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CHAPTER 4 – BUSINESS REGULATIONS

Article 1 – Alcoholic Beverages

SECTION 4-101: 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. (Ref. Neb. Rev. Stat. Sec. 53-103)

SECTION 4-102: CITY POWERS AND DUTIES

The City Council is authorized to regulate by ordinance not inconsistent with the provisions of the Nebraska Liquor Control Act, the business of all retail and bottle club licenses carried on within the corporate limits. The City Council shall further have the power and duties in respect to licensed retailers of alcoholic beverages to cancel or revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction subject to the right of appeal to the Commission; to enter or to authorize any law enforcement officer to enter at any time upon any premises licensed by the State of Nebraska to determine whether any of the provisions of the municipal laws, or the laws of the State of Nebraska, are being violated; to receive signed complaints from any citizens within its jurisdiction that any of the municipal laws or laws of the State of Nebraska are being violated, and to act upon such complaints in the manner herein provided; to cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in Section 4-124, it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors; and to collect for the benefit of the State of Nebraska and the City all license fees and occupation taxes as prescribed by law. (Ref. Neb. Rev. Stat. Sec. 53-134)

SECTION 4-103: 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. (Ref. Neb. Rev. Stat. Sec. 53-168.06)

SECTION 4-104: LICENSE APPLICATIONS; RETAIL LICENSING STANDARDS;

BINDING RECOMMENDATIONS

A. Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The City Council shall only consider the following licensing standards and criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation from the City Council to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

1. The adequacy of existing law enforcement resources and services in the area;
2. The recommendation of the Police Department or any other law enforcement agency;
3. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking;
4. Zoning restrictions and the local governing body's zoning and land-use policies;
5. Sanitation or sanitary conditions on or about the proposed licensed premises;
6. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
7. The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
8. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that were issued such licenses;
9. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
10. Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in Neb. Rev. Stat. Section 53-101.01;
11. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Section 53-102;
12. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;
13. Whether the applicant is fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;
14. Whether the applicant has demonstrated that the type of management and

control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

15. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;
16. Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the local governing body, any other governmental unit, or any court of law;
17. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Commission or local governing body or the employees of the Commission in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;
18. Proximity of and impact on schools, hospitals, libraries, parks and public institutions;
19. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and
20. Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

B. It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "licensee."

(Ref. Neb. Rev. Stat. Sec. 53-134)

SECTION 4-105: LICENSEE REQUIREMENTS

It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the premises is located; a person of good character and reputation; a citizen of the United States; a person who has never been convicted of a felony or any Class I misdemeanor pursuant to Neb. Rev. Stat. Chapter 28, Article 3, 4, 7, 8, 10, 11 or 12 or any similar offense under a prior criminal statute or in another state; a person who has never had a liquor license revoked for cause; a person whose premises for which a license is sought meets standards for fire safety as established by the state fire marshal; or a person who has not acquired a beneficial interest in more than two alcoholic beverage retail establishments since March 4, 1963; provided, the beneficial interest requirement in this section shall not apply to a person applying for an additional license for use in connection with the operation of a hotel containing at least 25 sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant. (Ref. Neb. Rev. Stat. Sec. 53-125)

SECTION 4-106: LICENSE APPLICATION; MUNICIPAL EXAMINATION

A. Any person desiring to obtain a license to sell alcoholic liquor at retail shall file an application with the Liquor Control Commission. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. Rev. Stat. Section 53-131, the City Council shall fix a time and place at which time it shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of notice from the Commission. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant; 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 Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

B. 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 nor 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.

C. The City Council shall, after the hearing provided in subsection (A), approve or deny the application within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The city clerk shall thereupon mail or deliver to the Commission a copy of the resolution within ten days of the decision to approve or deny the application.

D. Any resolution denying an application rendered by the City Council shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

(Ref. Neb. Rev. Stat. Sec. 53-131, 53-132, 53-134, RS Neb.)

SECTION 4-107: LICENSE APPLICATION; NOTICE; PROCEDURE

A. Notice of a hearing held pursuant to Neb. Rev. Stat. Section 53-134 shall be given to the applicant by the city clerk and shall contain the date, time and location of the hearing. Two or more proceedings which are legally or factually related may be heard and considered together unless any party thereto makes a showing sufficient to satisfy the City Council that prejudice would result there from.

B. Hearings will be informal and conducted by the city attorney. The intent is an inquiry into the facts, not an adversarial action. Each witness may present their testimony in narrative fashion or by question and answer.

