

Chapter 10

BUSINESS REGULATIONS

Article 1. Alcoholic Beverages

§10-101 **ALCOHOLIC BEVERAGES; 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. 53-103.01 through 53-103.42 RS Neb.*)

§10-102 **ALCOHOLIC BEVERAGES; 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 Municipality unless said person shall have in full force and effect a license as provided by the Nebraska Liquor Control Act. (*Ref. 53-102 RS Neb.*)

§10-103 **ALCOHOLIC BEVERAGES; RETAIL ESTABLISHMENTS; LOCATION.**

(A) Except as otherwise provided in division (B) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within one hundred fifty (150) feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition does not apply to any location within such distance of one hundred fifty (150) feet:

(1) For which a license to sell alcoholic liquor at retail has been granted by the Nebraska Liquor Control Commission for two (2) years continuously prior to making of application for license;

(2) To hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935; or

(3) To a college or university in the state which is subject to section 53-177.01 RS Neb.

(B) If a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty (150) feet of any church, a license may be issued if the Commission gives notice to the affected church and holds a hearing as prescribed in section 53-133 RS Neb. (*Ref. 53-177 RS Neb.*)

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

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

(2) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to section 53-124.15 RS Neb. (*Ref. 53-177.01 RS Neb.*) (*Amended by*

Ord. Nos. 820, 6/19/12; 914, 5/17/16)

§10-104 **ALCOHOLIC BEVERAGES; DWELLINGS.** Except in the case of hotels and clubs no alcoholic liquor shall be sold at retail upon any premise which has any access which leads from such premise 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 premise, and such other portion of the building which is used only by the licensee, his family, or personal guests. *(Ref. 53-178 RS Neb.)*

§10-105 **ALCOHOLIC BEVERAGES; LICENSE DISPLAYED.** Every licensee under the Nebraska Liquor Control Act shall cause his license to be framed and hung in plain public view in a conspicuous place on the licensed premise. *(Ref. 53-148 RS Neb.)*

§10-106 **ALCOHOLIC BEVERAGES; LICENSEE REQUIRE-MENTS.** 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 state in which the premise 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 Chapter 28, Article 3, 4, 7, 8, 10, 11, or 12 Reissue Revised Statutes of Nebraska, 1943, 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 (2) 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 twenty-five (25) sleeping rooms, or where the request is limited to on premises sale of beer only in a restaurant. *(Ref. 53-124.03, 53-125 RS Neb.) (Amended by Ord. Nos. 243, 4/5/83; 259, 11/1/83; 520, 8/21/01)*

§10-107 **ALCOHOLIC BEVERAGES; MUNICIPAL EXAM-INATION.** *(Repealed by Ord. No. 499, 7/5/00)*

§10-107.01 **ALCOHOLIC BEVERAGES; CATERING LI-CENSES.** (A) The holder of a license to sell alcoholic liquor at retail issued under section 53-124 RS Neb., a craft brewery, a microdistillery or a farm winery license, or a farm winery license may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, or farm winery license.

(B) Any person desiring to obtain a catering license shall file with the Commission:

(1) An application in triplicate original upon such forms as the Commission prescribes; and

(2) A license fee of one hundred dollars (\$100.00) payable to the Commission, which fee shall be returned to the applicant if the application is denied.

(C) (1) When an application for a catering license is filed, the Commission shall

notify, by registered or certified mail, return receipt requested with postage prepaid:

(a) The clerk of the city in which such applicant is located; or

(b) If the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located.

(2) The Governing Body and the Commission shall process the application in the same manner as provided in section 53-132 RS Neb.

(D) The Governing Body, with respect to catering licensees within its liquor license jurisdiction as provided in section 53-132(5) RS Neb., may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court of the county in which the local governing body is located.

(E) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body as provided in section 53-132(5) RS Neb. The tax may not exceed double the license fee to be paid under this section. (*Ref. 53-124.12 RS Neb.*) (*Ord. No. 373, 3/7/95*) (*Amended by Ord. Nos. 437, 6/17/97; 498, 7/5/00; 559, 4/2/02; 662, 11/2/04*)

§10-108 ALCOHOLIC BEVERAGES; LICENSE RENEWAL; LICENSED MUNICIPAL POWERS AND DUTIES.

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

(B) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the Municipality, one (1) time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the Municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Municipal Clerk by three (3) or more residents of the Municipality on or before February 10, or August 10 for Class C licenses, the Governing Body shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the Governing Body may request a licensee to submit an application as provided in section 53-135 RS Neb. (*Ref. 53-135.01 RS Neb.*) (*Amended by Ord. Nos. 259, 11/1/83; 661, 11/2/04*)

§10-109 ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL POWERS AND DUTIES.

(A) The Governing Body is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, craft brewery and microdistillery licensees carried on within the corporate limits of the Municipality. (*Ref. 53-134.03 RS Neb.*)

(B) During the period of forty-five (45) days after the date of receiving from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail, a craft brewery license or a microdistillery license, the Governing Body may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant. (*Ref. 53-131 RS Neb.*)

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

(1) To cancel or revoke for cause retail, craft brewery, or microdistillery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

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

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;

(4) To receive retail, craft brewery and microdistillery license fees as provided in sections 53-124 and 53-124.01RS Neb. and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

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

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 10-126 (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, 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 thirty (30) days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in section 53-133 RS Neb.;

(7) Upon receipt from the Commission of the notice and copy of application as provided in section 53-131 RS Neb., to fix a time and place for a hearing at which the Governing Body 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 Municipality, one time not

less than seven (7) and not more than fourteen (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 Governing Body in support of or in protest against the issuance of such license may do so at the time of the hearing. The hearing shall be held not more than forty-five (45) days after the date of receipt of the notice from the Commission, and after such hearing the Governing Body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The Municipal 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. (*Ref. 53-134 RS Neb.*)

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

(a) The license fee if by the terms of section 53-124 RS Neb. the fee is payable to the Municipal Treasurer;

(b) Any fee for publication of notice of hearing before the Governing Body upon the application for the license;

(c) The fee for publication of notice of renewal, if applicable, as provided in section 53-135.01 RS Neb.; and

(d) Occupation taxes, if any, imposed by the Municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the Municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the Municipality in any sum which exceeds two (2) times the amount of the license fee required to be paid under the Act to obtain such license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. Nos. 244, 4/5/83; 259, 11/1/83; 499, 7/5/00; 558, 4/2/02*)

§10-110 **ALCOHOLIC BEVERAGES; OWNER OF PREMISES.** The owner of any premise 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 premise in violation of any Municipal Code section or Nebraska statute. (*Ref. 53-1,101 RS Neb.*)

§10-111 **ALCOHOLIC BEVERAGES; 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 personally. (*Ref. 53-1,102 RS Neb.*)

§10-112 **ALCOHOLIC BEVERAGES; CLEAR VIEW.** It shall be unlawful to use any

screen, blind, curtain, partition, article, or other device in the windows or upon the doors of any retail liquor establishment which will have the effect of preventing a clear view into the interior of such licensed premise from the street, road, or sidewalk at all times. All licensed premises shall be continuously lighted during business hours by natural or artificial white lights to insure the clear visibility into said establishment. Any licensee who willfully violates the provisions of this section shall be subject to a revocation of his license by the Municipality as provided herein. (Ref. 53-167 RS Neb.)

§10-113 ALCOHOLIC BEVERAGES; SALE OR GIFT TO MINOR OR MENTALLY INCOMPETENT PERSON PROHIBITED. No person shall sell, furnish, give away, dispose of, exchange, or deliver, or permit the sale, gift, or procuring of any alcoholic liquors, to or for any minor or to any person who is mentally incompetent. (Ref. 53-180 RS Neb.) (Amended by Ord. Nos. 245, 4/5/83; 821, 6/19/12)

§10-114 ALCOHOLIC BEVERAGES; CREDIT SALES PROHIBITED. (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 the following:

(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; or

(3) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers. (Ref. 53-183 RS Neb.) (Amended by Ord. Nos. 199, 11/6/79; 822, 6/19/12; 893, 7/21/15)

§10-115 ALCOHOLIC BEVERAGES; SPIKING BEER. Repealed 2010.

§10-116 ALCOHOLIC BEVERAGES; ORIGINAL PACKAGE. It shall be unlawful for any person or persons who own, manage, or lease any premise in which the sale of alcoholic beverages is licensed, to have in their possession for sale at retail any alcoholic liquors contained in bottles, casks, or other containers except in the original package. (Ref. 53-184 RS Neb.)

§10-117 ALCOHOLIC BEVERAGES; MINOR'S PRESENCE. It shall be unlawful for any person or persons who own, manage, or lease an establishment selling alcoholic beverages at retail to allow any minor under the age of eighteen (18) years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by his parent or legal guardian, and unless said minor remains seated with, and under the immediate control of, the said parent or legal guardian.

(Ref. 53-147 RS Neb.)

§10-118 ALCOHOLIC BEVERAGES; HOURS OF SALE. It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

HOURS OF SALE

Alcoholic Liquors (except beer and wine)

Secular Days

Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.

Sundays

Off Sale	12:00 Noon to 1:00 A.M.
On Sale	12:00 Noon to 2:00 A.M.

Beer and Wine

Secular Days

Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.

Sundays

Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 2:00 A.M.

Provided that such limitations shall not apply after twelve o'clock (12:00) Noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to section 53-124-(5)(C) and (E) RS Neb.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (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.

Nothing in this section shall be construed to prohibit licensed premises from being open for business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. 53-179 RS Neb.) (Amended by Ord. Nos. 176, 9/7/76; 198, 11/6/79; 246, 4/5/83; 260, 11/1/83; 340, 10/1/91; 664, 11/2/04; 773, 7/6/10)

§10-119 ALCOHOLIC BEVERAGES; 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 premise shall be subject to any health inspections the Governing Body or the Municipal 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. (*Ref. 53-118 RS Neb.*)

§10-120 ALCOHOLIC BEVERAGES; HIRING MINORS. It shall be unlawful for any person to hire a minor regardless of sex under the age of nineteen (19) years to serve or dispense alcoholic liquors, including beer, to said licensee's customers. (*Ref. 53-102 RS Neb.*)

§10-121 ALCOHOLIC BEVERAGES; CONSUMPTION IN PUBLIC PLACES OR PLACES OPEN TO THE PUBLIC; RESTRICTIONS. (A) Except when the Nebraska Liquor Control Commission has issued a license as provided in section 53-186(2) RS Neb. or as provided in section 60-6,211.08 RS Neb., it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the State or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property. (*Ref. 53-186 RS Neb.*)

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, café, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act. It is unlawful for any person to consume alcoholic liquor in any dance hall, restaurant, café, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the Act. This subsection does not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under section 60-6,211.08 RS Neb. (*Ref. 53-186.01 RS Neb.*) (*Amended by Ord. No. 823, 6/19/12*)

§10-122 ALCOHOLIC BEVERAGES; MANUFACTURE, SALE, DELIVERY, AND POSSESSION; GENERAL PROHIBITIONS; EXCEPTIONS. (A) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in this Chapter and the Nebraska Liquor Control Act.

(B) Nothing in this Chapter shall prevent:

(1) The possession of alcoholic liquor legally obtained as provided in this chapter or the Act for the personal use of the possessor and his or her family or guests;

(2) The making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests;

(3) Any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians;

(4) The possession and dispensation of alcoholic liquor by an authorized

representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony;

(5) Persons who are sixteen (16) years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor;

(6) Persons who are sixteen (16) years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are sixteen (16) years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; or

(8) Persons who are nineteen (19) years old or older from serving or selling alcoholic liquor in the course of their employment. (*Ref. 53-168.06 RS Neb.*) (*Amended by Ord. Nos. 247, 4/5/83; 405, 2/20/96; 557, 4/2/02*)

§10-123 ALCOHOLIC BEVERAGES; GROUNDS FOR REVOCATION AND SUSPENSION.

A retail license to sell or dispense alcoholic liquors, which this Council is legally empowered to revoke, may be either revoked or suspended by the City Council whenever it shall find, after notice and hearing as provided by law, that the holder of any such license has violated any of the provisions of said Nebraska Control Act, or of this Chapter, or rule or regulation of the Nebraska Liquor Control Commission, or for any one or more of the following causes:

1. The licensee, his manager or agent in charge of the premises licensed, has been convicted of or has plead guilty to a felony under the laws of the State of Nebraska, or of any other state of the United States.

2. The licensee, his manager or agent in charge of the premises licensed, has been convicted of or has plead guilty to being the proprietor, manager or agent in charge of a gambling house, or of pandering.

3. The licensee, his manager or agent in charge of the premises licensed, has been convicted of or plead guilty to violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquors.

4. The licensee either swore falsely to any question in his application for said license or has failed to comply with the statements and representations made by the answer to any question or questions in said application.

5. The licensee, his manager or agent in charge of the premises licensed, shall have forfeited bond to appear in court to answer charges for any one of the violations of law or ordinance referred to in this section.

