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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 OF ALCOHOLIC LIQUORS

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell the same to such person under the provisions of the Nebraska Liquor Control Act; provided, nothing herein shall prevent the possession of alcoholic liquor for the personal use of the possessor, his or her family and guests nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains or the product thereof by simple fermentation and without distillation if it is made solely for the use of the maker, his or her family and guests; provided further, nothing herein shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession or any hospital or institution caring for sick and diseased persons from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution; provided further, any drugstore employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians; and provided further, the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this section. (Neb. Rev. Stat. §53-168.06)

SECTION 5-103: 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 unless authorized by the City Council, including inside vehicles while upon the public ways and property. It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment. (Neb. Rev. Stat. §53-186, 53-186.01)

SECTION 5-104: LICENSE REQUIRED

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

SECTION 5-105: MUNICIPAL POWERS AND DUTIES

The City Council, with respect to licenses within its corporate limits, shall have the following powers, functions, and duties with respect to retail liquor licenses:

A. To cancel or revoke for cause liquor licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Liquor Control Commission;

B. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the City Council has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

C. 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;

D. To receive liquor 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;

E. To examine or cause to be examined any applicant or any 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; and

F. 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.

(Neb. Rev. Stat. §53-134)

SECTION 5-106: LOCATION

It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor

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

SECTION 5-107: 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 law enforcement officials 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 5-108: ACCESS TO DWELLINGS

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access leading 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 or her family, or personal guests. (Neb. Rev. Stat. §53-178)

SECTION 5-109: LICENSE APPLICATION; NOTICE TO CITY

A. Any person desiring to obtain a new license to sell alcoholic liquor at retail shall file with the Liquor Control Commission:

1. An application in triplicate original upon forms prescribed by the commission, along with fingerprints and submission to a criminal history check as provided in Neb. Rev. Stat. §53-131.01;
2. The license fee if, under Neb. Rev. Stat. §53-124 and 53-124.01, such fee is payable to the commission, which fee shall be returned to the applicant if the application is denied; and
3. The nonrefundable application fee.

B. The Liquor Control Commission shall notify the city clerk of receipt of the application and shall include one copy of the application with the notice. No such license shall be issued or denied by the commission until the expiration of the time allowed for the receipt of a recommendation of denial or an objection requiring a hear-

ing under Neb. Rev. Stat. §53-133(1)(a) or (b). During the period of 45 days after the date of receipt by mail or electronic delivery of such application from the commission, the City Council may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.
(Neb. Rev. Stat. §53-131)

SECTION 5-110: LICENSE APPLICATION; HEARING; NOTICE

Upon receipt from the Liquor Control Commission of the notice and copy of application as provided in Section 5-109, the City Council shall fix a time and place for a hearing at which the 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 council in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than 45 days after the date of receipt of the notice from the commission, and after such hearing the council shall cause to be recorded in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The city clerk shall mail to the commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commission refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs. (Neb. Rev. Stat. §53-134)

SECTION 5-111: LICENSEE REQUIREMENTS

It shall be unlawful for any person or persons to own an establishment that sells any alcoholic beverages at retail unless said person is a resident of the county in which the premises are located; is a person of good character and reputation; is a citizen of the United States; 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; has never had a liquor license revoked for cause; and unless the premises for which a license is sought meet standards for fire safety as established by the state fire marshal. (Neb. Rev. Stat. §53-125)

SECTION 5-112: ISSUANCE OF LICENSE

A. If no hearing is required pursuant to Neb. Rev. Stat. §53-133(1)(a) or (b) and the Liquor Control Commission has no objections pursuant to subdivision (1)(c) of such section, the commission may waive the 45-day objection period and, if not otherwise prohibited by law, cause a retail license to be signed by its chairman, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (B) of this section as a matter of course.