C. The City Council or the applicant may order the hearing to be recorded by the clerk, at the expense of the applicant(s).

D. The City Council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. The city attorney may limit testimony where it appears incompetent, irrelevant or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, they shall choose a spokesperson to perform such function who shall notify the city attorney of his/her representation prior to the start of the hear-

ing.

E. The order of the proceeding is as follows:

1. Exhibits will be marked in advance by the clerk and presented to the city attorney during the presentation;
2. Presentation of evidence, witnesses and arguments by applicant;
3. Testimony of any other citizens in favor of such proposed license;
4. Examination of applicant, witnesses or citizens by city attorney, City Council, or duly appointed agent;
5. Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;
6. Presentation of evidence and witnesses by opposition;
7. Testimony of any other citizens in opposition to such proposed license;
8. Presentation of evidence by City and law enforcement personnel;
9. Cross-examination by applicant;
10. Rebuttal evidence by both parties, and by city administration and agent;
11. Summation by applicant and opposition spokesperson, if any.

F. In all cases, the burden of proof and persuasion shall be on the party filing the application.

G. Any member of the City Council and the city attorney may question any witness, call witnesses, or request information.

H. All witnesses shall be sworn.

I. The City Council may make further inquiry and investigation following the hearing.

J. The City Council or the applicant may order the hearing to be recorded by the clerk, at the expense of the applicant(s).
(Ref. Neb. Rev. Stat. Sec. 53-134)

SECTION 4-108: LIQUOR LICENSE RENEWAL

Outstanding retail or bottle club licenses issued by the Commission may be automatically renewed in the absence of a request by the City Council to require the said licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the City shall file a formal application for a license, and while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this article until the original license expires, is canceled, or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year. The city clerk, upon notice from the Commission, between January 10 and January 30 of each year, shall cause to be published in a legal newspaper in or of general circulation in the City, one time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the City; provided, Class C license renewal notices shall be published between the dates of July 10 and July 30 of each year. The city clerk shall then file with the Commission proof of publication of said notice on or before February 10 of each year, or August 10 of each year for Class C licenses. Upon the conclusion of any hearing required by this section, the City Council may request a licensee to submit an application. (Ref. Neb. Rev. Stat. Sec. 53-135, 53-135.01)

SECTION 4-109: LOCATION

It shall be unlawful for any person or persons to own, maintain, manage or hold open to

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

SECTION 4-110: ACCESS TO DWELLING IN PREMISES

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

SECTION 4-111: LICENSE DISPLAYED

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

SECTION 4-112: HOURS OF SALE

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

Alcoholic Liquors (except Beer and Wine)	
Monday through Saturday	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.
Sunday	
Off Sale	12:00 Noon to 1:00 A.M.
On Sale	12:00 Noon to 1:00 A.M.
Beer and Wine	
Monday through Saturday	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.
Sunday	
Off Sale	7:00 A.M. to 1:00 A.M.
On Sale	12:00 P.M. to 1:00 A.M.

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

C. Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. Neb. Rev. Stat. Sec. 53-179)

SECTION 4-113: 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. (Ref. Neb. Rev. Stat. Sec. 53-1,101)

SECTION 4-114: EMPLOYER

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

SECTION 4-115: HIRING MINORS

It shall be unlawful for any person to hire a minor, regardless of sex, under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers.

SECTION 4-116: REMOVAL OF PATRONS

No owner of any premises located within the Neligh city limits used for the sale at retail of alcoholic beverages shall allow any person, except employees of said establishment for any purpose for a period of time longer than 30 minutes after the time fixed herein for stopping the sale of alcoholic beverages, on said premises.

SECTION 4-117: MINORS AND INCOMPETENTS

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

SECTION 4-118: CREDIT SALES

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

SECTION 4-119: SPIKING BEER

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

SECTION 4-120: 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 liquor contained in 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. (Ref. Neb. Rev. Stat. Sec. 53-184)

SECTION 4-121: 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.

SECTION 4-122: CONSUMPTION IN PUBLIC PLACES

It shall be unlawful for any person to consume alcoholic beverages within the corporate limits upon the public ways and property, including inside vehicles while upon the public ways and property. It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment.

SECTION 4-123: 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; provided, 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, as 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 product 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 the 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.

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

SECTION 4-124: NUDE ENTERTAINMENT

A. It shall be cause for suspension or revocation of any liquor license if licensee, his/her manager or agent shall allow any live person to appear, or have reasonable cause to believe that any live person shall appear, on any licensed premises in a state of nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as an employee in any capacity.

