engage in, allow, or suffer in or upon the licensed premises any disturbances, lewdness, immoral activities or displays, brawls or unnecessary noise or allow, permit or suffer the licensed premises to be used in such a manner as to create public censure or become a nuisance, public or private.

SECTION 5-128: ADVERTISEMENTS AND SALES

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

SECTION 5-129: LIQUOR LICENSE RENEWAL

A. Retail or bottle club licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the City Council to require the said licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the City shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this article until the original license expires, is canceled, or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year.

B. The city clerk shall cause to be published in a legal newspaper in this city one time between January 10 and January 30 of each year individual notice of the right of automatic renewal of each retail liquor and beer license (except that notice of the right of automatic renewal of Class C licenses shall be published between July 10 and July 30 of each year) in the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR LICENSE

Notice is hereby given that pursuant to Neb. Rev. Stat. §53-135.01, the liquor license may be automatically renewed for one year from May 1, 20____, for the following retail liquor licensee, to-wit:

(Name of Licensee, Address of Licensed Premises)

Notice is hereby given that a written protest to the issuance of automatic renewal of license may be filed by any resident of the City of Hickman on or before February 10, 20____, in the office of the city clerk; that in the event protests are filed by three or more such persons, hearing

will be had to determine whether continuation of said license should be allowed.

(Name), City Clerk

C. The city clerk shall file or cause to be filed with the Nebraska Liquor Control Commission proof of publication of said notices on or before February 6 each year. (Neb. Rev. Stat. §53-135, 53-135.01)

SECTION 5-130: PROTESTS AGAINST RENEWAL

If written protests are filed with the city clerk by three or more city residents against the automatic renewal of a license, the clerk shall present the same to the mayor and City Council at their next meeting and they shall, by resolution, direct the licensee to submit an application in the same manner as would be required for an original license. The city law enforcement officer shall serve said resolution on said licensee by delivering to him/her personally a true and certified copy thereof. Upon receipt by the city clerk from the Nebraska Liquor Control Commission of the notice and copy of application, the same procedure shall be followed as is provided for in the case of an application for an original license.

SECTION 5-131: CITIZENS' COMPLAINT

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club 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 thereto. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; provided, the complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Neb. Rev. Stat. §53-1,114)

SECTION 5-132: FORM FOR CITIZENS' COMPLAINT

The following form is hereby prescribed for the use of residents of this city desiring to complain to the mayor and the City Council that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission or any provision of this ordinance.

To the mayor and City Council of the City of Hickman, Nebraska. The undersigned respectfully state:

1. That they are each residents of the City of Hickman, Nebraska.
2. That they believe that _____, the holder of a Class ____ license in the aforesaid city, has violated Section _____ of (check one or more)

_____ the Nebraska Liquor Control Act.
_____ the regulations prescribed by the Nebraska Liquor Control Commission.
_____ the city code of the City of Hickman, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:

(Name) (Name)

(Name) (Name)

(Name)

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

Subscribed in my presence and sworn to before me by
_____, _____,
_____ and _____, this _____ day of
_____, 20____.

My commission expires _____.

Notary Public

(Neb. Rev. Stat. § 53-134.04)

SECTION 5-133: FORM; PROCEDURE

A. The city clerk shall supply the forms prescribed herein and shall, on request, supply one to any resident of this city desirous of initiating a complaint. Any complaint duly executed on the aforesaid form by five residents of this city and filed with the city clerk shall be presented by the clerk to the mayor and City Council at their next meeting. If the mayor and the City Council are satisfied that the complaint substantially charges a violation and there is a reasonable cause for such belief based upon the facts alleged, they shall, by resolution, set the matter for hearing within ten days from the filing of the complaint.