6. It shall be the cause for revocation or suspension as herein provided if the licensee, his manager or agent, shall allow any live person to appear, or have reasonable cause to believe that any live person shall appear in any licensed premises in a state of bottomless nudity or topless nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as any employee in any capacity.

For the purpose of this section, the term “bottomless nudity” shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering. The term “topless nudity” shall mean the showing of that area of the human female breast from one inch

above the breast nipple, the breast nipple, and that portion of the breast four inches below the breast nipple with less than a full opaque covering.

7. Upon a signed formal complaint of an alleged violation of this ordinance filed with the City Clerk of the City of Springfield, Nebraska, the Mayor and City Council of the City of Springfield will conduct a hearing on the matter at its next regular meeting, provided that the complaint is filed within ten (10) days prior to said meeting, otherwise the matter will be held over until the following regular Council Meeting. It shall be the duty of the City Clerk of the City of Springfield, Nebraska, to notify the retail liquor license holder, by United States mail, postage prepaid, of said alleged violation and hearing date. (*Ord. No. 176, 9/7/76*)

§10-124 ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

(1) 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 twenty-four (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.

(2) 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.

(3) For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or Municipally-owned property.

(4) For the purposes of this section, 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. (*Ref. 53-1,121 RS Neb.*) (*Ord. No. 215, 4/1/80*) (*Amended by Ord. No. 250, 4/5/83*)

§10-125 ALCOHOLIC BEVERAGES; LICENSED PREMISES; INSPECTIONS. The Governing Body shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this Article, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission or is failing to

observe in good faith the purposes of this Article or the Act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense. (Ref. 53-116.01 RS Neb.) (Ord. No. 248, 4/5/83) (Amended by Ord. No. 660, 11/2/04)

§10-126 ALCOHOLIC BEVERAGES; CITIZEN COM-PLAINTS. Any five (5) residents of the Municipality shall have the right to file a complaint with the Governing Body stating that any retail licensee subject to the jurisdiction of the Governing Body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the Governing Body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the Governing Body 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 (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the Governing Body within thirty (30) days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in section 53-1,115 RS Neb.. (Ref. 53-134.04 RS Neb.) (Ord. No. 249, 4/5/83) (Amended by Ord. No. 663, 11/2/04)

§10-127 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE. (Repealed by Ord. No. 499, 7/5/00)

§10-128 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS. (Repealed by Ord. No. 499, 7/5/00)

§10-129 ALCOHOLIC BEVERAGES; CRITERIA FOR GRANTING OF SPECIAL DESIGNATED PERMITS. The following criteria are hereby adopted as prerequisites to the approval of a special designated permit for the consumption of alcohol. These criteria are established pursuant to section 53-124.11 RS Neb.

- (1) The applicant has met all the requirements set forth in section 53-124.11 RS Neb., 1943, and all rules and regulations as promulgated by the Nebraska Liquor Control Commission.
- (2) The designated location is appropriate and proper and does not otherwise prohibit the consumption of alcoholic liquor thereon.
- (3) The special designated permit and the designated location shall not allow or permit the selling or dispensing of liquor to minors because of its designated location.
- (4) The designated location shall not have had any liquor violations occur within the past year.
- (5) The applicant shall not have been found guilty of violating liquor license laws of the State of Nebraska or the City within the past five (5) years.
- (6) The applicant has paid a fifty dollar (\$50.00) per day permit fee to the City.
- (7) The applicant is not requesting more than a five (5) day permit.

(8) An applicant may only receive one (1) permit in any six (6) day period.

(9) The event shall be held in an enclosed or fenced area no larger than ninety thousand (90,000) square feet.

(10) Applicant shall post a five hundred dollar (\$500.00) cash bond with the City to ensure faithful performance of subsection (9) above. If applicant's event shall exceed the square footage limitation, the bond shall be forfeited to cover the law enforcement costs associated with the violation. (*Ord. No. 443, 4/7/98*) (*Amended by Ord. Nos. 515, 8/7/01; 570, 9/3/02; 755, 4/7/09*)

§10-130 ALCOHOLIC BEVERAGES; KEG SALES; REQUIREMENTS; PROHIBITED ACTS.

(A) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of five (5) or more gallons or eighteen and ninety-two hundredths (18.92) or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if the military identification contains a picture of the purchaser, together with the purchaser's signature. This record shall be on a form prescribed by the Nebraska Liquor Control Commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six (6) months. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall be guilty of an offense. (*Ref. 53-167.02 RS Neb.*)

(B) Any person who unlawfully tampers with, alters, or removes the keg identification number from a container described in division (A) or is in possession of a container described in division (A) with an altered or removed keg identification number after the container has been taken from the licensed premises pursuant to a retail sale and before its return to the licensed premises or other place where returned kegs are accepted shall be guilty of an offense. (*Ref. 53-167.03 RS Neb.*) (*Ord. No. 918, 5/17/16*)

Article 2. Sales and Advertising

§10-201 PEDDLERS AND HAWKERS; REGULATION. To prevent the sale of fraudulent, dangerous, and unhealthful goods and services; to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales; and for the purpose of raising revenue, all peddlers, and hawkers shall, before doing business within the Municipality, make application for, and be issued a license. Application for a license shall be made to the Municipal Clerk, at least eight (8) hours in advance of the time such applicant desires to begin doing business and shall contain all the necessary information, and documents required for the protection of the residents of the Municipality. Any person or persons granted a peddler and hawker license shall be subject to any fees, occupation taxes, and other rules and regulations which the Governing Body deems appropriate for the purposes stated herein. Any permit so granted shall be subject to revocation for good and sufficient cause by the Governing Body. (*Ref. 17-134, 17-525 RS Neb.*)

§10-202 PEDDLERS AND HAWKERS; HOURS OF SOLICITATION. It shall be unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of six (6:00) o'clock P.M., and eight (8:00) o'clock A.M., unless they have a previous appointment with the resident, or residents, of the premise solicited. It shall be unlawful at any hour for a solicitor, salesman, or peddler to solicit without a proper license on his person at all times. (*Ref. 17-134 RS Neb.*)

§10-203 PEDDLERS AND HAWKERS; EXCEPTIONS. Nothing herein shall be construed to apply to any person, or persons, selling produce raised within the county, to wholesale salesmen soliciting merchants directly.

Article 3. Public Amusements

§10-301 **BINGO; REGULATION.** Games of bingo shall be conducted within the Municipality in accordance with all laws of the Municipality and the State of Nebraska if the said game of bingo is played for or involves profit or gain. Any association duly licensed by the State of Nebraska to conduct the game of bingo shall obtain a written permit from the Governing Body before commencing operation of said game. Application shall be made to the Municipal Clerk for such permit. Said application form shall contain such information and documents or copies thereof as the Governing Body deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Governing Body shall immediately direct the Municipal Clerk to issue the said license to the applicant upon the payment of an annual permit fee of ten dollars (\$10.00). 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 Governing Body may designate. All permits so issued will automatically expire on September thirtieth (30th), following its issuance or renewal. The fee for each renewal unless otherwise prescribed shall be in the sum of ten dollars (\$10.00). 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. (*Ref. 9-236 RS Neb.*) (*Amended by Ord. Nos. 197, 11/6/79; 278, 12/4/84*)

§10-302 **BINGO; TAX.** (*Repealed by Ord. No. 480, 4/7/99*)

§10-303 **BINGO; QUARTERLY REPORT.** (*Repealed by Ord. No. 480, 4/7/99*)

§10-304 **BINGO; INCORPORATED REGULATION.** 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, and violation of any State statute will be a distinct and separate offense against the Municipality as well as against the State. Violators thereof shall be separately prosecuted by the Municipality for each of such offenses, and if convicted, shall be deemed to be guilty of a misdemeanor. (*Ref. 9-201 through 9-265 RS Neb.*)

Article 4. Business Enterprises

§10-401 RAILROAD COMPANIES; SAFE CROSSINGS. It shall be the duty of every railroad company doing business in, or traveling through, the Municipality to keep in a suitable, and safe condition the crossings and right-of-way in the Municipality. If any such crossing shall at any time fall into disrepair and become unsafe, or inconvenient for public travel, the Governing Body may, by resolution, call upon the said company to make whatever repairs that it may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail, or neglect to repair, and correct the said condition as aforesaid within forty-eight (48) hours, neglect for each twenty-four (24) hours thereafter shall be deemed, and is hereby made a separate, and distinct offense against the provisions herein. (*Ref. 17-143, 17-144, 17-551, 17-552, 75-414 RS Neb.*)

§10-402 RAILROAD COMPANIES; LIGHTING. It shall be the duty of all railroad companies owning, operating, and maintaining a railroad through the Municipality to sufficiently light all crossings and to install as many signal systems as the Governing Body shall deem necessary at the expense of the said company. (*Ref. 17-561 RS Neb.*)

§10-403 RAILROAD COMPANIES; OBSTRUCTING TRAFFIC. It shall be unlawful for any railroad company, its employees, agents, or servants operating a railroad through the Municipality to obstruct traffic on any public street, except in the event of an emergency, for a longer period at one time than five (5) minutes. (*Ref. 17-552 RS Neb.*)

§10-404 STOCKYARD; UNLAWFUL. It shall be unlawful for any person within the corporate limits to use or employ any building or premise, now or hereafter erected, or existing in this Municipality, as a stockyard, animal weighing pen, whether temporarily used for weighing, loading or unloading during transportation or not, or as a commercial cattle, hog, sheep, or animal feed lot, or to use or employ buildings, sheds or pavilions used as interior sales barns without the previous permission, in writing, of the Governing Body. Nothing herein shall apply to any person now operating within the corporate limits a commercial sale barn, stockyard, or animal weighing pen, or who presently uses or employs buildings, sheds or pavilions as interior sale barns, but shall apply to any assignee of such person.

§10-405 BUILDING MOVING; REGULATION. It shall be unlawful for any person, firm, or corporation to move or dismantle any building or structure within the Municipality without a written permit to do so. Application may be made to the Municipal Clerk, and shall include the location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Municipal Police for approval of the proposed route over which the said building is to be moved. Upon approval

of the Governing Body, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check, or cash in an amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. No moving permit shall be required to move a building that is ten feet (10') wide, or less, and twenty feet (20') long, or less, and when in a position to move, fifteen feet (15') high, or less. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as is necessary. (*Ref. 60-6,288 to 60-6,294, 60-6,296, 77-1725 RS Neb.*)

§10-406 **BUILDING MOVING; DEPOSIT.** At such time as the building moving has been completed, the Municipal Police shall inspect the premise and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from the Municipal Police, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by resolution of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

Article 5. Occupation Tax

§10-501 **OCCUPATION TAX; REQUIRED BUSINESSES; AMOUNTS.** (1) For the purpose of raising revenue an occupation tax is hereby levied on the following businesses:

Advertising Bench	Annually
Alcoholic Liquors Retailer	Annually
Billiards or Pool Tables	Annually
Fire Insurance Companies	Annually
Fireworks Stands	Annually
Mechanical Amusement Devices	Annually
Special Liquor License Retailer	Per Event
Tattoo Parlor	Annually
Telephone Companies	Annually
Tobacco Retailer	Annually
Trailer or Mobile Home Court	Annually
Vendor/Hawker/Peddler	Annually or Per Day

(2) The occupation tax due shall be established and listed in the Springfield Fees Ordinance adopted and kept current in the City Clerk's Office. (*Ref. 17-525 RS Neb.*) (*Amended by Ord. Nos. 280, 6/11/85; 577, 10/1/02*)

§10-502 **OCCUPATION TAX; FIRE INSURANCE COM-PANIES.** For the use, support, and maintenance of the Municipal Fire Department all revenue realized from the occupation tax on Fire Insurance Companies shall be appropriated to the Fire Department Fund. (*Ref. 35-106 RS Neb.*)

§10-503 **OCCUPATION TAX; COLLECTION DATE.** All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, in which event the tax shall be payable prior to the date for which the tax is levied, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. (*Ref. 17-525 RS Neb.*) (*Amended by Ord. Nos. 187, 1/4/77; 280, 6/11/85*)

§10-504 **OCCUPATION TAX; 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. 17-525 RS Neb.*)

§10-505 **OCCUPATION TAX; 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 Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one (1%) percent per month until paid. (*Ref. 17-525 RS Neb.*)

§10-506 **OCCUPATION TAX; TELEPHONE COMPANIES AND TELECOMMUNICATIONS COMPANIES.** (A) Revenue Measure. The provisions of this section are enacted solely as a revenue measure of the City.

(B) Telephone Companies and Telecommunications Companies. An occupation tax is hereby levied and imposed on every person who engages in the business of providing local exchange telephone service, intrastate message toll telephone service and mobile telecommunications services for revenue in the City.

(C) Mobile Telecommunications Services, Defined. As used in this section, MOBILE COMMUNICATIONS SERVICES shall mean a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

- (1) Both one-way and two-way wireless communications services;
- (2) A mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and
- (3) Any personal communications services.