B. For the purposes of this section, the term "nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks or the human female breast including the nipple or any portion below the nipple with less than a full opaque covering.

SECTION 4-125: INSPECTIONS

It shall be the duty of the City Council to cause frequent inspections to be made on the premises of all retail and bottle club licensees. If it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or regulations of the Nebraska Liquor Control Commission, or is failing to observe in good faith the purposes of said Act, the license may be suspended, canceled or revoked after the licensee has been given an opportunity to be heard by the City Council. (Ref. Neb. Rev. Stat. Sec. 53-116.01)

SECTION 4-126: CITIZEN COMPLAINTS

Any five residents of the City shall have the right to file a complaint with the City Council stating that any retail or bottle club licensee, subject to the jurisdiction of the City Council, has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the City Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the 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; provided that the complaint must in all cases be disposed of by the City Council within 30 days from the date the complaint was filed by resolution thereof, said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (Ref. Neb. Rev. Stat. Sec. 53-134.03)

SECTION 4-127: CATERING LICENSE

A. The holder of a Class C, Class D, or Class I license issued under subsection (5) of Section 53-124 RS Neb., or a brewpub license, may obtain an annual catering license as prescribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Liquor Control Commission.

B. Upon receipt from the Commission of the notice and copy of the application as provided in Section 53-124.12 RS Neb., the City Council shall fix a time and place at which a hearing will be held and at which time the City Council shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The City Council may

examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant, 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, the city clerk or the city attorney, to act on its behalf.

C. 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 nor 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.

D. The City Council shall, after the hearing provided in subsection (B), approve or deny the application within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The city clerk shall thereupon mail or deliver to the Commission a copy of the decision to approve or deny the application.

E. Any resolution denying an application rendered by the City Council shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

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

(Ref. Neb. Rev. Stat. Sec. 53-124.12)

Article 2 – Nonresident Sales

SECTION 4-201: REGISTRATION

Any nonresident salesman not having a regular weekly route within the City and intending to sell or attempting to sell at retail any merchandise, magazines, books or other items of value or attempting to take orders or subscriptions for the same within the corporate limits of the City shall, prior to making any attempt to sell such items, register with the city police. The city police shall require satisfactory evidence of identification, including fingerprints and photographs, product to be sold, principal place of business, employers name and address, telephone numbers, address if employed, and such other additional evidence necessary for identification and location. Upon registration, the city police shall certify to the city clerk such registration, who shall have authority to issue a salesman's permit to such salesman. There shall be a charge for such registration in an amount to be set by resolution of the City Council, to be paid at the time such permit is issued by the clerk. Said license shall be valid for three days from date of issuance. The clerk may also require written satisfactory recommendation or approval from the Better Business Bureau or such other organization as to said salesman, his/her product and business prior to issuing such permit. All registration fees collected by the clerk shall be credited by the treasurer to the General Fund of the City.

SECTION 4-202: REGISTRATION; EXCEPTIONS

The provisions of Section 4-201 shall not extend to individuals calling on retail merchants in corporate limits of the City for the purpose of taking orders or selling of merchandise for resale by such merchants, or farmers selling produce raised in their gar-

dens or on their farms.

SECTION 4-203: DUTY TO CARRY AND DISPLAY PERMIT

The salesman permit as herein provided shall at all times be carried on the person of said salesman and shall be displayed by the salesman upon the request of any citizen of the City or any police officer of the City.

SECTION 4-204: HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesman or peddler to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M., unless they have a previous appointment with the resident or residents of the premises solicited.

(Ref. Neb. Rev. Stat. Sec. 17-134)

Article 3 – Occupation and Sales Taxes

SECTION 4-301: OCCUPATION TAXES; AMOUNTS

A. For the purpose of raising revenue, an occupation tax is hereby levied on the following businesses:

Alcoholic Beverages	20% of state liquor license fee
Fire Insurance Companies, per year	\$5.00

(Ref. Neb. Rev. Stat. Sec. 17-525)

SECTION 4-302: OCCUPATION TAXES; FIRE INSURANCE COMPANIES

For the use, support and maintenance of the Fire Department, all revenue realized from the occupation tax on fire insurance companies shall be appropriated to the Fire Department Fund. (Ref. Neb. Rev. Stat. Sec. 35-106)