B. Retail licenses issued or renewed by the commission shall be mailed or delivered to the city clerk, who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (1) the license fee if by the terms of Neb. Rev. Stat. §53-124(6) the fee is payable to the city treasurer, (2) any fee for publication of notice of hearing before the City Council upon the application for the license, (3) the fee for publication of notice of renewal as provided in Neb. Rev. Stat. §53-135.01, and (4) occupation taxes, if any, imposed by the City. Notwithstanding any ordinance or charter power to the contrary, no city shall impose an occupation tax on the business of any person, firm, or corporation licensed under the Act and doing business within the corporate limits of such 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. Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

(Neb. Rev. Stat. §53-132) (Ord. No. 329, 5/5/86) (Am. by Ord. No. 380, 4/5/93)

SECTION 5-113: CATERING LICENSE

A. The holder of a Class C, Class D or Class I license issued under Neb. Rev. Stat. §53-124(5) may obtain an annual catering license 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 Neb. Rev. Stat. §53-124.12, the City Council shall fix a time and place at which a hearing will be held and at which time the 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 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 resolution within ten days 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 state in the record and shall be accompanied by findings consisting 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.

(Neb. Rev. Stat. §53-124.12, 53-132, 53-134) (Ord. No. 379, 4/5/93)

SECTION 5-114: LICENSE DISPLAYED

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 5-115: 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:

<i>Alcoholic Liquors (except Beer and Wine)</i>	
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.
<i>Beer and Wine</i>	
Daily	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.

B. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

C. 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 after 1:15 A.M. and 6:00 A.M. on any day.

D. For the purposes of this section, "on sale" shall be defined as sale of alcoholic beverages by the drink for consumption on the premises of the licensed establishment; "off sale" shall be defined as sale of alcoholic beverages at retail, in the

original unopened container, for consumption off the premises of the licensed establishment.

(Neb. Rev. Stat. §53-179) (Am. by Ord. Nos. 260, 9/7/78; 315, 5/21/84; 328, 2/17/86; 476, 8/3/09)

SECTION 5-116: 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 council. (Neb. Rev. Stat. §53-116.01) (Ord. No. 280, 10/20/80)

SECTION 5-117: 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 state statute. (Neb. Rev. Stat. §53-1,101)

SECTION 5-118: 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. 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 personally. (Neb. Rev. Stat. §53-1,102)

SECTION 5-119: HIRING MINORS

It shall be unlawful for any person to hire a minor regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (Neb. Rev. Stat. §53-168.06)

SECTION 5-120: MINORS AND INCOMPETENTS

It shall be unlawful for any person or persons to sell or make a gift of any alcoholic liquor or to procure any such alcoholic liquor for any minor or other person who is mentally, physically, or otherwise incompetent, whether due to natural disabilities or the prior consumption of alcoholic beverages. (Neb. Rev. Stat. §53-180)

SECTION 5-121: CREDIT SALES

A. 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, and if any person extends

credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

B. Nothing in this section shall prevent:

1. Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;
2. Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests.

(Neb. Rev. Stat. §53-183)

SECTION 5-122: ORIGINAL PACKAGE

It shall be unlawful for any person or persons who own, manage, or lease any premises in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic 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. (Neb. Rev. Stat. §53-184) (Am. by Ord. No. 381, 4/5/93)

SECTION 5-123: LIQUOR LICENSE RENEWAL

A. Outstanding retail liquor licenses issued by the Liquor Control 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. 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 for Class C licenses.

B In the event that written protests are filed by three or more residents of the City against said license renewal, the city clerk shall deliver the protests to the City Council, which shall thereupon proceed to notify the commission that it is to require the said licensee to submit an application.

(Neb. Rev. Stat. §53-135, 53-135.01) (Am. by Ord. No. 273, 11/19/79)

SECTION 5-124: CITIZEN COMPLAINT

Any five residents of the City shall have the right to file a complaint with the City

Council stating that any retail or bottle club licensees, subject to the jurisdiction of the council, has been or is violating any provision of the Nebraska Liquor Control Commission or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the 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 council is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint; provided, 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. (Neb. Rev. Stat. §53-134.01) (Ord. No. 281, 10/20/80)

SECTION 5-125: CITIZEN COMPLAINT; FORM

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 article.

