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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 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; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER

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

B. It is unlawful for any person 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. §60-6,211.08)

SECTION 5-104: CONSUMPTION IN PUBLIC PLACES; LICENSE

A. It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, 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, 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.

B. Upon application for a special permit for the consumption of alcoholic liquor on public streets or other public places, the City Council may permit such consumption on such terms and conditions as it may determine. For such permit to be issued, written application must be made to the city clerk and the same must be acted upon at a special or regular meeting of the City Council. The terms and conditions for issuance of a special permit shall be set forth in the minutes of the meeting at which such application is considered.

(Neb. Rev. Stat. §53-186.01)

SECTION 5-105: 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. §53-168.06)

SECTION 5-106: 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.

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, craft brewery, and microdistillery licenses:

1. To cancel or revoke for cause retail, craft brewery, and microdistillery 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.
4. To receive retail, craft brewery and microdistillery license fees as provided in Neb. Rev. Stat. §§53-124 and 53-124.01 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, 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 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 pre-

paid, 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 mails or delivers to the city clerk a license issued or renewed by it, the clerk shall deliver the license to the licensee upon proof of payment of (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 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. §§53-131, 53-132, 53-134)

SECTION 5-107: LICENSEE REQUIREMENTS

No liquor license shall be issued to any person unless he or she is a resident of Nebraska; is a person of good character and reputation in the community; is a U.S. citizen; has never been convicted of or pled guilty to a felony under the laws of this state, any other state, or the United States; has never been convicted of or pled guilty to any Class I misdemeanor pursuant to Neb. Rev. Stat. §53-125; has never had a liquor license revoked for cause; and meets other requirements as provided in Neb. Rev. Stat. §53-125. (Neb. Rev. Stat. §53-125)

SECTION 5-108: 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 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 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 5-109: ACCESS TO DWELLINGS

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 5-110: 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 5-111: CATERING LICENSES

A. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5) or a craft brewery license 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[1])

B. Upon receipt from the commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall process the application in the same manner as provided in Section 5-106 (City Powers and Duties). (Neb. Rev. Stat. §53-124.12)

SECTION 5-112: 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 5-113: HOURS OF SALE

A. For the purposes of this section:

1. "On sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment.

- 2. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

B. It shall be unlawful for any licensed person or persons or their agents to sell at retail or dispense any alcoholic beverages within the city except during the hours provided herein:

Alcoholic Liquors (except Beer and Wine)	
Monday through Thursday	
On and Off Sale	7:00 a.m. to 12:00 midnight
Friday and Saturday	
On and Off Sale	7:00 a.m. to 1:00 a.m.
Sunday	
On and Off Sale	Prohibited
Beer and Wine	
Monday through Thursday	
On and Off Sale	7:00 a.m. to 12:00 midnight
Friday and Saturday	
On and Off Sale	7:00 a.m. to 1:00 a.m.
Sunday	
On and Off Sale	Prohibited

C. Exceptions to the above hours of sale:

New Year's Eve (December 31)	
Monday through Saturday	7:00 a.m. to 1:00 a.m.
Sunday	2:00 p.m. to 1:00 a.m.
Fourth of July	
Monday through Thursday	7:00 a.m. to 12:00 midnight
Friday and Saturday	7:00 a.m. to 1:00 a.m.
Sunday	2:00 p.m. to 12:00 midnight

C. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C or Class I license.

D. 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 fifteen minutes after the closing hour applicable to the licensed premises and 6 a.m. on any day.

E. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which this section prohibits the sale or dispensing of alcoholic beverages.

(Neb. Rev. Stat. §53-179)

SECTION 5-114: INSPECTIONS

The Liquor Control Commission and City Council shall cause frequent inspections to be made on the premises of all retail 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

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

SECTION 5-116: EMPLOYER

The employer of any officer, director, manager, or employee 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 is made with the authorization, knowledge, or approval of the employer or licensee. Each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the said act or omission had been committed by him 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: 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 a 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. §53-134.03)

SECTION 5-119: 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 5-120: CREDIT SALES

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 5-121: 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 5-122: 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 5-123: 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. If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in Neb. Rev. Stat. §53-131.

B. Any licensed retail premises located in an area which is annexed by the city shall file a formal application for a license. While such application is pending, the licensee may continue all license privileges until the original license expires or 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.

C. 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.

D. Written protests to the issuance of automatic renewal of a license may be filed by any resident of the city on or before February 10, 20...., or August 10, 20...., in the office of the city clerk 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 5-124: 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 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 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.

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 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. 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 and said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. Rev. Stat. §53-1,115.

C. 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 Gordon, Nebraska:

The undersigned respectfully state:

- 1. That each one is a resident of the City of Gordon, 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 municipal code of the City of Gordon, 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 SHERIDAN)

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 5-125: 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 Sec-

tion 5-124 (Citizens' Complaint), and insofar as possible the procedure shall be the same as is provided in that section. (Neb. Rev. Stat. §53-134)

SECTION 5-126: REVOCATION OF LICENSE

Whenever any licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The City Council may conditionally revoke the license subject to a final order of the Liquor Control Commission or the commission may revoke the license in an original proceeding brought before it for that purpose. (Neb. Rev. Stat. §53-116.02)

SECTION 5-127: CHANGE OF PREMISES

Any retailer licensee desiring to transfer his or 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 comply 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 City Council at its next meeting and it shall by resolution approve or disapprove the transfer. If the transfer is approved, the said approval shall be endorsed on the license by the mayor and attested by the city clerk.