SECTION 4-303: OCCUPATION TAXES; COLLECTION DATE

All occupation taxes shall be due and payable on the first day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the city clerk, the said clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on the first day of November. The revenue collected shall then be immediately deposited into the General Fund by the city treasurer. The city treasurer shall keep an accurate account of all revenue turned over to him/her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Ref. Neb. Rev. Stat. Sec. 17-525)

SECTION 4-304: OCCUPATION TAXES; CERTIFICATES

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The said certificate shall specify the amount of the tax and the name of the person and business that paid the said tax. The occupation tax certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted. (Ref. Neb. Rev. Stat. Sec. 17-525)

SECTION 4-305: OCCUPATION TAXES; FAILURE TO PAY

If any person, company or corporation fails or neglects to pay the occupation taxes as

provided herein on the day it becomes due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid. (Ref. Neb. Rev. Stat. Sec. 17-525)

SECTION 4-306: SALES TAX

From and after April 1, 2004, there shall be and hereby is imposed a 1% sales tax within the City on all sales upon which the State of Nebraska is authorized to impose a tax. Such sales tax shall continue until such tax is terminated by the voters of the City of Neligh as provided by law. (Ord. No. 420, 3/11/03)

Article 4 – Fair Housing Regulations

SECTION 4-401: PURPOSE

The purpose of this article is to promote the general welfare of the residents of Neligh, Nebraska, by endorsing the provisions of the Nebraska Fair Housing Act, Neb. Rev. Stat. Sections 20-301 through 23-344, to the effect that there shall be no discrimination in the City of Neligh, Nebraska, 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 4-402: 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. Section 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; and

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

SECTION 4-403: UNLAWFUL ACTS

A. Except as exempted by Section 4-407, 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 or sex;
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 or sex 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 or sex 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 or sex of a person seeking to purchase, rent or lease any housing;
6. Include any transfer, sale, rental or lease of housing any restrictive covenants or honor or 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 or sex.

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 4-404: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES

PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS

A. Except as exempted by Section 4-407, 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 4-405: 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, 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 or sex.

SECTION 4-406: 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 or sex.

SECTION 4-407: 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 or sex.

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 lodging to its members or from giving preference to its members.

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 4-408: 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. (Ref. Neb. Rev. Stat. Sec. 20-301 through 20-322)

Article 5 – Minimum Rental Housing Standards

SECTION 4-501: RENTAL HOUSING STANDARDS CODE

To provide certain minimum standards, provisions and requirements for safe and stable design, construction, uses of materials, and maintenance of rental residential dwellings, the regulations promulgated by the U.S. Department of Housing and Urban Development and known as Section 8 Existing Housing Program, published by the U.S. Department of Housing and Urban Development and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said regulations do not conflict with the statutes of the State of Nebraska. The City Council shall have the authority to establish regulations differing from the Section 8 Existing Housing Program, by resolution, and any such resolution is hereby incorporated by reference, together with the regulations known as Section 8 Existing Housing Program, shall constitute the Rental Housing Standards Code for the City. Three copies of the Rental Housing Standards Code are on file at the office of the city clerk and are available for public inspection at any reasonable time. The provisions of the Rental Housing Standards Code shall be controlling throughout the City. (Ref. Neb. Rev. Stat. Sec. 17-1001, 18-132, 19-902)

SECTION 4-502: INSPECTION

To ensure compliance with the Rental Housing Standards Code, every residential dwelling unit within the City which is not occupied by a person who is a record title owner of said unit shall be inspected by the City and brought into compliance with this code by the owner of said dwelling at the time of any change of occupancy of said unit.

SECTION 4-503: INSPECTION; EXEMPTION, FEE

An inspection shall not be required if, within the two-year period immediately preceding the change of occupancy, a change of occupancy occurred in the unit which resulted in an inspection and certification of compliance with the Rental Housing Standards Code. All costs of compliance with the Rental Housing Standards Code shall be paid by the owner of the unit. The owner of the dwelling shall pay a fee of \$25.00 for the inspection required under this section.

SECTION 4-504: TIME LIMIT TO BRING OCCUPANCY INTO COMPLIANCE; EXTENSION, FEE

The owner of a residential dwelling unit shall have a period of 90 days from the date of initial inspection to bring the unit into compliance with the code. An additional 60-day period shall be allowed, upon payment of a fee of \$25.00 for said extension to the City, provided that the extension fee must be paid prior to the expiration of the initial 90-day period. Any further extension request will be charged an additional \$25.00 fee and must be approved by the City Council prior to the expiration of the original period allowed for compliance. The City Council shall have the authority to grant or deny requests for additional extensions of time.