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

1. That they are each residents of the City of Indianola, 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 Indianola, 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 RED WILLOW)

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 5-126: CITIZEN COMPLAINT; FORMS, CONTINUED; PROCEDURE

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

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

(Neb. Rev. Stat. §53-134.04)

SECTION 5-127: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

A. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and, in the judgment of the officer, dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-

public property shall make a reasonable effort to take 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 doctor 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 as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

B. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

C. For purposes of this section, "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) (Ord. No. 298, 9/8/81)

SECTION 5-128: NUDE OR SEMI-NUDE ENTERTAINMENT PROHIBITED

Within the corporate limits of the City, the following acts shall be unlawful in any commercial establishment dispensing alcoholic beverages:

A. It shall be unlawful for any person to engage in nude or semi-nude entertainment in any commercial establishment at which alcoholic beverages are sold, dispensed, consumed, possessed, offered or available for sale or consumption on the premises.

B. It shall be unlawful for any female person, while on the premises of a commercial establishment at which alcoholic beverages are sold, dispensed, consumed, possessed, offered or available for sale or consumption on the premises, to expose to public view that area of the human female breast at or below the areola thereof or to employ any device or covering which is intended to give the appearance of or simulate such areas of the female breast as described herein.

C. It shall be unlawful for any person, while on the premises of a commercial establishment at which alcoholic beverages are sold, dispensed, consumed, pos-

sessed, offered or available for sale or consumption on the premises, to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage.

D. It shall be unlawful for any person owning, maintaining, operating or leasing any commercial establishment at which alcoholic beverages are sold, dispensed, consumed, possessed, offered or available for sale or consumption on the premises to suffer or permit any person on the premises to engage in nude or semi-nude entertainment.

E. It shall be unlawful for any entertainer, performer or employee, while on the premises of a commercial establishment regulated under this section, to dance in such a manner as to simulate sexual activity with any patron, spectator, employee or other person not employed therein.

F. It shall be unlawful for any entertainer, performer or employee, while on the premises of a commercial establishment regulated under this ordinance, to sit upon or straddle the leg, legs, lap or body of any patron, spectator or other person therein or to engage in or simulate sexual activity while touching or being touched by said patron, spectator or other person.

G. It shall be unlawful for any person owning, maintaining, operating or leasing a commercial establishment regulated under this section to suffer or permit any violation of subsections (E) or (F) of this section.

H. It shall be unlawful for any person, while on the premises of a commercial establishment regulated under this section, to use or be present in areas partitioned or screened from public view that are designed to be occupied together or alone by any person or persons on the premises.

I. It shall be unlawful for any person owning, maintaining, operating or leasing a commercial establishment regulated under this section to suffer or permit the construction, maintenance or use of areas partitioned or screened from public view that are designed to be occupied together or alone by any person or persons on the premises of such establishment for sexual contact or private dancing performances.

(Ord. No. 389, 6/6/94)

Article 2 – Occupation Taxes

SECTION 5-201: AMOUNTS

A. For the purpose of raising revenue, occupations subject to taxes and the amounts of such taxes shall be established by ordinance from time to time by the mayor and City Council. Said ordinance shall be on file in the office of the city clerk and shall be available for public inspection during office hours.

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

(Neb. Rev. Stat. §17-525, 53-124, 53-132) (Am. by Ord. Nos. 256, 4/25/78; 285, 3/21/81)

SECTION 5-202: 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. (Neb. Rev. Stat. §35-106)

SECTION 5-203: BINGO

A tax of 5% of the gross receipts of each licensed association deriving revenue from the game of bingo is hereby imposed and levied against each such association and payable on or before the 30th day of the immediately succeeding calendar quarter to the city treasurer. Such tax shall be credited to the General Fund and shall be used to pay for the cost of regulation and enforcement of this article. Further provisions for bingo are found in Article 3. (Neb. Rev. Stat. §9-165, 9-166) (Am. by Ord. No. 262, 9/7/78)

SECTION 5-204: GAMES OF CHANCE AND/OR LOTTERIES

A. *Occupation Tax.* An occupation tax is hereby imposed on each person engaged in the occupations of (1) conducting games of chance and lottery activities and (2) distributing gambling devices within the City. Said persons shall pay the tax in the amount and manner specified below.

B. *Persons Engaged in Conducting Games of Chance and Lotteries.* The occupation tax for each person engaging in the occupation of conducting games of chance and lottery activities with the City shall be 5% of the gross receipts received by said person in each quarter of a calendar year.

C. *Distributors.* The occupation tax for engaging in the occupation of distributing gambling devices within the City shall be 5% of the gross receipts received by a distributor in each quarter of a calendar year.