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, Solicitors and Transient Merchants

SECTION 5-201: DEFINITIONS

“Peddler” is a person engaged in the selling of personal property by going about from place to place or house to house to sell such property and who carries with him/her such property for delivery at the time of sale in the city.

“Solicitor” is a person engaged in going about from place to place or house to house, or by newspaper, radio, or telephone, soliciting orders for or offering to sell personal property for future delivery in the city.

(The above definitions of “peddler” and “solicitor” do not apply to any person, firm, corporation, partnership, association or any of their agents who maintain a regular stock of merchandise in Gordon for at least six months during the year in which he/she/they are soliciting or selling.)

“Transient merchant” is any person, firm, corporation, partnership, association or any of their agents transacting a temporary business where goods are exposed for whole-sale or retail sale at any place in Gordon. “Temporary business” means a business established for temporary operation only. A permanent business is a business operation more than six months in one place by the same person.

SECTION 5-202: EXCEPTIONS

The provisions of this article shall not apply to:

- A. Buying and selling of goods by cooperation association;
- B. Sales where the proceeds are to be used exclusively for religious, charitable or benevolent purposes;
- C. Sales to wholesale or retail merchants by sample for future delivery made by representatives of established wholesalers or manufacturers;
- D. Sales by licensed peddlers;
- E. The sale of fruits and vegetables, farm or garden products grown or raised within this state by persons selling or offering the same for sale; or
- F. Articles manufactured within this state by the persons selling or offering the same for sale.

SECTION 5-203: PROHIBITED SALES

No person shall distribute, sell, or attempt to distribute or offer to sell any publication,

pamphlet, paper, periodical, or written, typed or printed matter, article or thing which:

- A. May reasonably tend to incite riot or other public disorder;
- B. Advocates disloyalty to or overthrow of the United States government or state government by means of any artifice, scheme or violence;
- C. Urges any unlawful conduct or encourages, or attempts to encourage, the same, or that which is done under circumstances or in a manner so as to cause a breach of the public peace or good order of the community;
- D. Is offensive to public morals or decency; or
- E. Contains obscene, pornographic, libelous or scurrilous language.

SECTION 5-204: SOLICITORS AND PEDDLERS; LICENSE; APPLICATION; FEES; BOND

A. No person shall deal as a solicitor or peddler as defined by this article without having procured a license as herein required, and no two or more persons shall deal under the same license as partners, agents or otherwise. The license fee for a solicitor or peddler shall be as set by resolution of the City Council and kept on file at the office of the city clerk. The application for such license shall be submitted to the city manager's office at least five days prior to the date of any solicitation or sale and shall state the following:

1. The name of the applicant and his or her permanent address.
2. The name and address of the person, firm or corporation he or she represents.
3. The nature and character of the property to be sold.
4. Whether the applicant (a) sells and delivers the property directly to the purchasers or (b) solicits or takes orders for it by carrying samples or catalogs.
5. The manner in which he or she intends to make contact with the customers.
6. How he or she intends to operate within the city.

B. Before receiving a license, every solicitor or peddler shall file with the city clerk a bond in the sum set by resolution of the City Council and kept on file at the office of the city clerk, for the faithful performance of the obligations of such solicitor or peddler arising in connection with his or her business as such and for the payment of

all claims for damages for which he or she may become liable through fraud, deceit or otherwise in the course of business as such solicitor or peddler.

SECTION 5-205: SOLICITORS AND PEDDLERS; ENTERING PREMISES

The practice of going in and upon private residential property by solicitors or peddlers who have not previously been requested or invited to do so by the owner or occupant thereof for the purpose of: (A) soliciting orders for the sale of personal property; (B) offering to sell personal property for future delivery; or (C) for the purpose of selling or disposing of personal property thereon is declared to be a nuisance and is prohibited. No person licensed as a solicitor or peddler hereunder shall thereby be deemed authorized to go upon any private residence property except with the prior request, invitation or consent of the owner or occupant thereof.

SECTION 5-206: SOLICITORS AND PEDDLERS; EXCEPTIONS; PROHIBITIONS

A. The above Section 5-205 shall not apply to:

1. The distribution or sale of religious, political, economic or educational pamphlets, papers or periodicals;
2. The peddling or soliciting of orders for any agricultural product or article raised or manufactured by such peddler or solicitor in the state; or
3. Any articles sold in interstate commerce.

B. No person shall go upon any private residence property for any of such purposes where the owner or occupant thereof has:

1. Requested such person not to come thereon for any of such purposes; or
2. Placed on said premises in a conspicuous place near the entrance thereof a sign stating that the occupants of said premises do not desire to be molested or have their rights of privacy disturbed by distributors, solicitors or peddlers of any of such personal property, articles or publications or have any person come onto said premises for any such purpose.

SECTION 5-207: TRANSIENT MERCHANTS; LICENSE; APPLICATION; FEES; BOND

A. No person shall engage in business as a transient merchant as defined in Section 5-201 without a transient merchant's license for each structure, stand, tent, car, vehicle, booth or place used by such merchant.

B. A transient merchant shall file in the office of the city clerk a verified application stating the following:

1. His or her name and residence;
2. Description and identification of the place where he or she proposes to do business;
3. Description of goods he or she intends to handle;
4. The date he or she acquired said goods;
5. The name and address of the persons from whom he or she acquired said goods and the place from whence they were last moved.