(D) Amount of Tax. (1) The occupations tax levied and imposed by the provisions of this section shall be a percentage, as set by the City Fees Ordinance, of the gross income received from furnishing local exchange telephone service and intrastate message toll telephone service, other than mobile telecommunications services as defined in this section, from subscribers within the corporate limits of the City.

(2) If the telecommunications services provided are mobile telecommunication services as defined in this section, the tax shall be a percentage, as set by the City Fees Ordinance, of the gross income received from furnishing mobile telecommunications service that originates and terminates in the same state to a customer with a place of primary use within the corporate limits of the City. Gross receipts shall not mean:

- (a) The gross income, including division of revenue, settlements, or carrier access charges received on or after January 1, 1984, from the sale of a telephone communication service to a communication service provider for purposes of furnishing a telephone communication service; or
- (b) The gross income attributable to services rendered using a prepaid telephone calling arrangement.

(E) Quarterly Payments; Due Dates. The payment of any occupation tax levied and imposed by the provisions of this Article shall be made in quarterly payments using the calendar quarter year as a basis for determining the due date. Each quarterly payment shall be due thirty (30)

days immediately following the termination of each calendar quarter year.

(F) Statement to be Filed. Every person coming within the provisions of this Article shall, on or before the fifteenth (15th) day of the month immediately following the termination of each calendar year, file with the City Clerk, in the case of those persons taxed by this section, a full, complete and detailed statement of the income and gross receipts of said person for the preceding three (3) calendar months, omitting therefrom the appropriate exceptions and exemptions, if any. All statements shall be duly verified as true and correct and sworn to by the manager or managing officer of such person.

(G) City's Right to Inspect. The City shall have the right at any and all times during business hours to inspect, through the comptroller or some other officer appointed by the City Council, the books and records of any person coming under the provisions of this Article for the purpose of ascertaining the correctness of the required statement.

(H) Failure to File Statement; Interest and Penalty. In the event any person coming under the provisions of this Article shall refuse, fail or neglect to furnish or file the required statement at the time or times specified, the occupation tax for the preceding three (3) calendar months shall draw interest at the rate of one percent (1%) per month after due and payable and, in addition thereto, a penalty of five percent (5%) for the failure to file.

(I) Interest and Penalty on Delinquent Payments. All delinquent payments shall draw interest at the rate of one percent (1%) per month; and, if delinquent for six (6) months or more, a penalty of five percent (5%) shall be added thereto in addition to the interest charge.

(J) Collection of Tax by Civil Action. In case any person shall fail to make payment of the occupation tax as required by this Article, the City shall have the right and may sue any such person or persons in any court of competent jurisdiction for the amount of the occupation tax due and payable and may recover judgment against such person for the amount so due, together with interest and penalties, and may have execution thereon.

(K) Disposition of Receipts. The occupation taxes paid under the provisions of this Article shall be credited to the General Fund of the City.

(L) The calculation of the amount of occupation tax due under subsection (D) above shall commence October 1, 2003. (*Ord. No. 621, 9/2/03*)

§10-507 **OCCUPATION TAX: LEVIES AUTHORIZED.** (A) The city shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city and regulate the same by ordinance. Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under §§53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 RS Neb. or which is exempt from tax under §77-2704.24 RS Neb. The occupation tax shall be imposed in the manner provided in §18-1208 RS Neb., except that §18-1208 RS Neb. does not apply to an occupation tax subject to §86-704 RS Neb. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the city. (*Ref.17-525 RS Neb.*)

(B) Notwithstanding any ordinance or charter power to the contrary, the (city/village) shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the city in any sum which exceeds two (2) times the amount of the license fee required to be paid under the Act to obtain such license. (*Ref. 53-132 RS Neb.*) (*Amended by Ord. No. 894, 7/21/15*)

Statutory reference:

Occupation taxes generating more than \$300,000; imposition or increase; election required, see 18-1208 RS Neb.

Article 6. Franchises

§10-601 FRANCHISES; NATURAL GAS; FEE.

(1) The Governing Body has granted to the Metropolitan Utilities District the authority to construct, maintain and operate a gas transmission and distribution system within the Municipality. Metropolitan Utilities District shall pay to the City a franchise fee of two percent (2%) of the gross receipt from such business. Actual details of the agreement and the present gas rates, charges and fees are available at the Municipal Clerk's office.

(2) The franchise fee due shall be established and listed in the Springfield Fees Ordinance adopted and kept current in the Municipal Clerk's Office. (*Ref. 17-528.02*) (*Ord. No. 297, 12/1/87*) (*Amended by Ord. No. 578, 10/1/02*)

§10-602 FRANCHISES; ELECTRICITY; FEE.

(1) The Governing Body has granted to the Omaha Public Power District the authority to maintain and operate the light and power system in the Municipality for the purpose of furnishing electric energy to the Municipality, and fixing the charges for such services. Actual details of the agreement, and the present telephone rates, charges, and fees are available at the Municipal Clerk's office.

(2) The franchise fee due shall be established and listed in the Springfield Fees Ordinance adopted and kept current in the Municipal Clerk's Office. (*Ref. 17-528.03*) (*Ord. No. 579, 10/1/02*)

§10-603 FRANCHISES; CABLE TELEVISION; FEE.

(1) The Governing Body has granted to Charter Communications, Inc., the authority to construct, maintain and operate a cable television system within the Municipality. Actual details of the agreement, and the present cable television rates, charges, and fees are available at the Municipal Clerk's office.

(2) The franchise fee due shall be established and listed in the Springfield Fees Ordinance adopted and kept current in the Municipal Clerk's Office. (*Ord. No. 580, 10/1/02*)

Article 7. Fireworks

[Editor's Note: Article 7 was adopted in its entirety by Ordinance No. 359, 4/19/94.]

§10-701 FIREWORKS; PERMISSIBLE FIREWORKS DESIGNATED. Permissible fireworks shall mean any fireworks approved under the laws of the State of Nebraska. *(Amended by Ord. No. 360, 6/21/94)*

§10-702 FIREWORKS; EXCEPTION. The provisions of this Article shall not apply to the discharge of any fireworks for purposes or under the auspices of any governmental subdivision. *(Amended by Ord. No. 360, 6/21/94)*

§10-703 FIREWORKS; FIREWORKS RESTRICTED. No person shall possess, sell, offer for sale, bring into the City or discharge any pyrotechnics, commonly known as fireworks, other than permissible fireworks. *(Amended by Ord. No. 360, 6/21/94)*

§10-704 FIREWORKS; SALES. (A) It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks in this municipality unless such person has first obtained a license as a distributor, jobber or retailer. Application for each such license shall be made to the State Fire Marshal on forms prescribed by him or her. If the applicant is an individual, each application shall include the applicant's social security number. Each application shall be accompanied by the required fee, which shall be five hundred dollars (\$500.00) for a distributor's license, two hundred dollars (\$200.00) for a jobber's license, and twenty-five dollars (\$25.00) for a retailer's license. Each application for a license as a retailer postmarked after June 10th shall be accompanied by an additional fee of fifty dollars (\$50.00). All licenses shall be good only for the calendar year in which issued and shall at all times be displayed at the place of business of the holder thereof. The funds received pursuant to this section shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. *(Ref. 28-1246 RS Neb.)*

(B) Before any permissible fireworks may be sold, held for sale, or offered for sale in this Municipality, they shall first be submitted to the State Fire Marshal for examination to determine their compliance with section 28-1241(7) RS Neb. and their safety for general use. Fireworks not specifically listed in section 28-1241(7) RS Neb. may be added to the list of permissible fireworks by the State Fire Marshal, by rule or regulation, after having been submitted to him or her and tested to determine their safety for general use. *(Ref. 28-1247 RS Neb.)*

(C) Permissible fireworks may be sold at retail only from 12:01 a.m. June 25 through 11:59 p.m. July 4 and from 12:01 a.m. December 29 through 11:59 p.m. December 31 of each year. *(Ref. 28-1249 RS Neb.) (Amended by Ord. Nos. 360, 6/21/94; 657, 11/2/04; 782, 11/16/10)*

§10-705 FIREWORKS; LOCATION OF STAND GENERALLY.

(A) In addition to all other requirements and regulations of the City, all fireworks stand, booths or other places of sale of fireworks shall conform to all rules and regulations promulgated by the Nebraska State Fire Marshal's Office.

- (B) Fireworks may only be sold from within:
- (1) A temporary building structure, utilizing a booth or stand allowing for walk-up sales,
 - (2) A temporary building structure which allows patrons to enter the structure,
 - (3) A tent (provided, however, no tent used for the sale shall exceed a maximum floor space for sales and storage area of 5,000 square feet),
 - (4) A metal trailer, or
 - (5) A building or structure that complies with the regulations of the State of Nebraska State Fire Marshal's Office. *(Amended by Ord. Nos. 360, 6/21/94; 744, 11/20/07; 789, 6/7/11)*

§10-706 **FIREWORKS; PROXIMITY TO CERTAIN BUSINESSES.** Stands and areas where fireworks are to be sold shall be located at least one hundred feet (100') from any gasoline service station or automotive repair shop using flammable materials. Such distance shall be measured from the closest point where fireworks are sold or stored to the closest point where gasoline or combustible material is dispensed or stored above ground. *(Amended by Ord. No. 360, 6/21/94)*

§10-707 **FIREWORKS; FIRE EXTINGUISHER.** A minimum ten pound (10') Class A fire extinguisher must be kept in each fireworks stand at all times. *(Amended by Ord. No. 360, 6/21/94)*

§10-708 **FIREWORKS; COMPLIANCE WITH STATE LAWS.** In addition to all requirements and regulations of the City, all sellers of fireworks shall comply with all laws, regulations and rules of the State of Nebraska dealing with the sale and distribution of fireworks. *(Amended by Ord. No. 360, 6/21/94)*

§10-709 **FIREWORKS; LICENSE REQUIRED.** No person shall sell, hold for sale, or offer for sale any fireworks in the City unless such person has first obtained a license as a retailer. Such license is valid for one fireworks season only and the issuance of a license for any particular season or combination of seasons does not create any expectation of or property interest in the issuance of a license for another season. *(Amended by Ord. No. 360, 6/21/94)*

§10-710 **FIREWORKS; LICENSE PERSONAL TO APPLICANT; ONE LOCATION PER LICENSE.** An organization or individual may receive only one (1) license to sell fireworks from June 25 through July 4 and only one (1) license to sell fireworks from December 29 through December 31. Each license granted shall be for one (1) specific location identified by address or suitable area description on the application. License shall be considered personal to the applicant and shall not be assignable or transferable in any manner. The issuance of a license for any particular season or combination of seasons does not create any expectation of or property interest in the issuance of a license for another season, except as may be provided by this Code. *(Amended by Ord. Nos. 360, 6/21/94; 475, 10/6/98; 782, 11/16/10)*

§10-711 FIREWORKS; APPLICATION FOR LICENSE. Application for a license required under the provisions of this Article for fireworks sales from June 25 through July 4 shall be made in the office of the City Clerk only between January 1 and May 1 of each year in which the license, if issued, would be valid. Application for a license required under the provisions of this Article for fireworks sales from December 29 through December 31 shall be made in the office of the City Clerk only between September 1 and November 1 of each year in which the license, if issued, would be valid. The City Clerk will provide the application form. The City Clerk will, at the time of accepting the application for license, give notice of the date and time of the hearing for licenses. At the time of an application, an applicant shall furnish to the City the name and address of the fireworks stand manager. The person designated as manager must be at least twenty-one (21) years of age. It shall be incumbent upon the applicant to keep this list current so that the names of the employees having management responsibilities will always be on file in the office of the City Clerk. Each applicant shall provide a plat plan showing location of the stand, address, setback from street right-of-way, distance to nearest building or structure, and occupancy of nearest building. *(Amended by Ord. Nos. 360, 6/21/94; 475, 10/6/98; 782, 11/16/10)*

§10-712 FIREWORKS; HEARING ON GRANT OF LICENSE. The City Council shall hold a hearing on fireworks license applications for sales from June 25 through July 4 at the first (1st) regular meeting in May. The City Council shall hold a hearing on fireworks license applications for sales from December 29 through December 31 at the first (1st) regular meeting in November. The City Council shall take testimony regarding the reputation and experience of the applicants. If the City Council finds that an applicant has a satisfactory reputation for operating a fireworks stand, the license shall be granted upon payment of the bond. If, prior to the public hearing required by this section, the Mayor determines that an applicant has held a City fireworks stand license and no complaints have been received pertaining to the applicant, the Mayor may waive the requirement that the applicant attend the public hearing. *(Amended by Ord. Nos. 360, 6/21/94; 475, 10/6/98; 757, 7/7/09; 782, 11/16/10)*

§10-713 FIREWORKS; FEES. Each application for a license to sell fireworks from June 25 through July 4 shall be accompanied by a two thousand dollar (\$2000.00) license fee. Each application for a license to sell fireworks from December 29 through December 31 shall be accompanied by a five hundred dollar (\$500.00) license fee. If the license is granted, the fee shall be retained by the City. If the license is denied, the fee shall be returned to the applicant. *(Amended by Ord. Nos. 360, 6/21/94; 475, 10/6/98; 782, 11/16/10)*