SECTION 4-505: VIOLATION

An owner of a residential dwelling unit who has failed to report a change of occupancy which requires an inspection; failed to allow the City to inspect a residential dwelling covered by this section; failed to pay fees required under this section; failed to bring a dwelling into compliance with the code within the time allowed to said owner; or an owner in violation of any other aspect of this ordinance shall be guilty of a misdemeanor. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

SECTION 4-506: INSPECTION ORDERED BY HOUSING INSPECTOR

Notwithstanding the above, the city housing inspector shall have the authority to order an inspection of any residential dwelling covered by this section for the purpose of determining whether or not said dwelling is in compliance with the code. No fee shall be required for the inspection ordered by the housing inspector under this provision. If it is determined, after any such inspection, that a dwelling is not in compliance, a \$25.00 inspection fee will be collected and all owners of said dwelling shall be in violation of this section until said dwelling is brought into compliance with this section, and a new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

SECTION 4-507: CONTINUOUS VIOLATION; NUISANCE, ABATEMENT

Any violation of this ordinance or any part thereof which continues for more than seven consecutive days is hereby declared to be a threat to public safety and a nuisance. The City may proceed by a suit in equity to enjoin, prevent, abate and remove the same in the manner provided by law. (Ref. Neb. Rev. Stat. Sec. 17-123, 18-1720)

SECTION 4-601: TERMS DEFINED

"Court" as used in this code shall mean and include any tract of land upon which are located two or more trailers or other temporary enclosures used for living purposes, whether a charge is made or not.

"Trailer" as used in this code shall mean and include any vehicle commonly designated as such, also called "mobile home," and constructed to permit occupancy for sleeping, advertising, or business purposes, and so designed that it is or may be mounted on wheels and used as a conveyance on the public ways, and does not comply with the city building code.

"Unit space" as used in this code shall mean and include the ground space that is actually set aside in a trailer court for the occupancy by and use of a trailer or other temporary dwelling.

SECTION 4-602: PERMIT REQUIRED

A. It shall be unlawful for any person to establish a trailer court within the City or within one-half mile beyond the corporate limits until he or she shall first obtain a permit for such purpose from the City Council. The city clerk shall provide permit application forms, which shall require: The name and address of the applicant; the name and residence of the proposed manager of the premises; the location and size of the court; a plat of the court showing the number and location of each unit space; the water service available; the toilet or sewer facilities available; the proposed means of disposing of garbage; the electrical current sources available; and the type of buildings proposed to be erected thereon.

B. Upon receipt of any such permit application, the city clerk shall furnish the mayor with a copy of the said application. The mayor shall then examine the premises involved and the proposed unit spaces for the purpose of determining whether the proposed court will violate any of the provisions of the municipal code or the laws of the State of Nebraska. The mayor's findings shall then be submitted in writing to the City Council.

C. The City Council at its next regular meeting shall consider such application, and if the members find that all of the provisions of this ordinance are complied with, shall issue a permit for the operation of the trailer court. In the event that any of the provisions of this ordinance shall not be provided for in such permit application, then such trailer court permit shall not be issued until the City Council receives assurances that all provisions of this ordinance shall be complied with.

D. In the event that all of the terms and conditions of this ordinance have been complied with and the City Council votes to permit such trailer court to exist, then the city clerk shall issue a permit to such applicant, which permit shall be for a one-year period, to be renewed annually.

SECTION 4-603: PERMIT RENEWAL

The annual fee for such permit shall be set by resolution of the City Council and shall be on file at the office of the city clerk. The same procedure shall apply for the renewal of a permit as was heretofore prescribed for the issuance of a permit. No permit shall be issued for any period longer than one year.

SECTION 4-604: ASSIGNING PERMIT PROHIBITED

It shall be unlawful to assign or transfer without the written consent of the city clerk and

the authorization of the City Council any permit issued by the City for the purpose of allowing the operation of a trailer court.

SECTION 4-605: PERMIT REVOCATION

Any permit granted under the provisions of this code shall be subject to revocation at any time by the City Council. Notice shall be served by the city clerk upon the person holding such permit, setting forth the manner in which the owner or operator of the court has failed to comply with the provisions of this code and allowing him/her an opportunity for a hearing before the City Council at a day and hour therein specified. The said hearing shall be held not less than three days after the personal service of the said notice. The owner or operator shall then be required to show cause why the said permit should not be revoked. Any owner or operator allowed an appearance under the provisions herein shall have the right to be represented by counsel.