C. A transient merchant's license fee shall be as set by resolution of the City Council and kept on file at the office of the city clerk, and no such license shall be issued for a period of less than one month. Along with the application described above, the applicant must file a bond to the city to be approved by the city clerk in the sum set by resolution of the City Council and kept on file at the office of the city clerk, conditioned for the payment of any license fee to become due to the city should said merchant continue to operate beyond any time for which he or she has paid. On filing such application, bond, and payment of the fee in advance, the city clerk shall issue a license to the applicant to do business at the place described in the application and for the time for which a license fee has been paid in advance.

**SECTION 5-208: TRANSIENT MERCHANTS; PROHIBITED SALES;
EXCEPTIONS**

No person shall sell or offer for sale any goods or merchandise from a cart, wagon, automobile, truck or other vehicle in the streets, alleys and sidewalks of the city except for the delivery of farm or garden products where the order for the same has been placed in advance, or for the delivery of goods sold in the regular course of an established business.

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 kept on file with the city clerk; and every person, firm, association or corporation carrying on the occupation or business specified within the limits of said 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, except as provided in Section 5-302(B) as to fire insurance companies. 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.

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. The City Council shall have authority, by ordinance, to impose an occupation tax of not more than \$5.00 per annum on each fire insurance corporation, company or association doing business in the city for the use, support and benefit of the volunteer Fire Department. The city clerk shall collect with diligence the occupation tax so imposed. Upon the receipt of the tax, the clerk shall pay over the proceeds thereof to the city treasurer, who shall credit the same to a fund to be known as “special occupation tax fund” for the benefit of the Fire Department. Upon proper claim filed by the fire chief and allowed by the City Council, the treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the Fire Department as hereinbefore provided.

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 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)

SECTION 5-303: INTERSTATE OR GOVERNMENT BUSINESS

The license tax levied by this ordinance is not levied upon any business or occupation which is interstate or which is done or conducted by any department of the federal or state government, this city or the officers thereof, as such in the course of its or their official duties or by any county or subdivision of this state or its officers.

SECTION 5-304: DUTIES OF PARTIES LIABLE

It is hereby made the duty of each and every person, firm, association or corporation to pay the taxes levied against him, her, them or it at the time the same become due as provided herein.

SECTION 5-305: 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, company or corporation, the city clerk shall give a receipt, dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on November 1. All forms and receipts herein mentioned shall be issued in duplicate and one copy shall then be kept by each party in the transaction.

SECTION 5-306: PAYMENTS; CERTIFICATES

The taxes herein levied shall be paid in cash to the city treasurer or other person designated by resolution of the mayor and City Council. The receipt issued after the payment of any occupation tax shall be the occupation tax certificate, which shall specify the amount of the tax and the name of the person and business that paid the said tax. The occupation tax certificate shall be the warrant and proper authority of any person to carry on and conduct the business specified in said receipt and for which the money has been paid; provided, said receipt shall not be assignable. The occupation tax certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted.

SECTION 5-307: FAILURE TO PAY

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

SECTION 5-308: REFUNDS NOT ALLOWED

No person paying occupation tax shall be entitled to a refund of any part of the tax so paid.

Article 4 – Trailer Courts

SECTION 5-401: DEFINITIONS

For the purpose of this article, the following terms and definitions shall prevail:

“Trailer camp” shall mean any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach and upon which any trailer coach is parked, and shall include all buildings used or intended for use as part of the equipment thereof whether or not a charge is made for the use of the trailer camp and its facilities. “Trailer camp” shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

“Trailer coach” or “trailer” shall mean any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one or more persons; for the conduct of any business or profession, occupation or trade; or for use as a selling or advertising device, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks.

“Trailer space” shall mean a plot of ground within a trailer court designed for the accommodation of one trailer coach.

“Travel trailer,” “camper” or “converted bus” shall mean any portable structure or vehicle: (A) supported upon its own axle(s) used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such; (B) constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons for a limited or temporary time; or (C) basically designed for travel or camping purposes, propelled or drawn by its own or other motive power.

SECTION 5-402: PERMIT REQUIRED

A. It shall be unlawful for any person to construct, maintain, operate or alter any trailer court within the corporate limits unless he or she shall hold a valid permit for the specific trailer court. All applications for permits shall be made to the city manager, who shall issue a permit upon compliance by the applicant with provisions of this code relative to trailer courts. No permit shall be transferable. Every person holding such a permit shall give notice in writing to the city clerk within 72 hours after having sold, transferred, given away, or otherwise disposed of any interest in or control of any trailer court. Such notice shall include the name and address of the person succeeding to the ownership or control of such trailer court.

B. Applications for permits shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application, and shall contain the following:

1. The name and address of the applicant;
2. The location and legal description of the trailer court;
3. A complete plan of the trailer court, showing compliance with all applicable provisions of this code and regulations promulgated thereunder; and
4. Such further information as may be requested by the Board of Health to enable it to determine that the proposed trailer court will comply with legal requirements.

SECTION 5-403: MAINTENANCE

All trailer courts shall be maintained under the management and supervision of the owner or person in control of the premises on which the same is located, or of a duly authorized representative of such owner, who shall be personally responsible for the maintenance of such trailer court in accordance with all sanitary and fire protection rules and regulations of the city and state.