B. Said resolution shall state the time and place of said hearing and shall direct the city law enforcement officer to serve the same on the licensee by delivering to him/her personally a true and certified copy thereof at least 72 hours prior to the time of hearing. Said resolution shall also state the section or sections of the Nebraska Liquor Control Act, the regulations prescribed by the Nebraska Liquor Control Commission or this code alleged to have been violated and the facts on which said allegations are based as stated in the complaint. Present at said hearing shall be the city attorney and the licensee, who may be represented by counsel employed by him/her. The complainants shall be present and may be represented by counsel employed by them. The mayor and the City Council shall, within 30 days from the date the complaint is filed, by resolution, dispose of the complaint. Such resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission.

(Neb. Rev. Stat. §53-134.04)

SECTION 5-134: CONSUMPTION IN PUBLIC PLACES

It shall be unlawful for any person to consume alcoholic beverages within the corporate limits upon the public ways and property, including inside vehicles while upon the public ways and property. It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment. (Neb. Rev. Stat. §53-186, 53-186.01)

SECTION 5-135: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

A. Any law enforcement officer with the power of 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 semi-public property. Any officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his/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 who have previously represented a willingness to accept and treat such individuals and who 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 such 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. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he/she is delivered and then communicated to his/her family or next of kin, if they can be located, or to such person designated by that person taken into civil protective custody.

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

C. For purposes of this section:

1. "Public property" shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property;
2. "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 – Railroad Companies

SECTION 5-201: 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 it may deem 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. §17-143, 17-144, 17-551, 17-552, 75-414)

SECTION 5-202: PUBLIC CROSSING DESIGNATED

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.

SECTION 5-203: SPEED

It shall be unlawful for any railroad company, its employees, agents, or servants 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)

Article 3 – Occupation Taxes

SECTION 5-301: AMOUNTS

For the purpose of raising revenue, an annual occupation tax is hereby levied on the following businesses: (A) retailers of beer, on sale only, and (B) retailers of alcoholic beverages, including beer, off sales only (package sales). Such occupation tax amounts shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. (Neb. Rev. Stat. §17-525)

SECTION 5-302: COLLECTION DATE

All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily. Upon the payment thereof by any person or persons, the city clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid, provided, occupation taxes collected from Class C liquor licenses 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 5-303: 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 5-304: 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 – Peddlers, Hawkers and Solicitors

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

SECTION 5-401: 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 5-402 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 5-402: 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, on file at the office of the city clerk and available 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/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 5 – Smoking Regulations

SECTION 5-501: SMOKING IN WORKPLACE OR PUBLIC PLACE; DEFINITIONS

“Smoke” or “smoking” means the lighting of any cigarette, cigar, pipe, or other smoking material or the possession of any lighted cigarette, cigar, pipe, or other smoking material, regardless of its composition. (Neb. Rev. Stat. §71-5727)

SECTION 5-502: SMOKING IN WORKPLACE OR PUBLIC PLACE; PROHIBITED

After June 1, 2009, except as provided in Section 5-503 hereafter, it shall be unlawful for any person to smoke in a place of employment or any public place within the Village. (Neb. Rev. Stat. §71-5729)

SECTION 5-503: SMOKING IN WORKPLACE OR PUBLIC PLACE; EXEMPTIONS

The following are exempt from the provisions of this article:

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

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

C. Tobacco retail outlets.
(Neb. Rev. Stat. §71-5730)

SECTION 5-504: SMOKING IN WORKPLACE OR PUBLIC PLACE; VIOLATION; PENALTY

A. A person who smokes in a place of employment or a public place in violation of the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses. A person charged with such offense may voluntarily participate, at his/her own expense, in a smoking cessation program approved by the Department of Health and Human Services, and such charge shall be dismissed upon successful completion of the program.

B. A proprietor who fails, neglects, or refuses to perform a duty under the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses.

C. Each day that a violation continues to exist shall constitute a separate and distinct violation.

D. Every act or omission constituting a violation of the Nebraska Clean Indoor Air Act by an employee or agent of a proprietor is deemed to be the act or omission of such proprietor, and such proprietor shall be subject to the same penalty as if the act or

omission had been committed by such proprietor.
(Neb. Rev. Stat. §71-5733)

Article 6 – Penal Provision

SECTION 5-601: 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.