SECTION 4-606: UNIT SPACES

Each trailer home shall be located on a site not less than 1,000 square feet. No trailer home shall be parked closer than five feet to the lot lines of the trailer court without the permission of the City Council; provided, nothing herein shall be construed to allow any trailer to be parked or located in such a manner as to obstruct the traffic on or the use of any public way or public property, and in the event that the lot line is adjacent to the public ways and property, the trailer shall be parked not less than ten feet therefrom. Each unit space shall abut a driveway of not less than 20 feet in width and shall have unobstructed access to a public street or alley. There shall be an open space of at least ten feet between the ends of the trailers located thereon, and there shall be on each trailer space an additional parking space for one vehicle for each unit in said court.

SECTION 4-607: DRAINAGE

Every trailer court shall be located on a well-drained area and the premises of such shall be properly graded so as to prevent the accumulation of stagnant water thereon.

SECTION 4-608: PLUMBING FACILITIES

The owner or operator of a trailer court shall make available connections with the sewer system for the trailer homes thereon unless other arrangements are agreed to in writing by the City Council.

SECTION 4-609: WASTE DISPOSAL

For garbage and refuse collection, tight receptacles of the type permitted for use within the City shall be provided for each unit space within the trailer court.

SECTION 4-610: ELECTRICAL SUPPLY

Each unit space within the trailer court shall be provided with an electrical service outlet installed and maintained in accordance with the current issue of the National Electrical Code.

SECTION 4-611: UNLAWFUL PARKING

It shall hereafter be unlawful for any person to place, allow to be placed, or occupy for any purpose a trailer home within the City or one-half mile beyond the corporate limits unless the same shall be located within the boundaries of a duly established trailer court. Modular homes shall not be subject to this prohibition if they have their towing tongue and axles removed and are placed on a permanent concrete or concrete block

foundation.

SECTION 4-612: CONVERSION

It shall be unlawful for any person to remove the wheels or transporting device from any trailer or to otherwise affix the said trailer to the ground without first obtaining a written permit from the City Council; provided, the trailer so converted shall be subject to all rules and regulations prescribed herein for other habitable dwellings. Applications for such permits shall be made through the city clerk.

SECTION 4-613: EXCEPTIONS

Nothing in this code shall be construed to prohibit the storage of any trailer home for any length of time when the said trailer is not used for living or business purposes, nor shall it apply to any trailer homes located within the City at the time of the passage of this code; provided, in the event that such trailer is moved to a different location, all the provisions of this article shall become immediately applicable thereto.

SECTION 4-614: COURTS LIMITED

There shall be a limit of three trailer home courts which shall be licensed within the city or within one-half mile beyond the corporate limits.

SECTION 4-615: LIABILITY

The owner of the property upon which any trailer or trailer court is located shall be primarily liable for any violations of the provisions of this article and shall also be primarily liable for the cost of any and all utility services provided by the City to the owner or occupant of a trailer located thereon.

SECTION 4-616: INSPECTIONS

It shall be the duty of the owner, manager, or occupants of any public trailer court to allow any city officials to enter upon the premises for the purpose of inspection at any reasonable time.

Article 7 – Tattoos and Body Piercing

(Ord. No. 501, 7/14/09)

SECTION 4-701: 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 Nebraska Department of Health/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.

“Nebraska Department of Health” shall mean the local, regional or state health service department/agency, working on behalf of the City, which is responsible for health in-

pection 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 4-702: 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 Nebraska Board of Health, indicating the establishment has been inspected and is in compliance with the provisions of this article.

SECTION 4-703: 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 ordinance.

SECTION 4-704: APPLICATION; FEE

An application for a new or renewal license shall be filed with the city clerk, accompanied by a fee in the amount of \$100.00. Upon payment of the license fee and receipt of the application and certificate of inspection, the city clerk shall issue a license, valid for one year from the date of issuance. Said applicant shall display such license in his/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 4-705: 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 10:00 P.M.

SECTION 4-706: RECORDS

1. 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/her name, address, age, driver’s license number or other acceptable photo identification and his/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.

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

3. 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 Nebraska Department of Health or law enforcement officer of the City upon request.

SECTION 4-707: 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/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 4-708: HEALTH AND SANITARY REQUIREMENTS

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

1. 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.

2. 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/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.