SECTION 5-404: INSPECTIONS

All trailer courts shall be under the supervision of the Board of Health which shall make and provide for inspections at reasonable times and shall recommend to the City Council such additional rules and regulations as may be deemed advisable or necessary for the sanitation, safety and proper maintenance of said trailer courts.

SECTION 5-405: REVOCATION OF PERMIT

A permit to establish and maintain a trailer court may be revoked by the City Council for cause at any time for a violation of the provisions of this code or of the rules and regulations relating to trailers, or for any other cause or conduct reasonably deemed by the city manager as sufficient cause for revocation of such permit. Before any such revocation, the city shall cause to be served on the operator of such trailer court a notice to appear and show cause on a specified day and at a specified time why his or her permit for such trailer court should not be revoked. Such notice to show cause may be served by mailing the same in the United States mail to the address of the operator given in his or her application in such permit, with sufficient postage affixed thereto. The operator of the trailer court involved shall be given reasonable opportunity to be heard at the time fixed for his or her appearance to show cause, and no permit for such trailer court shall be revoked until the operator involved has been heard at the designated time if he or she desires to be heard.

SECTION 5-406: PROHIBITED LOCATION

It is hereby declared unlawful for any person to park a trailer or trailer coach within the corporate limits east of Sheridan Street for purposes of using said trailer as a dwelling or sleeping place for one or more persons or the conduct of any business or profession, occupation or trade, or use as a selling or advertising device, except in a designated and approved trailer camp for which a permit has been issued and is currently valid. West of Sheridan Street, trailers or trailer coaches that comply with all applicable zoning regulations may be parked on single lots.

SECTION 5-407: REGULATIONS

A. Trailer camps shall be located on well-drained sites and shall be so located that drainage will not endanger any water supply. All such trailer courts shall be in areas free from marshes, swamps or other potential breeding places for insects or rodents. The area of the trailer camp shall be large enough to accommodate the following:

1. The designated number of trailer court spaces;
2. Necessary streets and roadways;
3. Parking areas for motor vehicles; and
4. Service areas and playgrounds for trailer camps in which independent trailer coaches only are parked.

B. The number of trailers to be accommodated in any trailer camp shall not exceed the number obtained by dividing the total square footage of the trailer camp site by 1,500. Each trailer space shall be clearly defined and shall be laid out in such a manner that a minimum of 15 feet of space exists between any two trailers or 10 feet between any trailer and any building. No trailers shall be less than 5 feet from any adjacent property of the trailer court. Each trailer space shall abut on a driveway with unobstructed access to a public street.

C. It shall be illegal to park a trailer coach less than 2 feet from any street or highway right of way or so that any part of such trailer will obstruct any roadway or walkway.

D. It shall be illegal to allow any trailer coach to remain in a trailer camp while being occupied for dwelling or sleeping purposes unless a trailer space is available.

E. Access roads shall be provided to each trailer coach space. Each access road shall be continuous; connect with a street or highway; and have a minimum width of 20 feet.

F. Areas shall be provided for the parking of motor vehicles. Such areas shall have motor vehicle parking spaces in a number equal to or in excess of the number of trailer coach spaces provided.

G. Playground areas, when required, shall be provided and shall be restricted to such use.

SECTION 5-408: ALTERATIONS AND ADDITIONS

A. No permanent enclosed additions of any kind shall be built onto, nor become a part of, any trailer coach. Skirting of coaches is permissible, but such skirting shall not attach the trailer permanently to the ground, provide a harborage for rodents, or create a fire hazard.

B. The wheels of the trailer shall not be removed, except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame to prevent movement on the springs while the trailer is parked and occupied. Four anchors shall be provided for each trailer coach space and each trailer shall be anchored as soon as possible after location on space.

SECTION 5-409: WATER SUPPLY

An adequate supply of pure water shall be provided, furnished through a pipe distribution system connected directly to a city water main, with supply outlets located at every trailer space.

SECTION 5-410: PLUMBING, ELECTRICAL AND BUILDING CODES

All plumbing, electrical, building and other work on or at any camp shall be in accordance with the codes adopted in Chapter 9, Article 4.

SECTION 5-411: PERMITTED EXCEPTIONS

A. Any trailer commonly referred to as “double-wide” or any other trailer coach having a minimum outside width of 20 feet and containing 800 square feet or more of living space shall be exempt and excepted from the provisions of this article when: (1) placed upon a permanent foundation or support with axle, wheels and towing apparatus removed; (2) on premises owned or leased by the owner of said trailer coach; or (3) used as a residence or to house a trade or business.

B. Any trailer coach which qualifies under the exceptions herein shall be so located and placed in such a manner that the same shall comply with the Building Code as adopted in Section 9-401 and, further, shall comply and be so placed in such a manner as to safeguard the health and safety of the occupants of the trailer and of the general public.

Article 5 – Games of Chance

SECTION 5-501: BINGO; NEBRASKA BINGO ACT

Anyone requesting to hold games of bingo to be conducted within the city shall adhere to all rules and regulations of the Nebraska Bingo Act referred to in Neb. Rev. Stat. §§9-201 through 9-266.

SECTION 5-502: BINGO; STATUTES INCORPORATED BY REFERENCE

All applicable state statutes as they now exist or may hereafter be amended shall be and will constitute a part of this article as if incorporated verbatim herein, and violation of any state statute will be a distinct and separate offense against the city as well as against the state. Violators thereof shall be separately prosecuted by the city for each of such offenses and shall be deemed to be guilty of a misdemeanor if convicted.