§10-714 FIREWORKS; CONSENT FOR BOND REQUIRED. Before the issuance of a fireworks license, the applicant shall execute a consent form agreeing to abide by any regulations imposed by the City pertaining to the sale of fireworks and shall furnish to the City a cash bond in the amount of five hundred dollars (\$500.00) conditioned that the licensee shall abide by any and all regulations proposed by the City pertaining to the sale of fireworks, and that the licensee shall clean the area in and around any stand where fireworks are sold, such work to be done by July 7 of each year for fireworks sold from June 25 through July 4 and such work to be done by January 4 of each

year for fireworks sold from December 29 through December 31. Any portable stand or tent shall be removed from its temporary location by July 12 of each year for fireworks sold from June 25 through July 4 and by January 9 of each year for fireworks sold from December 29 through December 31. *(Amended by Ord. Nos. 360, 6/21/94; 782, 11/16/10)*

§10-715 FIREWORKS; BOND FORFEITURE OR RETURN. Cash bonds as provided in section 10-715 shall be returned to the licensee when the Mayor or his or her designated representative shall have certified that the conditions of the bond have been satisfied. In the event any portable stand is not removed from its temporary location within the allotted time or the sale area is not cleaned and the debris and trash not removed therefrom, then the cash bond shall be forfeited and the proceeds used by the City to clean the area and remove the stand. *(Amended by Ord. No. 360, 6/21/94)*

§10-716 FIREWORKS; INSURANCE. Each applicant must attach to its application a copy of a certificate of public liability insurance with minimum amounts of one million dollars (\$1,000,000.00) per occurrence and two hundred thousand dollars (\$200,000.00) per person. *(Amended by Ord. No. 360, 6/21/94)*

§10-717 FIREWORKS; PLACE OF BUSINESS. A license issued under the provisions of this Article shall be conditioned upon the licensee providing an acceptable fireworks stand or place of business. *(Amended by Ord. No. 360, 6/21/94)*

§10-718 FIREWORKS; INSPECTION REQUIRED. The license may be obtained at the office of the City Clerk only after an inspection by the Mayor or his or her designated representative of the fireworks stand or place of sale to determine if such stand or place of sale conforms to all City standards, building codes, and land use regulations. *(Amended by Ord. No. 360, 6/21/94)*

§10-719 FIREWORKS; DUTY OF LICENSEE TO REQUEST INSPECTION. The applicant for a license required by the provisions of this Article shall request the City to make such inspection not later than June 23 of each calendar year for fireworks sold from June 25 through July 4 and not later than December 27 of each calendar year for fireworks sold from December 29 through December 31, and such inspection shall be made by the City within forty-eight (48) hours after the request. In the event of any violation, the license may not be picked up at the City Hall until the violation is corrected. *(Amended by Ord. Nos. 360, 6/21/94; 782, 11/16/10)*

§10-720 FIREWORKS; DISPLAY OF LICENSE. Licenses issued under the provisions of this Article shall be displayed at all times at the place of business of the licensee. *(Amended by Ord. No. 360, 6/21/94)*

§10-721 FIREWORKS; DURATION OF LICENSE. Licenses issued under the provisions of this Article shall be valid only for the calendar year in which issued. *(Amended by Ord. No. 360, 6/21/94)*

§10-722 **FIREWORKS; AGE OF MANAGER TO BE ON PREMISES.** During all hours of operation of a fireworks stand a manager at least twenty-one (21) years of age shall be on the premises. *(Amended by Ord. No. 360, 6/21/94)*

§10-723 **FIREWORKS; SPECIAL PERMIT FOR COMMUNITY FIREWORKS SHOW.** No person shall conduct a public exhibition or display of fireworks without first procuring a display permit from the Nebraska State Fire Marshal and the City Clerk. All applicants for a City of Springfield permit shall present the City Clerk with a copy of their permit issued by the Nebraska State Fire Marshal, as well as a detailed to scale diagram of the location where the fireworks will be ignited. All applicants shall have a one million dollar (\$1,000,000.00) general liability insurance policy. All policies of insurance shall be written by an insurer authorized to do business in Nebraska. All policies of insurance shall name the City of Springfield as an additional named insured. If the diagram and certificate of insurance are acceptable to the City Clerk and the appropriate fee is paid, the City Clerk shall issue the license. *(Ord. No. 898, 8/4/15)*

§10-724 **FIREWORKS; VIOLATIONS.** Any person or licensee who violates any of the provisions of this Article shall be deemed guilty of a misdemeanor, and in addition to any fine, any person who is licensed shall be subject to the revocation of such license. Upon complaint being filed with the City Clerk, the City Clerk shall notify the licensee in writing and shall order a hearing before the City Council to show cause why said license should not be revoked. The hearing shall be not less than seven (7) days after the filing of the complaint. The City Council shall conduct a special hearing for purposes of determining whether such license shall be revoked. The licensee shall appear in person or by his attorney and upon revocation no refund of any portion of the license fee shall be made to the licensee and he shall immediately close all business at all places under such license. *(Amended by Ord. Nos. 360, 6/21/94; 898, 8/4/15)*

Article 8. Lottery

§10-801 LOTTERY; PARTICIPATION; RESTRICTIONS.

(1) No person under nineteen (19) years of age shall play or participate in any way in the lottery established and conducted by the Municipality.

(2) No owner or officer of a lottery operator with whom the Municipality contracts to conduct its lottery shall play the lottery conducted by the Municipality. No owner or officer of an authorized sales outlet location for the Municipality shall play in the lottery conducted by the Municipality. No employee or agent of the Municipality, lottery operator, or authorized sales outlet location shall play the lottery of the Municipality for which he or she performs work during such time as he or she is actually working at such lottery or while on duty.

(3) Nothing shall prohibit any member of the Governing Body, a municipal official, or the immediate family of such member or official from playing the lottery conducted by the Municipality as long as such person is nineteen (19) years of age or older.

(4) No person, or employee or agent of any person or the Municipality, shall knowingly permit an individual under nineteen (19) years of age to play or participate in any way in the lottery conducted by the Municipality.

(5) For purposes of this section, immediate family of a member of the Governing Body or a municipal official shall mean (a) a person who is related to the member or official by blood, marriage, or adoption and resides in the same household or (b) a person who is claimed by the member or official, or the spouse of the member or official, as a dependent for federal income tax purposes. *(Ref. 9-646 RS Neb.) (Ord. No. 465, 8/4/98)*

Article 9. Tobacco Sales

§ 10-901 TOBACCO; LICENSE FOR SALE; APPLICATION; CONTENTS; FEE. (Ord. No. 466, 8/4/98; Repealed by Ord. No. 895, 7/2/15)

§ 10-902 TOBACCO; PRODUCT PLACEMENT. (1) *Findings and Intent.* The City hereby declares that it is the policy of the City to affirm the scientific evidence that the use of tobacco products is causally connected to many diseases and is dangerous to human health. Placing tobacco products out of the reach of children will reduce the likelihood of children to use tobacco products.

(2) *Definitions.* For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given.

Nicotine Delivery Device. A device providing for the ingestion and/or absorption of nicotine into the body such as patches, inhalers, chewing gum, beverages containing nicotine, nasal spray and lozenges.

Place of Business. A place where tobacco products are sold at retail, including vending machines.

Responsible Person. Any person, firm, association, company, partnership or corporation or agent or employee of same who operates a store, stand, booth, concession or other place at which tobacco sales are made to purchasers. A responsible person as defined and applied herein must be an individual eighteen (18) years or older.

Tobacco or Nicotine Products. Cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobacco, shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco or nicotine, and anything containing tobacco or any other kinds and forms of tobacco prepared in such manner as to be suitable for either chewing, smoking in a pipe, chewing and smoking, or inhaling and snorting through the nose.

Vending Machine. Any device or machine requiring the deposit of money or other things of value, including any such device or machine activated or operated by the vendor or by an employee or agent of the vendor.

Vendor-Assisted Access. Access to tobacco, tobacco products or other nicotine delivery devices only with the direct assistance of the vendor or a vendor employee or agent, so that customers do not have direct access to take possession of tobacco, tobacco products or other nicotine delivery devices without direct assistance from the vendor or a vendor employee or agent. A vendor or a vendor employee or agent must be at least eighteen (18) years or older to sell tobacco.

(3) *Certain Forms of Distribution Prohibited.*

(a) It shall be unlawful to sell tobacco or nicotine products or nicotine delivery devices in any form except original factory-wrapped packages. The sale of single cigarettes is specifically prohibited.

(b) It shall be unlawful for any person or organization to give away, hand out or otherwise distribute free samples of cigarettes or other tobacco products, or coupons that can be redeemed for free samples of cigarettes or other tobacco products or those that reduce the price of tobacco products, anywhere within this jurisdiction.

- (c) It shall be unlawful for any person to:
1. Sell, permit to be sold or offer for sale tobacco, tobacco products or nicotine delivery devices by means other than vendor-assisted access;
 2. Display tobacco, tobacco products or nicotine delivery devices in a manner allowing customers access to tobacco, tobacco products or nicotine delivery devices without vendor assistance; and
 3. Shall prohibit the sale of tobacco or nicotine products through the use of vending machines.

(4) *Penalty and Culpability.*

(a) The violation of any provision in this Article shall be punished by a fine of up to two hundred dollars (\$200.00) for the first offense under such Article. The violation of any provision in this Article shall be punished by a fine of up to five hundred dollars (\$500.00) for each offense after the first offense. Each day any such violation shall continue, and each unlawful transaction or occurrence, shall constitute a separate offense.

(b) There shall be no requirement of a culpable mental state for a violation of this Article. (*Ord. No. 742, 8/7/07*)

§10-903 TOBACCO AND CIGARETTES: LICENSE TO SELL: ISSUANCE. Licenses for the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products to persons over the age of eighteen (18) years shall be issued to individuals, partnerships, limited liability companies, and corporations by the City Clerk upon application duly made as provided in this chapter. (*Ref. 28-1421 RS Neb.*) (*Amended by Ord. No. 895, 7/21/15*)

Statutory reference:

Licenses required, see Neb. RS 28-1420 Prohibited sales, see Neb. RS 28-1421

§10-904 TOBACCO: LICENSE APPLICATION. Every person, partnership, limited liability company, or corporation desiring a license under §§RS 28-1420 to 28-1429 RS Neb., shall file with the City Clerk a written application stating the name of the person, partnership, limited liability company, or corporation for whom the license is desired and the exact location of the place of business and shall deposit with the application the amount of the license fee provided in this chapter. If the applicant is an individual, the application shall include the applicant's social security number. (*Ref. 28-1422 RS Neb.*) (*As Amended by Ord. No. 895, 7/21/15*)

§10-905 TOBACCO: LICENSE TERM; FEES. (A) The term for which a license shall run shall be from the date of filing the application and paying the license fee to and including December 31 of the calendar year in which application for the license is made.

(B) The license fee for any person, partnership, limited liability company, or corporation selling at retail shall be ten dollars (\$10.00).

(C) Any person, partnership, limited liability company, or corporation selling annually in the aggregate more than one hundred fifty thousand (150,000) cigars, packages of cigarettes, and packages of tobacco in any form, at wholesale, shall pay a license fee of one hundred dollars (\$100.00), and if such combined annual sales amount to less than one hundred fifty thousand

(150,000) cigars, packages of cigarettes, and packages of tobacco, the annual license fee shall be fifteen dollars (\$15.00). No wholesaler's license shall be issued in any year on a less basis than one hundred dollars (\$100.00) per annum unless the applicant shall file with the application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, and packages of tobacco in every form have not exceeded in the aggregate one hundred fifty thousand (150,000) annually and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of an offense, and such wholesaler's license shall be revoked until the full license fee of one hundred dollars (\$100.00) is paid.

(D) If application for license is made after July 1 of any calendar year, the fee shall be one-half (½) of the fee provided in this section. (*Ref. 28-1423 RS Neb.*) (*As Amended by Ord. No. 895, 7/21/15*)

§10-906 TOBACCO: RIGHTS OF LICENSEE. (A) The license, provided for in this chapter, when issued, shall authorize the sale of cigars, tobacco, cigarettes, cigarette material, vapor products, or alternative nicotine products by the licensee and employees, to persons over the age of eighteen (18) years, at the place of business described in the license for the term therein authorized, unless the license is forfeited as a result of court action as provided in §28-1425 RS Neb. (*Ref. 28-1424 RS Neb.*)

(B) If the license is revoked and forfeited pursuant to §28-1425 RS Neb., all rights under the license shall at once cease and terminate. (*Ref. 28-1425 RS Neb.*) (*As Amended by Ord. No. 895, 7/21/15*)

Statutory reference: Sale to person under 18 prohibited; penalties, see section 28-1425 RS Neb.