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

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

5. The operator shall wash his/her hands thoroughly with soap and water before starting to tattoo and/or body pierce; the hands shall be dried with individual, single-use towels. After washing his/her hands, the operator shall rinse his/her hands in 70% alcohol (rubbing alcohol) or in an antiseptic solution approved by the designated Department of Health. The operator will then put on new surgical gloves and shall wear them while in contact with the customer. Upon completion of his/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/she shall commence and complete or terminate services with each customer prior to commencing work on another individual.

6. 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.

7. 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.

8. 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.

9. 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% alcohol shall be applied to the area with a single-use sponge and applied with a sterile instrument. Sponges shall be disposed of by sterilization and incineration.

10. Only sterile petroleum jelly in single-service disposable containers, if available, or collapsible metal or plastic tubes, or its equivalent as approved by the Department of Health, shall be used on the area to be tattooed and/or pierced, and it 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.

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

12. 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.

13. 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 Department of Health or a 70% 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.

14. 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.

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

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

17. 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 4-709: 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 Nebraska Department of Health by the person owning or operating the tattooing and/or body piercing establishment, and the infected

person shall be referred to a physician.

SECTION 4-710: STERILIZING OF INSTRUMENTS

1. A steam sterilizer (autoclave), approved by the Nebraska Department of Health, shall be provided for sterilizing instruments before use on any customer, person or patron. Alternate sterilizing procedures may be used only when specifically approved by the Department of Health. All needle bars, grips, tubes and instruments which pierce the skin, directly and indirectly (by coming in contact with instruments which pierce the skin) shall be sterilized before use on each customer. Sterilization of equipment will 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.

2. 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.

3. 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 4-711: 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 4-712: 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, one shade.

SECTION 4-713: INCINERATION OF WASTES

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

SECTION 4-714: PIGMENTS AND DYES

All pigments, dyes, colors, etc., 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 4-715: 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 4-716: INSPECTIONS

The Nebraska Department of Health 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 Department of Health 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 4-717: PERMITTED USE IN CENTRAL BUSINESS DISTRICT

Subject to the conditions imposed herein, the operation of a tattoo or body piercing business shall be an exception in the Central Business District of the City and will require a conditional use permit as required by the Zoning Regulations of the City of Neligh as set forth in Section 10-604 of the revised municipal code.

SECTION 4-718: PENALTY

In addition to the revocation and suspension of any license, any person violating the provisions of the article shall be fined in a sum of not more than \$500.00. Each day's violation shall constitute a separate offense.

Article 8 – Mobile Food Vendors

(Article adopted by Ord. No. 622, 10/8/19)

SECTION 4-801: DEFINITIONS

The following terms shall have the meanings respectively ascribed to them:

“Food” shall mean any raw, cooked, or processed edible substance, beverage, ingredient, ice, or water used or intended for use or for sale in whole or in part for human consumption.

“Mobile food vendor” shall mean a person who by traveling from place to place upon the public ways sells or offers for sale food from public or private property to consumers for immediate delivery and consumption upon purchase. The following activities are excluded from such definition and, alone, do not subject a vendor to being covered by such definition: (A) the sale or offer for sale of farm products produced or raised by such a vendor from land occupied and cultivated by him/her; or (B) the sale or offer for sale of food by a caterer.

“Permanent food establishment” shall mean a fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food.

SECTION 4-802: LICENSE REQUIRED; APPLICATION

It shall be unlawful for any person to operate as a mobile food vendor within the City unless such person complies with the requirements and regulations of this article, including holding a valid and active mobile food vendor license issued by the city clerk pursuant to this article, except that a mobile food vendor may operate at events sponsored by

or approved by the City without obtaining a mobile food vendor license if such vendor has obtained written consent from the City to operate at such event. Any such mobile food vendor shall be subject to all regulations contained in this article.

A. An applicant for a license shall file with the city clerk a signed application on a form to be furnished by the clerk, which shall contain the following information:

1. The applicant's business name, address, telephone number and email address, if any;
2. If the applicant is a business entity of any kind, the names of all officers and managers of such entity;
3. If food is to be sold from a motor vehicle, the vehicle license number and description of such vehicle, the names of all persons authorized and expected to drive such vehicle, and a copy of a valid and currently existing policy of liability insurance for such motor vehicle;
4. A copy of the State of Nebraska sales tax permit or proof of an applicable sales tax exemption;
5. A food sales permit issued by the Nebraska Department of Health;
6. A copy of the applicant's policy or policies of commercial general liability insurance; and
7. Such other documentation as the city clerk may require and as requested in the application.