SECTION 5-503: BINGO; REGULATION

A. Games of bingo shall be conducted within the city in accordance with all laws of the city and state if the said game of bingo is played for or involves profit or gain.

B. Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the City Council before commencing operation of said game. Application shall be made to the city clerk for such permit. Said application form shall contain such information and documents or copies thereof as the council deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the city clerk shall issue the said license to the applicant upon the payment of an annual permit fee as set by resolution of the City Council and filed in the office of the city clerk. Said license shall be subject to revocation at any time for good cause. Any person or persons so licensed shall be subject to any other fees, rules, and regulations which the council may designate.

C. All permits so issued will automatically expire on September 30 following their issuance or renewal. The fee for each renewal shall be as set by resolution of the City Council and filed in the office of the city clerk. The said fee shall be credited to the general fund.

D. The permit shall be on display at any place where a game of bingo is conducted.

(Neb. Rev. Stat. §9-232.03)

Article 6 – Tobacco Sales

SECTION 5-601: LICENSE; APPLICATION; FEE

Every person, partnership, limited liability company, or corporation desiring a license to sell tobacco at retail shall (A) file with the city clerk a written application on a form provided by the city, stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and (B) deposit with the application a license fee as set by resolution of the City Council. If the applicant is an individual, the application shall include the applicant's social security number. (Neb. Rev. Stat. §§28-1422, 28-1423)

Article 7 – Tattoos and Body Piercing

SECTION 5-701: DEFINITIONS

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

“Body piercing” shall mean the act of penetrating the skin, excluding the earlobes, to make a hole, mark or scar which is generally permanent in nature.

“Certificate of inspection” shall mean written approval from the appropriate local, regional or state health inspection agency or service that said tattooing and/or body piercing establishment has been inspected and meets all of the terms of this article relating to operation, maintenance, physical facilities, equipment and layout for operation of such business.

“Health inspection agency” shall mean the local, regional or state health service department or agency, working on behalf of the city, which is responsible for health inspection services of a tattoo and/or body piercing establishment.

“Operator” shall mean an individual, firm, company, corporation or association that owns or operates an establishment where tattooing and/or body piercing is performed and any individual who performs or practices the art of tattooing and/or body piercing on another person.

“Tattoo” refers to any method of placing designs, letters, scrolls, figures, symbols or any other marks under the skin with ink or any other substance by the aid of needles or any other instruments designed to puncture the skin, resulting in the coloration of the skin.

SECTION 5-702: CERTIFICATE OF INSPECTION

An applicant for a license to operate a tattooing and/or body piercing establishment shall first obtain a certificate of inspection from the health inspection agency, indicating the establishment has been inspected and is in compliance with the provisions of this article.

SECTION 5-703: LICENSE REQUIRED

It shall be unlawful for any person to engage in the business of operating a tattoo and/or body piercing establishment without first obtaining a license to engage in such business in accordance with the provisions of this article.

SECTION 5-704: APPLICATION; FEE

An application for a new or renewal license shall be filed with the city clerk, accompa-

nied by a fee in the amount as set by resolution of the City Council and kept on file at the office of the city clerk. Upon payment of the license fee and receipt of the application and certificate of inspection, the city clerk shall issue a license which shall be valid for one year from the date of issuance. Said applicant shall display such license in his or her place of business at all times. Any change in ownership of the business shall require a new application and license with payment of fees therefor.

SECTION 5-705: HOURS OF OPERATION

Operators of tattoo and/or body piercing businesses shall not commence new tattoo and/or body piercing work after the hour of 11:00 p.m.

SECTION 5-706: RECORDS

A. Permanent records for each patron or customer shall be maintained by the licensee or operator of the establishment. Before the tattooing and/or body piercing operation begins, the patron or customer shall be required personally to enter the date; his or her name, address, age, driver's license number or other acceptable photo identification; and his or her signature on a record form provided for such establishments. A copy of the driver's license or other photo identification shall be attached to and retained with the permanent record.

B. Daily logs must be kept which detail sterilization of instruments.

C. All such records required to be retained shall be kept by the operator or licensee for a period of not less than five years. In the event of a change of ownership or closing of the business, all such records shall be made available to the health inspection agency or law enforcement officer of the city upon request.

SECTION 5-707: TATTOOING OR BODY PIERCING OF MINORS

No person in the city shall tattoo and/or body pierce any unmarried minor under the age of 18 years unless the parent, guardian or other person having charge and custody of said minor shall first have given his or her written consent to such tattooing and/or body piercing of such minor. The identity of the consenting party shall be verified by driver's license or other acceptable photo identification. The written consent must be signed at the tattooing and/or body piercing establishment by the parent, guardian or other person having charge and custody of said minor. A copy of the driver's license or photo identification shall be attached to and retained with the written consent. The burden for ensuring compliance with this section shall be on the operator.

SECTION 5-708: HEALTH AND SANITARY REQUIREMENTS

Each person who operates a tattooing and/or body piercing establishment shall comply with the following requirements:

A. The room in which tattooing and/or body piercing is done shall have an area of not less than 100 square feet. The walls, floors and ceilings shall have an impervious, smooth and washable surface.