§10-907 TOBACCO: DISPOSITION OF FEES. All money collected as license fees under the provisions of this chapter shall be paid over by the City Clerk to the treasurer of the school fund for the City. (*Ref. 28-1426 RS. Neb.*) (*As Amended by Ord. No. 895, 7/21/15*)

§10-908 TOBACCO: TRANSFER OF LICENSE. In case of the sale of a business where the owner has a license hereunder, the City Clerk may authorize such license to be transferred to the purchaser. In case of a change of location by any licensee hereunder, the Clerk may transfer such license to the new location. (*Ref. 28-1428 RS Neb.*) (*As Amended by Ord. No. 895, 7/21/15*)

§10-909 TOBACCO: REISSUANCE OF REVOKED AND FORFEITED LICENSE. In the event that the license of a licensee hereunder shall be revoked and forfeited as provided in §28-1425 RS Neb., no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture. (*Ref. 28-1429 RS Neb.*) (*As Amended by Ord. No. 895, 7/21/15*)

Article 10. Tattoo and Body Piercing Establishments.

§10-1001 TATTOO AND BODY PIERCING ESTABLISHMENTS; LICENSE REQUIRED. It shall be unlawful for any person to engage in the business of operating a tattoo and/or a body piercing establishment without first obtaining a license to engage in such business in accordance with the provisions of this Article. (*Ord. No. 519, 8/7/01*)

§10-1002 TATTOO AND BODY PIERCING ESTABLISHMENTS; APPLICATION FEE. An application for a new or renewal license shall be filed with the City Clerk accompanied by a fee set by City Council. Upon payment of the license fee, receipt of the application, and receipt of the certificate of inspection, the City Clerk shall issue a license, valid for one (1) year from the date of issuance, to the applicant, which he/she shall keep displayed in his/her place of business at all times. Any change of ownership of the business licensed shall require a new application and license, with payment of fees therefor. (*Ord. No. 519, 8/7/01*) (*Amended by Ord. No. 618, 6/17/03*)

§10-1003 TATTOO AND BODY PIERCING ESTABLISHMENTS; DEFINITIONS. For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them by this section:

Certificate of Inspection: Written approval from the appropriate local, regional or state health inspection agency/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.

Body Piercing: The act of penetrating the skin, excluding the earlobes, to make generally permanent in nature, a hole, mark or scar.

Health Inspection Agency: The local, regional or state health service department/agency, working on behalf of the City, which is responsible for health inspection services of a tattooing and/or Body Piercing establishment.

Operator: Any 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 the person of another.

Tattoo: Any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments designed to touch or puncture the skin. (*Ord. No. 519, 8/7/01*)

§10-1004 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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 one hundred (100) square feet. The walls, floors and ceiling 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 will be accessible to the operator to wash his/her hands prior to applying a tattoo or body piercing to 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 constructed of easily cleanable material, shall be painted or finished in a light color, with a smooth washable finish, and shall be separated from waiting customers or observers by a panel at least four (4) feet high or by a door.

(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 seventy percent (70%) alcohol (Rubbing Alcohol) or in an antiseptic solution approved by the designated Health Inspection Agency. The operator will then don 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 service on more than one (1) person at a time; that is, he/she shall commence and complete or terminate services with a 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 be 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 (2) 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 seventy percent (70%) alcohol shall be applied to the area with a single-use sponge used 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 equivalent as approved by the Health Inspection Agency, 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 or autoclave. 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. 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 five (5) 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 completing work on a patron and 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 an individual sterile sponge or a disposable paper tissue which shall be used only on one (1) person and then immediately discarded and disposed of with other hazardous medical waste. After completing work on any person, the tattooed and/or pierced area shall be washed with sterile gauze saturated with an antiseptic soap solution approved by the Health Inspection Agency, or a seventy percent (70%) alcohol solution. 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 (1) 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 should be used in conjunction with a new needle. After use, the tube shall be sterilized.

(15) Operator is responsible for issuing after-care instructions for each tattooing and 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. (*Ord. No. 519, 8/7/01*)

§10-1005 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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. (*Ord. No. 519, 8/7/01*)

§10-1006 TATTOO AND BODY PIERCING ESTABLISHMENTS; STERILIZING OF INSTRUMENTS. (1) Preparation of Instruments for Sterilization. After each tattoo job, the tattoo machine shall be placed in an ultrasonic type machine to remove the excess dye from the tubes and needle bars. When this process is completed the tubes and needle bars shall be removed from the tattoo machines. They shall then be placed into a covered container for sterilization by autoclaving.

(2) Sterilizing of Instruments.

(a) A steam sterilizer (autoclave) shall be provided for sterilizing of all needles and similar instruments before use on any customer, person or patron. (Alternate sterilizing procedures may only be used when specifically approved by the Health Inspection Agency.) Sterilization of equipment will be accomplished by exposure to live steam for at least sixty (60)

minutes at a minimum pressure of fifteen (15) pounds per square inch, temperature of two hundred fifty (250) degrees Fahrenheit or one hundred twenty-one (121) degrees Celsius.

(b) All needle bars, grips, tubes and instruments which pierce the skin directly, or come in contact with instruments which pierce the skin, shall be sterilized before use on each customer by autoclaving for at least fifteen (15) minutes at a minimum pressure of fifteen (15) pounds per square inch, temperature of two hundred fifty degrees Fahrenheit (250) or one hundred twenty-one degrees Celsius (121). (*Ord. No. 519, 8/7/01*)

§10-1007 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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 (8) sets of tubes. (A set consists of 1 outliner, 1 shade). (*Ord. No. 519, 8/7/01*)

§10-1008 TATTOO AND BODY PIERCING ESTABLISHMENTS; INCINERATION OF WASTES.

All used items and equipment must be autoclaved at least fifteen (15) minutes at a minimum pressure of fifteen (15) pounds per square inch, temperature of two hundred fifty (250) degrees Fahrenheit or one hundred twenty-one (121) degrees Celsius and then discarded in double-lined plastic bags into a clean closable receptacle, and shall be incinerated as soon as possible after use. (*Ord. No. 519, 8/7/01*)

§10-1009 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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, on a record form provided for such establishments, the date, his/her name, address, age, driver's license number or other acceptable photo identification, the responses to the inquiries set forth in section 10-1004(12), and his/her signature. A copy of the driver's license or photo identification shall be attached to and retained with the permanent record.

(2) Daily logs must be kept detailing 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 (5) years. In the event of a change of ownership or closing the business, all such records shall be made available to the Health Inspection Agency or law enforcement officer of the City upon request. (*Ord. No. 519, 8/7/01*)

§10-1010 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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 promptly be reported to the Health Inspection Agency by the person owning or operating the tattooing and/or body piercing establishment, and the infected client shall be referred to a physician. (*Ord. No. 519, 8/7/01*)

§10-1011 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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, and the pigments, dyes and colors used from stock solutions for each customer or patron 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 or patron. (*Ord. No. 519, 8/7/01*)

§10-1012 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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. (*Ord. No. 519, 8/7/01*)

§10-1013 TATTOO AND BODY PIERCING ESTABLISHMENTS; CERTIFICATE OF INSPECTION. An applicant for license to operate a tattooing and/or body piercing establishment shall first obtain a certificate of inspection from the Health Inspection Agency, indicating the establishment has been inspected and is in compliance with the provisions of this Article. (*Ord. No. 519, 8/7/01*)

§10-1014 TATTOO AND BODY PIERCING ESTABLISHMENTS; INSPECTIONS. The Health Inspection Agency shall conduct periodic inspections of any tattooing and/or body piercing establishment for the purpose of determining whether or not said establishment, and the persons performing the art of 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 any person or operator of a tattooing and/or body piercing establishment willfully to prevent or restrain the Health Inspection Agency from entering any licensed establishment where tattooing and/or body piercing is being performed for the purpose of inspecting said premises, after proper identification is presented to the operator. (*Ord. No. 519, 8/7/01*)

§10-1015 TATTOO AND BODY PIERCING ESTABLISHMENTS; MINORS. No person in the City shall tattoo and/or body pierce any unmarried minor under the age of eighteen (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 number 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. (*Ord. No. 519, 8/7/01*)

§10-1016 TATTOO AND BODY PIERCING ESTABLISHMENTS; 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 ten o'clock (10:00) PM. (*Ord. No. 519, 8/7/01*)

§10-1017 TATTOO AND BODY PIERCING ESTABLISHMENTS; PENALTY. In addition to the revocation and suspension of any license, any person violating any provisions of this Article shall be punished in accordance with the penalties set forth in section 10-1101 of this code. (*Ord. No. 519, 8/7/01*)

Article 11. Sexually Oriented Businesses

§10-1101 SEXUALLY ORIENTED BUSINESSES; PURPOSE AND INTENT. It is the purpose of this Article to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the City's jurisdiction. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. (*Ord. No. 617, 6/17/03*)

§10-1102 SEXUALLY ORIENTED BUSINESSES; DEFINITIONS. As used in this Article, the following terms shall have the meaning indicated.

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

ADULT BOOKSTORE or ADULT VIDEO STORE.

(1) A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one (1) or more of the following:

(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; and/or

(B) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".

(2) A commercial establishment is not exempt from being categorized as an **ADULT BOOKSTORE or ADULT VIDEO STORE** so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

ADULT CABARET. A night club, bar, restaurant or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity; or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified

anatomical areas”.

ADULT MOTEL. A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

ADULT MOTION-PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

ADULT STORE.

(1) A commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration instruments, devices, “adult toys,” or paraphernalia which are designed for use in connection with “specified sexual activities.”

(2) A commercial establishment is not exempt from being categorized as an ADULT STORE so long as one (1) of its principal business purposes is the offering for sale of instruments, devices, “adult toys,” or paraphernalia which are designed for use in connection with “specified sexual activities.”

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

BUSINESS. An enterprise or entrepreneurial activity located in the City’s jurisdiction which includes all types of vocations, occupations, professions, enterprises, establishments (including sales of tangible personal property and furnishing of services), together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, gain, pecuniary benefit or advantage, either directly or indirectly.

CHIEF OF POLICE. The Chief of Police of the City of Springfield or its designated agent.

CITY. City of Springfield, Nebraska located in Sarpy County.

EMPLOYEE. A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said

business.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.

ESTABLISHMENT. Includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business.
- (2) The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business.
- (3) The addition of any sexually oriented business.
- (4) The relocation of any sexually oriented business.

EXPIRATION DATE. Midnight of the date one (1) year after the license was issued.

LICENSE YEAR. The period from the date of issuance to one (1) year after the license was issued.

LICENSEE. Any person, individual, partnership, corporation, firm, estate, trust, association, joint venture or other entity which a license to operate a sexually oriented business has been issued, as well as those listed as an applicant on the application for a license.

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or displays “specific anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDITY or STATE OF NUDITY.

- (1) The appearance of a human bare buttocks, anus, male genitals, female genitals or female breasts; or
- (2) The state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.

OPERATES OR CAUSES TO BE OPERATED. To cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

PREMISES. All lands, structures, lodges, stores, offices, sales rooms, warehouses and the equipment and appurtenances connected or used therewith in any business, and also any personal

property which is either affixed to or is otherwise used in connection with any such business within the City's jurisdiction which is owned, leased or occupied by the business.

PRINCIPAL BUSINESS PURPOSE. (Factors Determining) A primary factor which shall be considered in determining the principal business purpose shall be whether the business publicly advertises such materials either through media or signs located on the exterior of its premises or signs located inside the business that can be seen from the exterior. Additional factors which may be considered are the gross income generated by adult materials compared to overall gross income, and the amount of floor space, both retail and storage, devoted to adult materials.

SEMI-NUDE. A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS. Means and includes any of the following:

- (1) Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or
- (2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of an or in connection with any of the activities set forth in subsections (1) through (3) above.

SUBSTANTIAL ENLARGEMENT. Of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five percent (25%) as the floor area exists.

TRANSFER OF OWNERSHIP OR CONTROL. Of a sexually oriented business means and includes

any of the following:

- (1) The sale, lease or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. No. 617, 6/17/03)

§10-1103 SEXUALLY ORIENTED BUSINESSES; CLASSIFICATION. Sexually oriented businesses are classified as they exist on the effective date of this Article as follows:

- (A) Adult arcades;
- (B) Adult bookstores or adult video stores;
- (C) Adult cabarets;
- (D) Adult motels;
- (E) Adult motion-picture theaters;
- (F) Adult theaters;
- (G) Escort agencies;
- (H) Nude model studios; and
- (I) Sexual encounter centers.

(Ord. No. 617, 6/17/03)

§10-1104 SEXUALLY ORIENTED BUSINESSES; LICENSE REQUIRED. (A) A person commits an offense if he operates a sexually oriented business without a valid license, issued by the City for the particular type of business.

(B) An application for a license must be made on a form provided by the City Clerk. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who must comply with section 10-1121 shall submit a diagram meeting the requirements of section 10-1121.