(Ord. No. 358, 10/15/90)

SECTION 5-205: COLLECTION DATE

All occupation taxes shall be due and payable on May 1 each year, except bingo taxes and those taxes that are levied daily. Upon the payment thereof by any person or persons to the city clerk, he or she 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 November 1. All revenue so collected shall be immediately deposited into the General Fund by the city treasurer, who shall keep an accurate account of all revenue. All forms and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Neb. Rev. Stat. §17-525)

SECTION 5-206: CERTIFICATES

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 certificate shall then be displayed in a prominent place or carried in such a way as to be easily accessible while business is being conducted. (Neb. Rev. Stat. §17-525)

SECTION 5-207: 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. (Neb. Rev. Stat. §17-525)

Article 3 – Bingo

SECTION 5-301: REGULATION

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

B. Upon a determination that granting the application would be proper, the City Council shall direct the city clerk to issue the said license to the applicant upon the payment of an annual permit fee as set by resolution of the City Council, available for public inspection 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 City Council may designate.

C. All permits so issued will automatically expire on March 31 following their issuance or renewal. The fee for each renewal shall be as set by resolution of the City Council. Said fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted.
(Neb. Rev. Stat. §9-166) (Am. by Ord. No. 262, 9/7/78)

SECTION 5-302: TAX

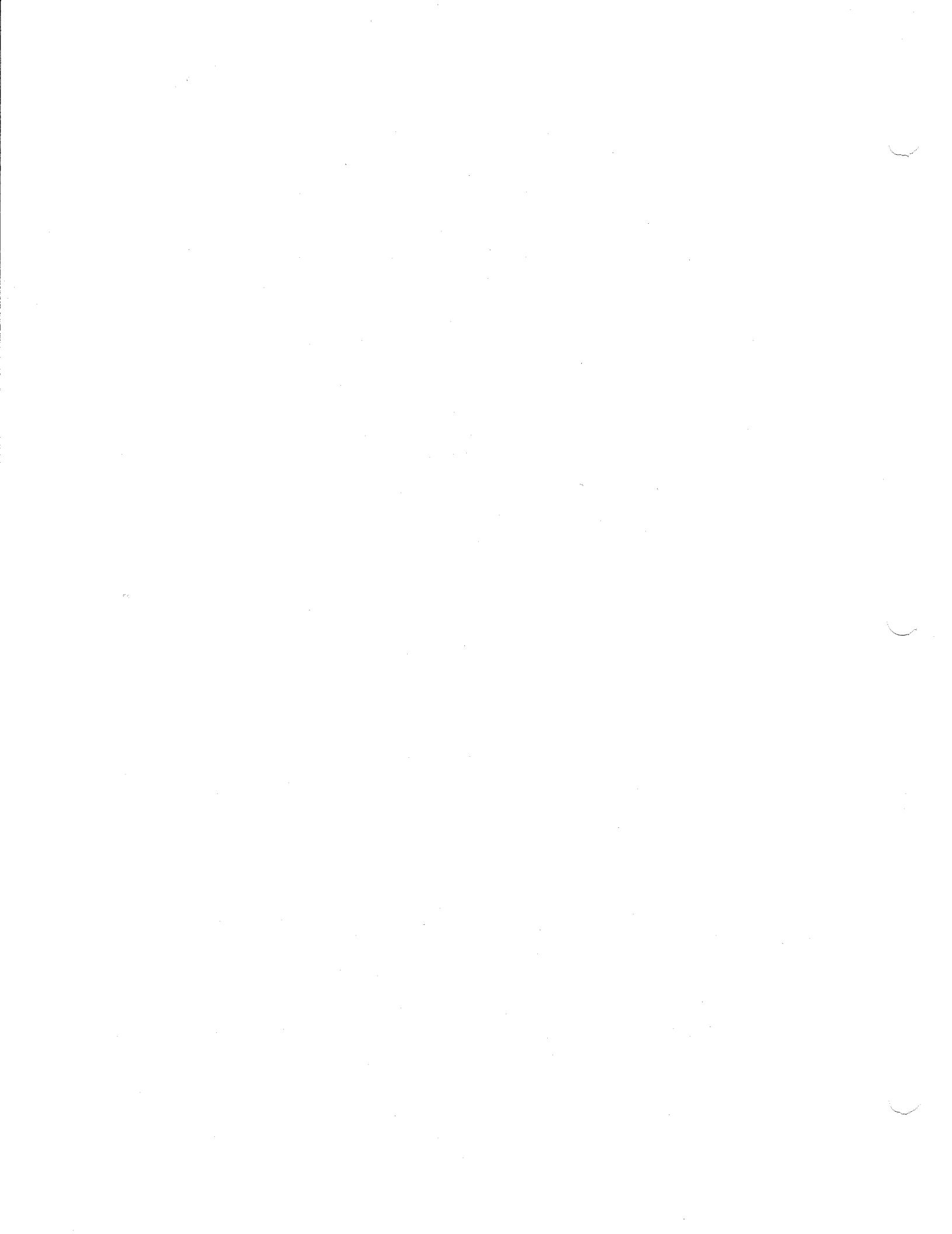
A tax on the gross receipts of each licensed association deriving revenue from the game of bingo is hereby imposed and levied against each such association as provided in Section 5-203. (Neb. Rev. Stat. §9-165, 9-166) (Am. by Ord. No. 262, 9/7/78)