B. A toilet shall be located in the establishment and shall be accessible at all times that the tattooing and/or body piercing establishment is open for business. A separate lavatory shall be accessible to the operator to wash his or her hands prior to applying a tattoo or performing body piercing on a patron. The lavatory shall be supplied with hot and cold running water, soap and sanitary towels and shall be cleaned and sanitized at least daily.

C. All tables and other equipment shall be: (1) constructed of easily cleanable material; (2) painted or finished in a light color with a smooth, washable finish; and (3) separated from waiting customers or observers by a panel at least 4 feet high or by a door which can be closed.

D. The entire premises and all equipment shall be maintained in a clean, sanitary condition and in good repair.

E. The operator shall wash his or her hands thoroughly with soap and water before starting to tattoo and/or body pierce and the hands shall be dried with individual, single-use towels. After washing his or her hands, the operator shall rinse his or her hands in 70 percent rubbing alcohol or in an antiseptic solution approved by the designated health inspection agency. The operator will then put on new surgical gloves and shall wear the same while in contact with the customer. Upon completion of his or her work on each customer, the operator shall dispose of the gloves by incineration or autoclave. The operator shall not perform any service on more than one person at a time; that is, he or she shall commence and complete or terminate services with each customer prior to commencing work on another individual.

F. No tattooing and/or body piercing shall be done on any skin surface that has rash, pimples, boils, infections or manifests any evidence of unhealthy conditions.

G. No skin area shall be penetrated, abraded or treated with chemicals for the purpose of removing, camouflaging or altering any blemish, birthmark or scar. In the event a tattoo is changed, a record must be made and kept in the client's record.

H. Only disposable razors with a new, single-service blade shall be used on each customer or patron and then shall be sterilized and disposed of as soon as possible by incineration.

I. The area to be tattooed and/or pierced shall first be thoroughly washed for a period of two minutes with warm water to which has been added an antiseptic liquid soap. A sterile single-use sponge shall be used to scrub the area. After shaving and before tattooing and/or piercing is begun, a solution of 70 percent rubbing alcohol shall be applied to the area with a single-use sponge and applied with a sterile instru-

ment. Sponges shall be disposed of by sterilization and incineration.

J. Only sterile petroleum jelly in single-service disposable containers, if available, or collapsible metal or plastic tubes, or its equivalent as approved by the health inspection agency, shall be used on the area to be tattooed and/or pierced. The same shall be applied with sterile gauze which shall then be discarded and disposed of by incineration. Petroleum jelly or an approved alternate substance shall not be applied directly with the fingers.

K. The use of styptic pencils, alum blocks or other solid styptic to check the flow of blood is prohibited.

L. Inquiry shall be made of each customer, and anyone giving a history of jaundice, hepatitis, lymphadenopathy or lymphadenitis (swelling of lymph nodes), AIDS (HIV positive), or a history of blood donation exclusion (for other than hypertension and immediate illness) may not be tattooed and/or body pierced. Every inquiry shall be recorded on an appropriate form which shall be executed by the customer and operator and retained by the licensee for a period of not less than three years.

M. Single-service individual containers of dye or ink shall be used for each patron and the container therefor shall be discarded immediately after completion of work on a patron. Any dye in which the needles were dipped shall not be used on another person. Excess dye or ink shall be removed from the skin with sterile gauze saturated with an antiseptic soap solution approved by the health inspection agency or a 70 percent rubbing alcohol solution. An individual sterile sponge or a disposable paper tissue shall be used only on one person and then immediately discarded and disposed of with other hazardous medical waste. The tattooed and/or pierced area shall be allowed to dry and sterile petroleum jelly from a single-service disposable container, if available, or from collapsible metal or plastic tubes shall be applied using sterile gauze. A sterile gauze dressing shall then be fastened to the tattooed area and/or the pierced area with adhesive as needed.

N. All tattoo and/or body piercing work shall be performed with a single-service sterile needle which shall be disposed of immediately after use on one customer by sterilization and incineration. The operator shall not remove tattoos, nor shall they be done over the site of obviously recent hypodermic injections. A single-service tube shall be used in conjunction with a new needle. After use the tube shall be sterilized.

O. The operator is responsible for issuing after-care instructions for each body piercing.

P. No animals may be kept or allowed in the place of business at any time.

Q. Private residences or dwelling units are prohibited in the place of business unless the tattooing and/or body piercing operation is conducted in a separate and distinct location from the normal living quarters of a residential dwelling.

SECTION 5-709: INFECTIONS

No person, customer or patron having any skin infection or other disease of the skin or any communicable disease shall be tattooed and/or body pierced. All infections resulting from the practice of tattooing and/or body piercing which become known to the operator shall be promptly reported to the health inspection agency by the person owning or operating the tattooing and/or body piercing establishment and the infected person shall be referred to a physician.

SECTION 5-710: STERILIZING OF INSTRUMENTS

A. A steam sterilizer (autoclave), approved by the health inspection agency, shall be provided for sterilizing instruments before use on any customer, person or patron; provided, alternate sterilizing procedures may be used only when specifically approved by the health inspection agency. All needle bars, grips, tubes and instruments which pierce the skin directly or indirectly, by coming in contact with instruments which pierce the skin, shall be sterilized before use on each customer. Sterilization of equipment shall be accomplished by exposure to live steam for at least 60 minutes at a minimum pressure of 15 pounds per square inch. The temperature maintained in autoclaving shall be not less than 250° Fahrenheit or 121° Celsius.