(C) The applicant must be qualified according to the provisions of this Article and the premises must be inspected and found to be in compliance with the law by the City Health Official or its designated agent; by the City Fire Official or its designated agent; and of the City Building Officials or its designated agents.

(D) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under section 10-1105, and each applicant shall be considered as a licensee if a license is granted.

(E) The fact that a person possesses a valid theater license, dance hall license or public

house or amusement license does not exempt him from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses a theater license, public house of amusement license or dance hall license shall comply with the requirements and provisions of this Article as well as the requirements and provisions of applicable City ordinances and state statutes. (*Ord. No. 617, 6/17/03*)

§10-1105 SEXUALLY ORIENTED BUSINESSES; ISSUANCE OF LICENSE. (A) The City shall approve the issuance of a license to an applicant within sixty (60) days after receipt of an application unless the Chief of Police, or his/her designate, finds one (1) or more of the following to be true:

(1) An applicant is under 18 years of age.
(2) An applicant or an applicant's spouse is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this Article, other than the offense of operating a sexually oriented business without a license, within two years (2) immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(5) The license fee required by this Article has not been paid.

(6) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(7) An applicant, or the proposed establishment, is in violation of or is not in compliance with any of the provisions of this Article.

(8) The proposed establishment is in nonconformance to City Building and Zoning Codes.

(9) An applicant or an applicant's spouse has been convicted of a crime:

(a) Involving:

1. Any of the following offenses as described in sections 28-801 et seq. RS Neb.:

a. Prostitution.

b. Promotion of prostitution.

c. Aggravated promotion of prostitution.

d. Compelling prostitution.

e. Obscenity.

f. Sale, distribution or display of harmful material to minors.

g. Sexual performance by a child.

- Statutes:
- h. Possession of child pornography.
 2. Any of the following offenses as described in Nebraska Statutes:
 - a. Public lewdness.
 - b. Indecent exposure.
 - c. Indecency with a child.
 3. Sexual assault or aggravated sexual assault as described in Nebraska Statutes.
 4. Incest, solicitation of a child or harboring a runaway child as described in Nebraska Statutes.
 5. Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses.

(b) For which:

1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction if the conviction is of a misdemeanor offense;
2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(B) The fact that a conviction is being appealed has no effect on the disqualification of the applicant or applicant's spouse under subsection (A) of this section.

(C) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection (A)(9)(a) of this section may qualify for a sexually oriented business license only when the time period required by subsection (A)(9)(b) of this section has elapsed.

(D) Upon approving issuance of a sexually oriented business license, the City Clerk shall send to the applicant, by certified mail, return receipt requested, written notice of that action and state where the applicant must pay the license fee and obtain the license. The issuance of a license does not authorize the applicant to operate a sexually oriented business until the applicant has paid all fees required by this Article and obtained possession of the license.

(E) The license, if granted, must state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business. The license must be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(F) In the event that the Police Department of the City, or its designate, cannot conduct a thorough and reasonable investigation of the applicant(s) within sixty (60) days after receipt of an application, the time in which said application shall be considered by the City shall be extended until a reasonable and thorough background investigation has been completed.

(G) The applicant, or its representatives, shall appear before the City at the time

scheduled for consideration of the application by the City.

(H) The Zoning Administrator, City Health Official or its designated agent; the City Fire Official or its designated agent; and the City Building Officials or its designated agents shall complete their certification that the premises is in compliance or not in compliance within thirty (30) days of receipt of the application.

(I) Applicants for a sexually oriented business license shall have a continuing duty to promptly supplement any application information required by that section in the event that said information changes in any way from what is stated on the application. Failure to comply with said continuing duty to supplement an application within thirty (30) days from the date of such change shall be grounds for suspension of a sexually oriented business license. (*Ord. No. 617, 6/17/03*)

§10-1106 SEXUALLY ORIENTED BUSINESSES; FEES.

(A) A sexually oriented business must pay an application fee at the time of application.

(B) A sexually oriented business shall pay an annual fee. Said fee shall be due on the anniversary of the date of permit issuance.

(C) All fees for a sexually oriented business shall be established by the City Council.

(D) For continuous business it shall be the duty of each licensee to obtain an annual renewal of such license and pay the annual fee to the City Clerk on or before the expiration date.

(E) License fees are not refundable upon denial or withdrawal of the application. License fees shall be based on a full calendar year and shall not be prorated.

(F) All license fees received hereunder by the City Clerk, shall be promptly deposited to the credit of the City's General Fund. (*Ord. No. 617, 6/17/03*)

§10-1107 SEXUALLY ORIENTED BUSINESSES; INSPECTION. (A) An applicant or licensee shall permit representatives of the City Police Department or its designated agent, the City Health Department or its designated agent, the City Fire Department or its designated agent, the City Department of Streets, Sanitation and Code Enforcement Services or its designated agent and the City Building Officials or its designated agent to inspect the premises of a sexually oriented business, for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(B) A person who operates a sexually oriented business or his/her agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the Police Department at any time it is occupied or open for business.

(C) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. (*Ord. No. 617, 6/17/03*)

§10-1108 SEXUALLY ORIENTED BUSINESSES; EXPIRATION OF LICENSE. Each license expires one (1) year from the date of issuance, except that a license issued pursuant to a locational restriction expires on the date the exemption expires. A license may be renewed only by making application as provided in section 10-1104. Application for renewal should be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected by the pendency of the application. (*Ord. No.*

617, 6/17/03)

§10-1109 SEXUALLY ORIENTED BUSINESSES; SUSPENSION. (A) The City shall suspend a license for a period not to exceed sixty (60) days if it determines that a licensee or an employee of the licensee has:

- (1) Violated or is not in compliance with any section of this Article.
- (2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises.
- (3) Refused to allow an inspection of the sexually oriented business premises as authorized by this Article.
- (4) Knowingly permitted gambling by any person on the sexually oriented business premises.
- (5) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(B) The determination by the City as to the existence or noncompliance with the above matters shall be made in an open session after having given the applicant or license holder or its representatives fifteen (15) days' written notice of said hearing, and at said hearing the license holder or its representatives may present oral or written evidence in support of the continuance of its license and may confront and question any witnesses or evidence in opposition to the continuation of its license. (*Ord. No. 617, 6/17/03*)

§10-1110 SEXUALLY ORIENTED BUSINESSES; REVOCATION. (A) The City shall revoke a license if a cause of suspension in section 10-1109 occurs and the license has been suspended within the preceding twelve (12) months.

- (B) The City shall revoke a license if the Chief of Police determines that:
- (1) A licensee gave false or misleading information in the material submitted to the Chief of Police during the application process.
 - (2) A licensee or employee has knowingly allowed possession, use or sale of controlled substances on the premises.
 - (3) A licensee or an employee has knowingly allowed prostitution on the premises.
 - (4) A licensee or an employee knowingly operates the sexually oriented business during a period of time when the licensee's license was suspended.
 - (5) A licensee has been convicted of an offense listed in section 10-1105(A)(9)(a) for which the time period required in section 10-1105(A)(9)(b) has not elapsed.
 - (6) On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in section 10-1105(A)(9)(a) for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed.
 - (7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The licensee shall not be issued a sexually oriented business license for one (1) year from

the date revocation became effective. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date of revocation became effective. If the license was revoked under subsection (B)(5) above, an applicant may not be granted another license until the appropriate number of years required under section 10-1105(A)(9)(b) has elapsed.

(8) The determination by the City as to the existence or noncompliance with the above matters shall be made in an open hearing after having given the applicant or license holder or its representatives fifteen (15) days' written notice of said hearing, and at said hearing the license holder or its representatives may present oral or written evidence in support of the continuance of its license and may confront and question any witnesses or evidence in opposition to the continuation of its license.

(C) Also see section 10-123 of this Code for grounds for revocation and suspension of alcoholic beverage licenses. (*Ord. No. 617, 6/17/03*)

§10-1111 SEXUALLY ORIENTED BUSINESSES; CONDUCT IN SEXUALLY ORIENTED BUSINESS.

(A) No licensee, manager, or employee mingling with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity. It is a defense to any prosecution for a violation of this subsection that an employee of a sexually oriented business exposed any specified anatomical area only during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room that is accessible only to employees.

(B) No licensee, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

(C) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as follows:

(1) A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

(2) A sexually oriented business that provides for tips from its patrons as provided in this section shall post one (1) or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one inch high to read as follows:

"All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited."

(D) It shall be unlawful for a minor to enter an adult arcade, adult cabaret, adult motion-picture theater, adult theater, or a sexual encounter center. (*Ord. No. 617, 6/17/03*)

§10-1112 SEXUALLY ORIENTED BUSINESSES; APPEAL.

If the City denies the issuance of a license, or suspends or revokes a license, the City Clerk shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of written notice of the denial, suspension or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the City Council. An appeal to the City Council must be filed within thirty (30) days after

the receipt of notice of the decision of the Chief of Police. The licensee shall bear the burden of proof in said appeal. *(Ord. No. 617, 6/17/03)*

§10-1113 SEXUALLY ORIENTED BUSINESSES; TRANSFER OF LICENSE. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. *(Ord. No. 617, 6/17/03)*

§10-1114 SEXUALLY ORIENTED BUSINESSES; LOCATION OF SEXUALLY ORIENTED BUSINESSES. See Springfield Municipal Zoning Regulations. *(Ord. No. 617, 6/17/03)*

§10-1115 SEXUALLY ORIENTED BUSINESSES; APPEALS; EXEMPTION FROM LOCATION RESTRICTIONS. See Springfield Municipal Zoning Regulations. *(Ord. No. 617, 6/17/03)*

§10-1116 SEXUALLY ORIENTED BUSINESSES; SIGNS FOR SEXUALLY ORIENTED BUSINESSES. See Springfield Municipal Zoning Regulations. *(Ord. No. 617, 6/17/03)*

§10-1117 SEXUALLY ORIENTED BUSINESSES; HOURS OF OPERATION. Sexually oriented businesses, excluding adult motels, shall operate between the hours of 10:00 a.m. through 1:00 a.m. Monday through Saturday, and 12:00 noon through 1:00 a.m. Sundays. These criteria are to serve as the maximum hours of operation. *(Ord. No. 617, 6/17/03)*

§10-1118 SEXUALLY ORIENTED BUSINESSES; ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

- (A) An escort agency shall not employ any person under the age of eighteen (18) years.
- (B) A person commits an offense if he/she acts as an escort or agrees to act as an escort for any person under the age of nineteen (19) years. *(Ord. No. 617, 6/17/03)*

§10-1119 SEXUALLY ORIENTED BUSINESSES; ADDITIONAL REGULATIONS AND EXEMPTIONS FOR NUDE MODEL STUDIOS. (A) A nude model studio shall not employ any person under the age of nineteen (19) years.

- (B) A person under the age of nineteen (19) years commits an offense if he/she appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under nineteen (19) years was in a restroom not open to public view or persons of the opposite sex.
- (C) A person commits an offense if he/she appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (D) A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.
- (E) It is a defense to prosecution under this Article that a person appearing in a state of

nudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state or a college, junior college, or university supported entirely or partly by taxation.

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(3) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(b) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(c) Where no more than one (1) nude model is on the premises at any one time. (*Ord. No. 617, 6/17/03*)

§10-1120 SEXUALLY ORIENTED BUSINESSES; ADDITIONAL REGULATIONS FOR ADULT THEATERS AND ADULT MOTION-PICTURE THEATERS. (A) The requirements and provisions of this Code remain applicable to adult theaters and adult motion-picture theaters.

(B) A person commits an offense if he/she knowingly allows a person under the age of nineteen (19) years to appear in a state of nudity in or on the premises of an adult theater or adult motion-picture theater.

(C) A person under the age of nineteen (19) years commits an offense if he/she knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion-picture theater.

(D) It is a defense to prosecution under subsections (B) and (C) of this section if the person under nineteen (19) years was in a restroom not open to public view or persons of the opposite sex. (*Ord. No. 617, 6/17/03*)

§10-1121 SEXUALLY ORIENTED BUSINESSES; ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(A) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Article.

(B) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business license, he/she rents or subrents a sleeping room to a person and, within (ten) 10 hours from the time the room is rented, he/she rents or subrents the same sleeping room again.

(C) For purposes of subsection (B) of this section, the terms “rent” or “subrent” mean the act of permitting a room to be occupied for any form of consideration. (*Ord. No. 617, 6/17/03*)

§10-1122 SEXUALLY ORIENTED BUSINESSES; REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS. (A) A person who operates

or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Municipal Zoning Administrator or his/her designee may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Municipal Zoning Administrator or his/her designee.

(4) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purposes, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (A)(5) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (A)(1) of this section.

(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5.0 footcandle, as measured at the floor level.

(8) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is

maintained at all times that any patron is present in the premises.

(B) A person having a duty under subsections (A)(1) through (8) above commits an offense if he/she knowingly fails to fulfill that duty. (*Ord. No. 617, 6/17/03*)

§10-1123 SEXUALLY ORIENTED BUSINESSES; DISPLAY OF SEXUALLY EXPLICIT MATERIAL TO MINORS.