SECTION 5-303: QUARTERLY REPORT

Each association conducting the game of bingo shall submit a written quarterly report to the city clerk covering the preceding calendar quarter on or before the 30th day of the immediately succeeding calendar quarter. (Neb. Rev. Stat. §9-165)

SECTION 5-304: STATUTES INCORPORATED

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 repeated verbatim herein. 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 if convicted shall be deemed to be guilty of a misdemeanor. (Neb. Rev. Stat. §9-124 thru 9-176)



Article 4 – Games of Chance and Lotteries

SECTION 5-401: DEFINITIONS

For the purposes of this article, the following definitions shall apply:

A. "Games of chance and/or lotteries" shall mean those forms of gambling authorized by the State of Nebraska pursuant to Article III, Section 24 of the Constitution of the State.

B. "Gambling device" shall mean any and all machines or devices used by a person engaged in the occupation of conducting games of chance and/or lotteries.

C. "Person engaged in the occupation of conducting, games of chance and/or lotteries" shall mean any person who operates, owns or is the lessee of a place of business where any game of chance and/or lottery activity is conducted, whether or not any other type of business is conducted on the premises; or any person who either directly controls or manages the games of chance and/or lotteries or owns any machine or device used to engage in the occupation of games of chance and/or lotteries but does not sell, lease or deliver possession or custody of such a device to other persons.

D. "Distributor" shall mean any person who engages in the business of selling, leasing, or delivering possession or custody of gambling devices for consideration to a person engaged in the occupation of conducting games of chance and/or lotteries.
(Ord. No. 358, 10/15/90)

SECTION 5-402: OCCUPATION TAX

An occupation tax is hereby imposed on each person engaged in the occupations of (1) conducting games of chance and lottery activities or (2) distributing gambling devices within the City. Said persons shall pay the tax in the amount and manner specified in Section 5-204. (Ord. No. 358, 10/15/90)

SECTION 5-403: LICENSE REQUIRED; FEE

A. It shall be unlawful for any person to engage in the occupation of conducting games of chance or lottery activities without first obtaining a license to do so. Every person desiring a license required by the provisions of this article shall make application to the city clerk. Accompanying each application shall be:

1. A sworn statement by each designated supervising member that such member will be responsible for compliance with rules and regulations for each occasion of games of chance and/or lotteries which he or she supervises.

2. A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, seller profits, compensation, reward or recompense will be paid to any person or organization not sanctioned by the laws of the State of Nebraska and the City of Indianola and that all profits will be spent for a lawful purpose.

B. Each license application will be reviewed by the City Council, in session, and reserves the right to approve or disapprove said application.