B. After each tattoo job, the tattoo machine shall be placed in an ultrasonic-type machine to remove the excess dye from tubes and needle bars. When this process is completed, the tubes and needle bars shall be removed from the tattoo machines and then placed in a covered container for sterilization by autoclaving.

C. All tubes, grips and needle bars shall be left in the wrappers used during the autoclaving process. These wrapped articles shall be stored in a closed glass case or storage cabinet and shall be maintained in a sanitary manner at all times. The wrappers shall not be removed from the tubes, grips or needle bars until a tattoo and/or body piercing job is begun.

SECTION 5-711: STORING OF INSTRUMENTS

All clean and ready-to-use needles and instruments shall be kept in a closed glass or metal case or storage cabinet while not in use. Such cabinet shall be maintained in a sanitary manner at all times.

SECTION 5-712: USE OF INSTRUMENTS

The needles and instruments required to be sterilized shall be so used, handled and temporarily placed during tattooing and/or body piercing so that they will not be contaminated. Each operator should have a minimum of eight sets of tubes. A set consists of one outliner and one shade.

SECTION 5-713: INCINERATION OF WASTES

All used items and equipment must be autoclaved at 15 pounds per square inch at 250° Fahrenheit for 15 minutes. The same shall then be discarded in double-lined plastic bags in a clean, closable receptacle and shall be incinerated as soon as possible after use.

SECTION 5-714: PIGMENTS AND DYES

All pigments, dyes, and colors used in tattooing shall be sterile and free from bacteria, virus particles, and noxious agents and substances. The pigments, dyes and colors used from stock solutions for each customer shall be placed in a single-service receptacle and such receptacle and remaining solution shall be discarded and disposed of after use on each customer.

SECTION 5-715: BANDAGES AND SURGICAL DRESSINGS

All bandages and surgical dressings used in connection with the tattooing and/or body piercing of a person shall be sterile.

SECTION 5-716: INSPECTIONS

The health inspection agency shall conduct periodic inspections of any tattooing and/or body piercing establishment for the purpose of determining whether or not said establishment and the person(s) performing tattooing and/or body piercing thereon are in compliance with all applicable health provisions contained within this article and other pertinent ordinances at least once each calendar year. It shall be unlawful for a person or operator of a tattooing and/or body piercing establishment to willfully prevent or restrain the health inspection agency from entering any licensed establishment where tattooing and/or body piercing is being performed for the purpose of inspection of said premises after proper identification is presented to the operator.

SECTION 5-717: PENALTY

In addition to the revocation and suspension of any license, any person violating the provisions of the article shall be punished in accordance with the penalties set forth in Section 5-1001 of this code for each offense.

Article 8 – Fair Housing

SECTION 5-801: PURPOSE

The purpose of these regulations is to promote the general welfare of city residents by endorsing the provisions of the Nebraska Fair Housing Act, Neb. Rev. Stat. §§20-301 through 20-344, to the effect that there shall be no discrimination in the city in the acquisition, ownership, possession, or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska.

SECTION 5-802: HUMAN RELATIONS BOARD

The Human Relations Board is hereby charged with carrying out these regulations and further, is given the power to promulgate written rules for carrying out the obligations of said provisions.

SECTION 5-803: DEFINITIONS

As used in this article, unless the context otherwise requires:

“Aggrieved person” shall include any person who:

- A. Claims to have been injured by a discriminatory housing practice; or
- B. Believes that he or she will be injured by a discriminatory housing practice that is about to occur.

“Commission” shall mean the Nebraska Equal Opportunity Commission.

“Dwelling” shall mean any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

“Familial status” shall mean one or more minors being domiciled with:

- A. A parent or another person having legal custody of such individual; or
- B. The designee of a parent or other person having legal custody, with written permission of the parent or other person.

“Handicap” shall mean, with respect to a person:

- A. A physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Neb. Rev. Stat. §28-401, which substantially limits one or more of such person's major life activities;

- B. A record of having such an impairment; or
- C. Being regarded as having such an impairment.

“Person” shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

“Rent” shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant.

“Restrictive covenant” shall mean any specification limiting the transfer, rental, or lease of any housing because of race, creed, religion, color, national origin, sex, gender identity, handicap, familial status, or ancestry.

SECTION 5-804: UNLAWFUL ACTS

- A. Except as exempted by Section 5-808, it shall be unlawful to:
 - 1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex;
 - 2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status, sex or gender identity;
 - 3. Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, handicap, familial status, sex or gender identity or an intention to make any such preference, limitation, or discrimination;
 - 4. Represent to any person because of race, color, religion, national origin, handicap, familial status, sex or gender identity that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
 - 5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status, sex or gender identity of a person seeking to purchase, rent, or lease any housing;

6. Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor, exercise, or attempt to honor or exercise any restrictive covenant pertaining to housing;
7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article on the Nebraska Fair Housing Act; and
8. Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status, sex or gender identity.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

SECTION 5-805: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS

A. Except as exempted by Section 5-808, it shall be unlawful to:

1. Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
 - a. The buyer or renter;
 - b. Any person associated with the buyer or renter; or
 - c. A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or
2. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:
 - a. Such person;
 - b. Any person associated with such person; or
 - c. A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

B. For purposes of this section, "discrimination" shall include:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the

condition that existed before the modification, reasonable wear and tear expected;

2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and
3. In connection with the design and construction of covered multi-family dwellings, a failure to design and construct the dwellings in such manner that:
 - a. The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;
 - b. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - c. All premises within the dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and (iv) kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

C. Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (B)(3)(c) of this section.