(A) A person commits an offense if, in a business establishment open to persons under the age of eighteen (18) years, he/she displays a book, pamphlet, newspaper, magazine, film or videocassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

- (1) Human sexual intercourse, masturbation or sodomy,
- (2) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts;
- (3) Less than completely and opaquely covered human genitals, buttocks or that portion of the female breast below the top of the areola; or
- (4) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(B) In this section, “display” means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

- (1) It is available to the general public for handling and inspection; or
- (2) The cover or outside packaging on the item is visible to members of the general public. (*Ord. No. 617, 6/17/03*)

§10-1124 SEXUALLY ORIENTED BUSINESSES; MANAGER’S LICENSE REQUIRED: CHANGE OF MANAGER; INACTIVE STATUS. (A) A manager or designee shall be on the premises of a sexually oriented business at all times during operation. It shall be unlawful for any person to work as a manager of a sexually oriented business without first obtaining a manager’s license for such premises.

(B) In the event a manager ceases to be employed at the premises listed in his/her application, the manager shall immediately report such change to the City Clerk but in no event shall such change be reported later than ten (10) days after cessation of employment.

(C) Provided a manager has complied with the requirements of subsection (B) of this section, his/her license shall remain in inactive status until it expires or is reactivated. A manager who is reemployed at the premises listed in the manager’s license may reactivate his/her license provided the licensing officer determines he/she still meets the requirements of section 10-1125. (*Ord. No. 617, 6/17/03*)

§10-1125 SEXUALLY ORIENTED BUSINESSES; APPLICATION FOR MANAGER’S LICENSE. (A) A manager shall submit an application for a manager’s license for each sexually oriented business the manager proposes to manage on a form to be provided by the City Clerk.

(B) The Chief of Police shall conduct an investigation of the applicant to determine if the applicant has been convicted of a specified criminal act within the times set forth in section 10-

1105(A)(9)(b).

(C) The licensing officer shall grant the application within sixty (60) days of its filing unless:

- (1) The applicant has failed to provide the information required;
- (2) The license fee has not been paid;
- (3) The applicant has been convicted of a specified criminal act within the times

set forth in section 10-1105(A)(9)(b). (*Ord. No. 617, 6/17/03*)

§10-1126 SEXUALLY ORIENTED BUSINESSES; EXPIRATION OF MANAGER'S

LICENSE. (A) Each manager's license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in section 10-1125, including but not limited to a review of whether the applicant has been convicted of a specified criminal act or acts. Application for renewal of a manager's license shall be made at least sixty (60) days before the expiration date of the manager's license.

(B) If, subsequent to denial of renewal the City finds that the basis for denial of the renewal of the manager's license has been corrected, the applicant shall be granted a manager's license if no more than ninety (90) days have elapsed since the date denial became final. (*Ord. No. 617, 6/17/03*)

§10-1127 SEXUALLY ORIENTED BUSINESSES; SUSPENSION OF MANAGER'S

LICENSE. (A) The City may suspend a manager's license for a period not to exceed ninety (90) days, unless the period is extended by operation of subsection (B) of this section, if he/she determines that the manager has:

- (1) Violated or is not in compliance with any section of this Article or any provision of this Code; or
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this Article; or
- (3) Knowingly allowed repeated disturbances of the public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees, or the licensee; or
- (4) Operated the sexually oriented business in violation of the hours of operation provided by law.

(B) The suspension shall remain in effect until and including the last day in the City's order and until the violation of the statute, code, ordinance, or regulation in question has been corrected. (*Ord. No. 617, 6/17/03*)

§10-1128 SEXUALLY ORIENTED BUSINESSES; REVOCATION OF MANAGER'S

LICENSE. (A) The City shall revoke a manager's license upon determining that:

- (1) A cause of suspension in section 10-1127 of this Article occurred and the manager's license has been suspended within the preceding twelve (12) months; or
- (2) The manager gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a

manager's license; or

(3) The manager knowingly allowed possession, use, or sale of a controlled substance on the premises; or

(4) The manager knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises; or

(5) The manager knowingly operated the sexually oriented business during a period of time when the sexually oriented business license was suspended; or

(6) The manager has been convicted of a specified criminal act for which the time period set forth in section 10-1105(A)(9)(b) has not elapsed; or

(7) The manager has knowingly allowed any specified sexual activity to occur in or on the licensed premises.

(B) When the City revokes a manager's license, the revocation shall continue for one (1) year and the licensee shall not be issued a manager's license for one (1) year from the date revocation became effective. (*Ord. No. 617, 6/17/03*)

§10-1129 SEXUALLY ORIENTED BUSINESSES; VIOLATIONS AND PENALTIES. Any person who violates any of the prohibitions or provisions of any Article or section of this Article shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular section for which the person stands convicted of violating, the penalty for such violation shall be a fine in any sum not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not to exceed six (6) months, or both said fine and imprisonment at the discretion of the sentencing court. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (*Ord. No. 617, 6/17/03*)

§10-1130 SEXUALLY ORIENTED BUSINESSES; INJUNCTION. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Article or any other laws and regulations including all city, state and federal laws, is subject to a suit for injunction as well as prosecution for criminal violations. (*Ord. No. 617, 6/17/03*)

Article 12. Mobile Home Parks

§10-1201 MOBILE HOME PARKS; DEFINITIONS. For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

MOBILE HOME. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or of two (2) or more units, separately towable but designed to be joined into one (1) integral unit.

MOBILE HOME LOT. A designated portion of a mobile home park designed for the accommodation of one (1) mobile home and its accessory buildings or structures for the exclusive use of the occupants.

MOBILE HOME PARK. A parcel or contiguous parcels of land which have been so designated and improved that it contains two (2) or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. **MOBILE HOME PARK** shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force. **MOBILE HOME PARK** shall include all auxiliary buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the mobile home park and its facilities or not.

PUBLIC SEWER SYSTEM. A sewer system owned, operated or otherwise utilized by the state, a municipality or any other governmental agency or political subdivision, federal governmental agencies being excepted.

PUBLIC WATER SUPPLY SYSTEM. A system for providing the public with water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days per year. **PUBLIC WATER SYSTEM** includes (a) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. **PUBLIC WATER SYSTEM** does not include a special irrigation district. A public water system is either a community water system or a non-community water system.

Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if:

- (1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses,
- (2) The Department determines that alternative water to achieve the equivalent

level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the Act is provided for residential or similar uses for drinking and cooking, or

(3) The Department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the Act.

RECREATIONAL VEHICLE. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. RECREATIONAL VEHICLE includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home and van conversion.

SEWER LINES. Includes sewer mains and sewer service lines.

SEWER MAIN. Includes the principal pipe artery to which service lines are connected.

SEWER SERVICE LINE. Includes any part of the piping system except a riser, main or stack.

STACK. A general term for any vertical line of soil, waste, vent, or inside conductor piping that extends through at least one story with or without offsets.

TRAVEL TRAILER. A vehicular portable structure built on a chassis, designed to be used a temporary dwelling for travel, recreational and vacation use, and equipped for the road. It has a body width not exceeding eight (8) feet and a body length not exceeding thirty-eight (38) feet. It may be self-contained with a bath and toilet facilities or classified as a dependent type without bath and toilet facilities. Any regulations that apply to travel trailers will also apply to campers mounted on a truck chassis, tents, or tent-type trailers. (*Ref. 71-4603, 71-4621 RS Neb.; Neb. Admin. Rules & Regs. Title 178, Ch. 5 § 001*) (*Ord. No. 646, 11/2/04*)

§10-1202 MOBILE HOME PARKS; ENFORCEMENT OF ARTICLE. (1) For the purpose of securing enforcement, any designated agent of the City shall have the right and is hereby empowered to enter upon any premises, on which any mobile home is located, or about to be located, and inspect the same and all accommodations connected therewith; provided that no such designated agent shall enter upon any premises for the purposes described in this Article in violation of the statutory or constitutional rights of the owner or occupant thereof A twenty-four (24) hour notice shall be given to the owner or manager of said park prior to entering the premise, for non-emergency inspections. The office of the City is further empowered to recommend to the City Council the issuance of orders granting, renewing and revoking such permits and licenses as are provided for in accordance with the provisions of this Article for premises within the limits of the City.

(2) The Mayor of the City is hereby vested with the power and jurisdiction to enforce all provisions of this Article outside of the corporate limits but within the City's extraterritorial

jurisdiction. The Mayor is further empowered to recommend to the City Council the issuance of orders granting, renewing and revoking such permits and licenses as are provided for in accordance with the provisions of this Article for premises outside of the corporate limits but within one (1) mile of the corporate limits of the City.

(3) For the purpose of administering the powers vested in the Mayor by paragraph (2) above, the designated agent of the City may be his agent to administer the provisions of this Article and to make any required inspections or recommendations concerning mobile home parks outside of the corporate limits of the City. (*Ref. 17-505, 17-604, 18-1720 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1203 MOBILE HOME PARKS; PENALTIES; CIVIL REMEDIES. Any person found guilty of violating any provisions of this Article shall be deemed guilty of a misdemeanor; their license may be revoked, and they may be punished as provided in this Code; provided, that the foregoing provision shall not be construed to preclude any other remedies. In addition thereto, the appropriate authorities of the City may institute injunction, mandamus or other appropriate action or proceedings to prevent unlawful erection, construction, alteration, conversion or use, or to correct or abate such violation, or to prevent the occupancy of the structures or land concerned. (*Ref. 17-505 Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1204 MOBILE HOME PARKS; LICENSE REQUIRED; APPLICATION; TERM; FEES; RENEWAL. (1) It shall be un-lawful for any person to establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him, a mobile home park without having first secured a license therefore and for each of them from the City Council. Such license shall be granted and existing in compliance with the terms of this Article and any other applicable ordinance. Such license shall expire on May 1, following the date of its issuance but may be renewed under the provisions of this Article for additional periods of one (1) year. The City Clerk shall send a notice of renewal by first class mail to the last known address of the mobile home park owner or manager on or before March 1 of the renewal year. The application for such license or the renewal thereof shall be filed with the City Clerk and shall be accompanied by a fee for each mobile home park as provided in the most recent Springfield fee ordinance. Applications for a renewal license shall be filed in the office of the City Clerk no later than the first (1st) day of April of each year.

(2) The application for a new license or a renewal of a mobile home park license which has undergone changes, shall include the name and address of the owner and the location of the tract and if the ownership of said tract is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to construct or maintain the mobile home park and make the application, and such a legal description of the premises upon which the mobile home park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by a copy of the new license or renewal license from the Nebraska Department of Health and Human Services Regulation and Licensure and one (1) copy of the specifications and park plans in scale, which shall be placed permanently on file in the office of the City Clerk and showing the following information:

(a) The extent and area used for park purposes,

- (b) Roadways and driveways,
 - (c) Location and number of sites or mobile home lots for mobile homes,
 - (d) That there has been proper conformance with City building, zoning, plumbing and other ordinances,
 - (e) Method and plan of sewage disposal,
 - (f) Method and plan of water service,
 - (g) Method and plan of garbage removal.
- (3) The application for a renewal of a mobile home park license which has not undergone changes in the aforementioned required information, shall include a statement from the mobile home park owner or manager certifying that no changes have been made since the previous license or renewal. A copy of the new license or renewal license from the Nebraska Department of Health and Human Services Regulation and Licensure shall accompany the renewal application. (*Ref. 17-505, 17-1003 Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1205 MOBILE HOME PARKS; LICENSE, NEW; RECOMMENDATIONS BY CITY STAFF; INSPECTION OF PREMISES; ISSUANCE; SCOPE. (1) Before such license shall be issued there shall be a favorable recommendation by City designated agents; and the premises must be inspected and approved by the City's authorized representative or other City designated agents as complying with all provisions of this Article and all other applicable ordinances of the City; whereupon it shall be at the discretion of the City Council to issue the same.

(2) Licenses issued under the terms of this Article shall convey no right to erect any building, to do any plumbing work, or to do any electrical work except upon a permit issued in conformity with existing building, electrical, and plumbing codes of the City. (*Ref. 17-505 Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1206 MOBILE HOME PARKS; LICENSE RENEWAL; RECOMMENDATIONS BY CITY STAFF; INSPECTION OF PREMISES; ISSUANCE; SCOPE. A license may be renewed. Before such license shall be renewed, there shall be a favorable recommendation by City designated agents; and the premises must be inspected and approved by the City's authorized representative or other City designated agents as complying with all provisions of this Article and all other applicable ordinances of the City. (*Ref. 17-505 Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1207 MOBILE HOME PARKS; LICENSE; REVOCATION. After due investigation by City designated agents, should it be determined that the holder thereof has violated any of the provisions of this Article or that any mobile home or mobile home park is being maintained in an unsanitary or unsafe manner or is a nuisance, the City shall notify the owner or manager of the mobile home park of said violations. The mobile home or mobile home park must be brought into compliance within thirty (30) days for non-emergency non-compliance and within twenty-four (24) hours for emergency non-compliance. Should the mobile home or mobile home park not be brought into compliance within the said time, the City Council is hereby authorized to revoke any license issued pursuant to the terms of this Article. (*Ref. 17-123, 17-145, 17-505, 18-1720 Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1208 MOBILE HOME PARKS; LOCATION; LAND USE; DESIGN OF MOBILE HOME PARKS. (1) Location, land use, and design of all mobile home parks shall be in accordance with the Springfield Zoning and Subdivision Regulations.