C. The license fee for engaging in the occupation of conducting games of chance and lotteries within the City shall be payable for each location wherein such activity is conducted. Said fee shall be as set by resolution of the City Council, available for public inspection in the office of the city clerk
(Ord. No. 358, 10/15/90)

SECTION 5-404: DISPLAY OF LICENSE

Every license issued under the provisions of this division shall be conspicuously displayed at the place where the game of chance and/or lottery activity is conducted at all times during the conduct thereof. (Ord. No. 358, 10/15/90)

SECTION 5-405: EXEMPTION

Nonprofit organizations that desire to participate in games of chance and/or lotteries that are in compliance with the Small Lotteries and Raffles Act of the State of Nebraska are exempt from the provisions of this article. (Ord. No. 358, 10/15/90)

SECTION 5-406: KENO; OPERATION

The conduct of a lottery within the corporate limits of the City by use of a game known as keno under the provisions of the Nebraska County and City Lottery Act is authorized. Such games shall be conducted only during the term of a valid lottery operator agreement with the City. The City Council may approve such agreement by resolution. (Ord. No. 369, 6/1/92)

SECTION 5-407: KENO; COMPLIANCE WITH LAWS

All aspects of the conduct of a keno lottery within the corporate limits of the City shall be conducted in strict compliance with the provisions of the Nebraska County and City Lottery Act, the regulations promulgated by the Nebraska Department of Revenue, and the terms of any lottery operator agreement with the City. (Ord. No. 369, 6/1/92)