D. For purposes of this section, "covered multi-family dwellings" shall mean:

1. Buildings consisting of four or more units if such buildings have one or more elevators; and
2. Ground floor units in other buildings consisting of four or more units.

E. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

SECTION 5-806: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED

A. It shall be unlawful for any person or other entity whose business includes

engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, gender identity, handicap, familial status, or national origin.

B. For purposes of this section, “transaction related to residential estate” shall mean any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - b. Secured by residential real estate; or
2. The selling, brokering, or appraising of residential real property.

C. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status, sex or gender identity.

SECTION 5-807: MULTIPLE LISTING SERVICE; OTHER SERVICE; DISCRIMINATORY PRACTICES PROHIBITED

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status, sex or gender identity.

SECTION 5-808: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING USE NOT PROHIBITED

A. Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of a dwelling which it owns or operates, for other than commercial purposes, to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status, sex or gender identity.

B. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its mem-

bers.

C. Nothing in this article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her home.

D. Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, "housing for older persons" shall mean housing:

1. Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;
2. Intended for and solely occupied by persons 62 years of age or older; or
3. Intended and operated for occupancy by at least one person 55 years of age or older per unit.

SECTION 5-809: INFORMATION

The city clerk, upon request, shall make available to an aggrieved person or any other person information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual.

SECTION 5-810: PROCEDURE FOR COMPLAINTS

In order to insure the rights of all parties will be adequately protected, the following procedures have been formulated for the filing, investigating and hearing of complaints involving discrimination. Such procedures are designed to ensure all parties concerned an adequate and fair opportunity to present their cases.

A. *Complaints.* In the event any person is alleged to have committed an act of discrimination, any aggrieved person may file a sworn complaint in writing with the secretary of the Human Relations Board. Said complaint shall set out the name(s) of the person(s) alleged to have committed the act of discrimination, the statement of the act, and the time and place of the commission of the act. No action shall be brought under the provisions of this article unless the written complaint shall have been filed within 90 days of the commission of the alleged offense.

B. *Investigation and Conciliation.* The board, sitting in executive session, shall consider each complaint in each instance where a two-third majority of the members of the board are of the opinion that an act of discrimination under the provisions of this article may have been committed. It shall appoint a committee of one or more

members of the board to call upon the person alleged to have committed the act of discrimination (hereinafter called the respondent) and attempt to determine whether or not such act has in fact been committed; to effect conciliation between the parties in the event a discriminatory act has been committed; and, to obtain commitments designed to prevent recurrence of the matter complained of. In the event that the committee is successful to effect conciliation between the parties or becomes convinced that no discriminatory act was committed, the complaint and all proceedings by the board and the committee shall be and remain confidential and any disclosure thereof, except as hereinafter authorized by the secretary or any members of the board, shall be grounds for removal from office. The board may, however, publish results of its work in official reports, omitting the names of the parties and any official items which would identify the parties.

C. *Waiting Period.* Before a public hearing is held under subsection (D) below, a 30-day period of time shall pass in an attempt to effect a reconciliation.

D. *Public Hearing.* In the event a respondent refuses to meet with the committee selected by the board, or conciliation and the obtaining of commitments against recurrence fails, the committee shall report the matter to the board, at which time the chairperson may fix a time and place for a public hearing on the complaint. The board shall serve upon the respondent a written statement of the charges made in the complaint and a written notice of the time and place of the hearing. The hearing shall be held not less than 20 days after the service of the statement of charges. The respondent shall have the right to file an answer to the statement of charges, to appear at the hearing in person, or to be represented by an attorney and to examine and cross-examine witnesses.

E. *Hearing Procedure.* The hearing shall not be conducted following the strict rules of evidence prevailing in courts of law, except that the respondent shall have the right to confront any and all witnesses against him or her and the right to refuse to testify against himself or herself. All testimony taken at the hearing shall be under oath. If, upon all the evidence presented, the board finds that the respondent has committed an act of discrimination, the board shall set forth its findings of fact and shall issue and cause to be served upon the respondent such orders as the board deems just and equitable.

F. *Enforcement.* In the event the respondent fails to comply with any order issued by the board, it shall certify the matter to the mayor for appropriate action.

SECTION 5-811: STATE LAW

Nothing in this article shall diminish or restrict the city, the Human Relations Board, or any person exercising the rights provided for and the procedures set out in Neb. Rev. Stat. §§20-301 through 20-344, and the board or City Council may, at any stage of the proceedings provided for herein, decline to take further action and refer the matter to the Nebraska Equal Opportunity Commission.

Article 9 – Signs and Canopies

SECTION 5-901: REGULATIONS

A. No person shall erect or maintain any sign, signboard, poster, or rigid canopy over any street, sidewalk, or alley or on other public property without having first obtained a permit therefor. Permits for signs, signboards, posters, and canopies shall be issued by the city clerk, subject to the approval of the street commissioner, upon the payment of the fee, if any, set by resolution of the City Council and filed in the office of the city clerk.

B. All signs, signboards, posters, and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from other causes.

C. No sign, signboard, poster, or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal.

D. Upon the written order of the City Council, any person owning or occupying the premises where such sign, signboard, poster, or canopy is located shall cause the same to be removed within the time limit specified on such notice.

Article 10 – Penal Provision

SECTION 5-1001: 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.