B. Upon receipt of a completed application, the city clerk shall make or cause to be made any inquiry or investigation that may be necessary in order to determine whether the applicant is in compliance with all applicable laws. The city clerk may request and take into consideration the recommendations of the Neligh Police Department and may request a criminal record check of the applicant or those persons working in such food vendor vehicle.

C. After receipt of the completed application and a nonrefundable application fee in the amount as set by the City Council and listed on the city fee schedule resolution, the city clerk shall either approve or deny the application.

SECTION 4-803: REGULATIONS

Mobile food vendors shall comply with the following regulations:

A. A mobile food vendor shall not operate from a location within 50 feet of the main entrance of a permanent food establishment during the hours that food is sold within such permanent food establishment, unless such establishment has provided written consent.

B. A mobile food vendor may operate from a motor vehicle at a location in a city right of way open to traffic or parking but only if the said motor vehicle is parked in a location where a motor vehicle is authorized to park.

C. A mobile food vendor shall not operate from a location which would involve customers to be waited on or served while standing in a portion of a street being traversed by motor vehicle traffic.

D. A mobile food vendor who operates from a location on property rather than city right of way shall first obtain, possess and be able to exhibit upon request (1) a written consent of the owner of the property and (2) any required temporary use permit to be issued by the City.

E. If operating during the Antelope County Fair, a mobile food vendor shall not operate from city park property unless the vendor possesses the written consent of the City or the Antelope County Agricultural Society.

F. A mobile food vendor shall not operate from any school property unless it possesses the written consent of the school district.

G. A mobile food vendor shall not operate from a location authorized for a street show, festival, parade, block party, or similar event, or within 200 feet of any boundary of such authorized area, unless the vendor possesses the written consent of the event permittee to operate from that location.

H. A mobile food vendor shall possess and be able to exhibit its city license, a State of Nebraska sales tax permit or proof of sales tax exemption, and any other written consents or documentation required under this article, at all times during which the mobile food vendor is operating.

I. The City Police Department may order a mobile food vendor to move from or leave a specific location if the operation of the vendor at that location causes an obstruction to vehicular or pedestrian traffic or otherwise endangers the health, safety or welfare of the public. If such order is refused, the Police Department may authorize that the vehicle be towed.

J. An individual representative of the mobile food vendor must remain with the motor vehicle, trailer or auxiliary equipment during all operating hours of the food vendor vehicle.

K. A mobile food vendor may operate seven days a week but only from 6:00 A.M. to 11:00 P.M. It shall be unlawful for a mobile food vendor to operate at any other times.

L. A mobile food vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state or federal law.

M. It shall be unlawful for a mobile food vendor to sell or offer to sell alcohol in any form.

N. A mobile food vendor shall provide trash receptacles and shall properly dispose of all trash and litter within 20 feet of its location; but such trash shall not be disposed of in public trash containers on city right of way or city property.

O. If utilizing deep fat frying equipment, the mobile food vendor shall employ a proper means of disposal of used grease.

P. A mobile food vendor shall not utilize loudspeakers or musical equipment which would disrupt the peace and quiet of any residential property near to the location of the food vendor vehicle.

SECTION 4-804: LICENSE RENEWAL

A license issued shall expire on December 31 each year unless renewed for the following year. An applicant shall renew a license for the following year by filing with the city clerk a statement updating or confirming the information provided in the immediately

preceding application. The statement shall be on a form to be furnished by the city clerk. At the time of filing of such statement, the applicant shall pay a renewal fee as set by the City Council and listed on the schedule of fees resolution.

SECTION 4-805: LICENSE REVOCATION OR SUSPENSION

A. A license issued may be revoked or suspended by the city clerk for any of the following reasons:

1. Any fraud, misrepresentation, or false statements contained in the application;
2. Any fraud, misrepresentation, or false statements made in connection with the sale of food;
3. Any violation of this article or any applicable laws;
4. Conduct of business in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

B. To revoke or suspend a license issued, the city clerk shall provide written notice to the license holder stating the revocation or suspension action taken, the grounds for such action, and the availability of an appeal. Such notice shall be served personally upon the license holder or sent by regular U.S. mail to the license holder's address as stated in its application.

C. A license holder aggrieved by the decision of the city clerk under this section may file an appeal with the City Council. If such appeal is taken, the council shall convene a special meeting to hear such appeal. The parties may be represented by their attorneys at such appeal but the formal rules of evidence shall not apply. The decision of the City Council shall be final.

D. A license holder whose license has been revoked under this section may not reapply for a new license for a period of six months after the effective date of the revocation.

Article 9 – Penal Provision

SECTION 4-901: 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.