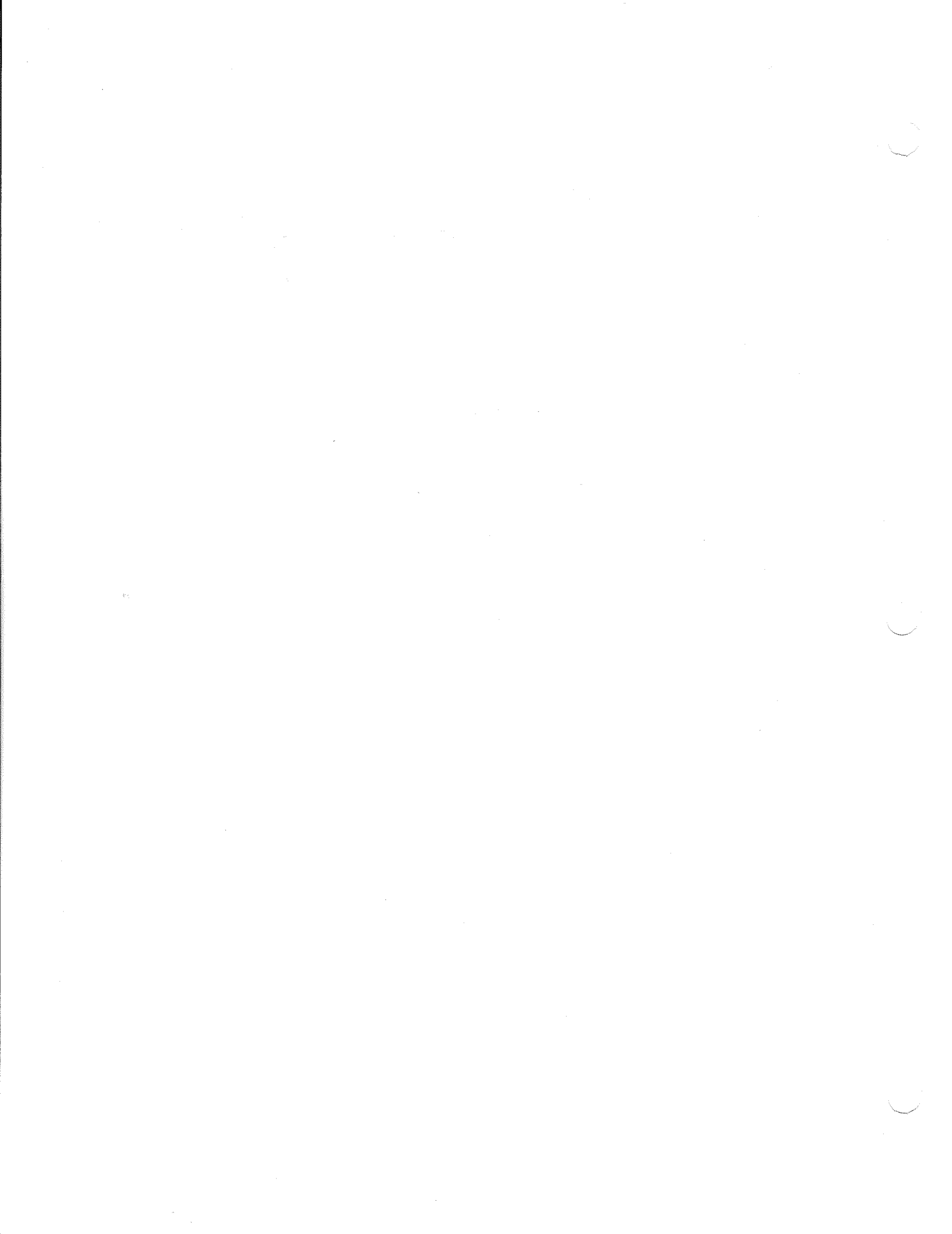
SECTION 5-408: KENO; PARTICIPATION; RESTRICTIONS

A. No person under 19 years of age shall play or participate in any way in any lottery established and conducted within the city limits. No lottery operator whom the City Council contracts to conduct its lottery or his or her immediate family, em-

ployees, or agents or any person having an ownership interest in a sales outlet location or employee thereof shall play or participate in a lottery established and conducted by the City Council.

B. Nothing herein shall prohibit any member of the City Council, a city official, or the immediate family of such council member, provided that such person is 19 years of age or older. For purposes of this section, "immediate family" shall mean a person who is related to the member, official, or operator by blood, marriage, or adoption and resides in the same household of the member, official, or operator; or a person who is claimed by the member, official, operator, or spouse of a member, official, or operator as a dependent for federal income tax purposes.

(Neb. Rev. Stat. §9-646) (Ord. No. 369, 6/1/92)



Article 5 – Peddlers and Solicitors

SECTION 5-501: REGULATION

A. Every itinerant merchant, peddler and solicitor shall, before doing business within the City, make application for and be issued a registration certificate for the purpose of preventing the sale of fraudulent, dangerous, and unhealthful goods and services and protecting the public by maintaining records of the products sold and the persons and companies responsible for such sales. Application for said certificate shall be made to the city clerk and shall contain all the necessary information and documents required for the protection of the residents of the City. In addition to the permit required under this section, any person who shall sell edible products must also obtain the applicable food license and health permit under the provisions of state law. No permit shall be issued by the City without such proof being presented at the time application is made to the city clerk for an itinerant merchant, peddler or solicitor permit.

B. Any person granted a registration certificate shall pay a registration fee and shall be subject to occupation taxes and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any registration certificate so granted shall be subject to revocation for good and sufficient cause by the council or city police. Said registration fee shall be as set by resolution of the City Council, available for public inspection in the office of the city Clerk.
(Neb. Rev. Stat. §17-134, 17-525) (Am. Ord. No. 516, 12/30/20)

SECTION 5-502: HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesman, itinerant merchant or peddler to solicit any individual between the hours of 8:00 P.M. and 8:00 A.M. unless he or she has a previous appointment with the resident or residents of the premises solicited. It shall be unlawful at any hour for a solicitor, salesman, itinerant merchant or peddler to solicit without a proper registration certificate on his or her person at all times. (Neb. Rev. Stat. §17-134) (Am. Ord. No. 517, 12/30/20)

SECTION 5-503: EXCEPTIONS

Nothing herein shall be construed to apply to:

- A. Salespersons soliciting merchants directly;
- B. The sale of baked goods made within the county;
- C. The sale of farm or garden products grown within the county; or
- D. Nonprofit organizations canvassing city residents for religious, charitable, political, benevolent or other noncommercial purposes.

SECTION 5-504: REGISTRATION EXPIRATION

All registration certificates issued in accordance with this article shall expire seven days after the date of issuance thereof unless a prior date is fixed therein.

SECTION 5-505: APPEAL

Any person aggrieved by the decision of the city clerk in regard to the denial of an application for a registration certificate or in connection with the revocation of a registration certificate shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set a time and place for a hearing on such appeal and notice shall be given to such person by registered mail, postage prepaid, at his or her last known address. The order of the council on such appeal shall be final.

SECTION 5-506: POLICE ENFORCEMENT

It shall be the duty of the city police to examine all places of business and persons subject to the provisions of this article and to enforce the provisions herein against any person found to be violating the same.

Article 6 – Penal Provision

SECTION 5-601: VIOLATION; PENALTY

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