(2) No mobile home park shall be located within the jurisdictional limits of the City unless appropriate water, sewer and fire protection facilities are available and the applicant, in his application, clearly manifests his intention to connect thereto before the park is occupied. (*Ref. 17-123, 17-145, 17-505, 17-537, 17-100, 17-1003 Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1209 MOBILE HOME PARKS; WATER SUPPLY AND DISTRIBUTION. (1) An adequate supply of pure water for each mobile home and each shower, toilet, washing or other similar facility for common usage in a mobile home park shall be furnished through a piped distribution system laid at a depth of not less than four and one-half (4 1/2) feet from the surface of the ground and connected with the City water main. There shall be supply faucets located not more than two hundred (200) feet from any mobile home and each of these supply pipes shall be capable of supplying at least one hundred fifty (150) gallons of water per day per mobile home.

(2) The water distribution system shall be constructed from copper or PVC pipe. The piping shall be of sufficient capacity to supply six (6) to eight (8) gallons per minute at a minimum pressure of twenty-five (25) pounds per square inch at each mobile home lot. Individual mobile home supply lines shall not be less than three-fourths (3/4) inch Type K copper pipe terminating with a connection at an appropriate location at each mobile home lot with a riser extending at least four (4) inches above the ground surface with two (2) three-fourths (3/4) inch valve outlets. The valve outlets shall be threaded so that a screwed connection, using flexible copper tubing, may be made from one (1) valve outlet to the mobile home's water piping system. The second valve outlet shall be reserved for use as a hose connection for fire control or other uses. The ground surface around the riser pipe shall be graded so as to divert surface drainage away from the connection. The riser pipe shall be encased in a six (6) inch PVC or heated insulated riser, with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connections to the trailer during freezing weather. When the mobile home space is unoccupied during cold weather, the outlet shall be protected from freezing by draining of the pipes. A shutoff valve or other approved frost free arrangement shall be placed below frost depth on the service line; it shall in no instance be a stop and waste cock. Master meters shall be installed on the distribution system serving the mobile home park. A testable backflow device shall be installed after the curb stop (stop box) on the main water supply connecting to the City water distribution system. A master meter shall be placed after the backflow device for the purpose of monitoring the entire park's water usage. A pit approved by the City Engineer shall be constructed. Testing and installation of master meters shall be at the owner's expense.

(3) Each mobile home shall have a stop box that is accessible to City Staff. In such cases where mobile homes are connected to the City's water distribution system individually through separate service lines, a curb stop will be placed at the curb or at the property line of the mobile home park. In such cases where a mobile home park is connected to the city's water distribution system through a private main and individual mobile home lots are served by service lines connected directly to the private main a curb stop box shall be placed before the individual mobile home riser and water

meter for city staff accessibility. All faucets and devices shall be placed after the water meter. A meter pit and meter with a shutoff located before the meter is also acceptable.

(4) All necessary precautions shall be taken in laying all water pipes. They shall not be laid in water, nor where they can be flooded by water or sewage during the laying process period. Dirt and other contaminating material shall be excluded from the pipe.

(5) Mobile homes outside the limits of the City, but within the jurisdictional limits provided for the enforcement of building, construction and installation codes, but for which appropriate water mains are unavailable, shall have a water system for each mobile home installation, approved by the Plumbing Inspector, or his authorized designee, and the Nebraska Department of Health and Human Services Regulation and Licensure. The Plumbing Inspector, or his authorized designee, shall approve each water supply distribution system provided for a mobile home after construction and before it is covered or placed in service. No common drinking vessels shall be permitted, nor shall any common drinking water faucets or drinking fountains be placed in any toilet room. An abundant supply of hot water shall be provided at all times for laundry and bathing facilities. (*Ref. 17-123, 17-537, 17-1001 RS Neb.*)

(6) This section shall not apply to mobile homes which have direct connections to the public water supply system. (*Ord. No. 646, 11/2/04*)

§10-1210 MOBILE HOME PARKS; WATER SUPPLY AND DISTRIBUTION; WASTE AND SEWAGE DISPOSAL; EXISTING NON-COMPLIANCE. Mobile home parks not in compliance at the time of the adoption of §10-1209 and §10-1212, but in good working order, shall be waived from complying with §10-1209 and §10-1212 until a five thousand (5,000) gallon discrepancy between the mobile home park's master water meter and the sum of all individual mobile home water meters within said park occurs. At such time, the master meter may be tested, and the entire park shall be brought into compliance with §10-1209 and §10-1212 within ninety (90) days. Testing and installation of master meters shall be at the owner's expense. (*Ref. 17-123, 17-145, 17-149, 17-505, 17-537, 17-1001 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1211 MOBILE HOME PARKS; REFUSE DISPOSAL.

(1) The storage, collection, and disposal of refuse from the mobile home park shall be so conducted as to avoid the creation of health hazards, such as rodent harborages or insect breeding areas, air pollution and accidents. The mobile home park area shall be kept free of litter, rubbish and all inflammable material at all times.

(2) Sufficient container capacity shall be provided to prevent the overflowing of any refuse container between collections. Each mobile home shall be provided with a minimum of thirty (30) gallons of refuse storage capacity. (*Ref. 17-123, 17-505, 17-1720 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1212 MOBILE HOME PARKS; WASTE AND SEWAGE DISPOSAL. (1) Each mobile home lot shall be equipped with at least a four (4) inch PVC sewer connection below frost line and reaching at least four (4) inches above the surface of the ground. The sewer drainage inlet shall be positioned within four (4) feet of the mobile home and a minimum of ten (10) feet from the water

riser. The connection between the mobile home drain and the sewer shall be made water tight by suitable fittings. A threaded or fitted in clamp connection shall be made at the mobile home drain and at the sewer outlet drain. The sewer outlet shall consist of a standard ferrule with a four (4) by three (3) inch screw plug. The screw plug shall be fastened by chain or other device to the concrete collar surrounding the sewer connection to prevent its removal from the site while the sewer connection is in use. The threaded hose connection may be connected to the ferrule directly or by use of pipe fittings. In the case of temporary pipe connections the two (2) inch pipe can be inserted into the ferrule and caulked to make an acceptable connection. For overnight parking of mobile homes, the plumbing fixtures within the mobile homes shall not be used unless provided with satisfactory means of disposal of all sewage wastes. These overnight mobile homes shall be parked close to the service buildings and the mobile home occupants shall be directed to use the facilities in the service building or the mobile home shall be connected to the sewage system. When a mobile home does not occupy the mobile home stand, the sewer riser pipe shall be capped with an airtight cap or plug. All sewer lines or parts thereof shall have a clean out, and shall be properly vented at each trailer site.

(2) All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line under pressure, at a grade of one-fourth (1/4) inch per foot. Sewer lines shall be at a grade sufficient to ensure a mean velocity of two (2) feet per second when flowing full. The system shall be designed for a minimum flow rate of at least two hundred (200) gallons per day per mobile home lot. The sewer line shall be permanently made root proof and water tight by means of approved glued joints or other approved method. All joints on the sewer lines shall be made water tight and every effort shall be made to minimize ground water infiltration into the sewage system. Connections in manholes shall be so constructed as to prevent surface water from entering the sanitary sewers. Manholes shall be provided at every change in direction, at every junction of two (2) or more branch sewers, and at intervals of not more than three hundred (300) feet. Cleanouts extending to grade may be used instead of manholes on four (4) and six (6) inch lines. Cleanouts should be provided wherever a manhole would otherwise be necessary and at intervals of not more than one hundred (100) feet. All cleanouts shall be capped with cleanout plugs. Each sewer main serving a row of mobile homes shall be vented at its upper end. Sewer service lines shall be a minimum of four (4) inch lines that service each mobile home. These four (4) inch lines shall be connected to a six (6) inch main which empties into the City's sewer system. All materials used and installation shall be subject to approval of the plumbing inspector, or his designee, before installation. Mobile homes outside the limits of the City, but within the limits of the City's jurisdiction for the enforcement of its codes, shall have a sewer system approved by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services Regulation and Licensure. (*Ref. 17-145, 17-149, 17-505 RS Neb.*)

(3) This section shall not apply to mobile homes which have direct connections to the public sewer system. (*Ord. No. 646, 11/2/04*)

§10-1213 MOBILE HOME PARKS; ELECTRICITY. Every mobile home park shall be governed by the minimum standards adopted by the State Electrical Act. (*Ref. 17-1001 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1214 MOBILE HOME PARKS; GAS SYSTEMS. Every mobile home park shall be in compliance with state and federal regulations. (*Ord. No. 646, 11/2/04*)

§10-1215 MOBILE HOME PARKS; FUEL. Cylinders containing liquefied petroleum gas, to be used as fuel by mobile home occupants, shall be connected to the stoves or heaters of the mobile home by copper or other metallic tubing, in such a manner as to provide leak proof connections. The cylinders shall be securely fastened in place, outside of and not less than five (5) feet from any mobile home exit. State and local regulations applicable to the installation of equipment and the handling of liquefied petroleum gas and fuel oil shall be followed. (*Ref. 17-505 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1216 MOBILE HOME PARKS; FIRE PROTECTION. No mobile home shall be located farther than three (300) feet from an approved fire hydrant. Fires shall not be permitted within the area of a mobile home park except in equipment specifically designed for such purpose and approved by the fire chief as being in compliance with the existing regulations governing such fires. (*Ref. 17-505 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1217 MOBILE HOME PARKS; ALTERATIONS; REPAIRS; ADDITIONS. All plumbing and electrical alterations or repairs shall be made in accordance with local regulations. Permanent additions or other accessory buildings may be built onto, or become a part of, a mobile home when authorized pursuant to Springfield City codes and regulations. The skirting shall comply with current Springfield Zoning Regulations. The wheels of travel trailers which are designed for use as conveyances on highways or city streets propelled or drawn by their own or other motive power, not to include temporary wheels for the transportation of a mobile home of a more permanent nature, shall not be removed except temporarily for repairs not to exceed twenty-four (24) hours. This need not prevent the placing of jacks or stabilizers under the frame of a mobile home to prevent movement on the springs while it is parked and occupied. (*Ref. 17-123, 17-505, 17-1001 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1218 MOBILE HOME PARKS; RESTRICTIONS ON PETS. No dogs, cats or other domestic animals shall be permitted to run at large in the mobile home park. Such animals shall be kept in restricted enclosures on the individual mobile home lot. The enclosures shall be maintained in a clean and sanitary condition at all times. (*Ref. 17-505, 17-547 RS Neb.*) (*Ord. No. 646, 11/2/04*)

§10-1219 MOBILE HOME PARKS; DUTIES OF OWNER OR MANAGER. The owner or manager of every mobile home park shall maintain a copy of the mobile home park license and of this Article, and the mobile home park register. It shall be the duty of the owner or manager together with the licensee to:

- (1) Keep at all times a register of all owners of mobile homes and residents, which shall be open to State and Federal officials and designated agents of the City showing for all guests:
 - (a) Names and addresses.
 - (b) Dates of entrance and departure.

- (c) License numbers of all automobiles and mobile homes entowing.
 - (d) State issuing such licenses.
 - (e) Place of last location and length of stay.
 - (f) Color and make of the mobile home.
- (2) Maintain the mobile home park in a clean, orderly and sanitary condition at all times.
 - (3) See that the provisions of this Article are complied with and enforced and report promptly to the proper authorities any violations of this Article or any other violations of the law which may come to his/her attention.
 - (4) Notify the Nebraska Department of Health and Human Services immediately upon any known or suspected case of communicable disease. In case of a disease diagnosed as quarantinable, the owner or manager shall not permit the departure of a mobile home or its occupants or the removal therefrom of clothing or other articles that have been exposed to the infection without approval of the Nebraska Department of Health and Human Services.
 - (5) Prohibit the use of any mobile home by a greater number of occupants than that for which it is designed to accommodate. *(Ref. 17-505, 17-1001, 17-1003 Neb.) (Ord. No. 646, 11/2/04)*

§10-1220 MOBILE HOME PARKS; LIMITATIONS ON NUMBER OF OCCUPANTS PER TRAILER. No mobile home may be inhabited by a greater number of occupants than that for which it was designed. *(Ref. 17505, 17-1001, 17-1003 Neb.) (Ord. No. 646, 11/2/04)*

Article 13. Penal Provision

§10-1301 VIOLATIONS; PENALTY. (1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00). A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (*Ref. 17-505, 18-1720, 18-1722 RS Neb.*) (*Amended by Ord. No. 495, 7/5/00*)