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CHAPTER IV BUSINESS REGULATIONS

ARTICLE IV – OCCUPATION TAX

SECTION 4-101: PURPOSE

For the purpose of raising revenue, there is hereby levied an occupation tax upon such occupations and businesses carried on within the corporate limits of this city in such amounts as filed in the office of the city clerk. All money so collected shall be credited to the General Fund of said city and shall be and remain under the control of the City Council for such use and purpose as other monies belonging to the General Fund.

SECTION 4-102: FIRE INSURANCE COMPANIES

On or before May 1 each year, each and every fire insurance company doing business with the City shall pay a special occupation tax of \$5.00 to the city treasurer, which shall entitle it to write business in said city for the current fiscal year. The city treasurer shall issue a receipt for such payment as in case of other taxes and shall keep all such payments in a special fund which shall be disbursed only upon order of the mayor and Council for the support and maintenance of the Volunteer Fire Department of the City.

SECTION 4-103: INTERSTATE OR GOVERNMENT BUSINESS

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

SECTION 4-104: COLLECTION DATE

All occupation taxes shall be due and payable on May 1 each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person to the city clerk, he/she shall give a receipt, properly dated and specifying the person paying the said tax and the amount paid.

SECTION 4-105: CERTIFICATES

The receipt issued after payment of any occupation tax shall be the Occupation Tax Certificate. The said certificates shall specify the amount of the tax and the name of the person and/or 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.

SECTION 4-106: DUTIES OF PARTIES LIABLE

It is hereby made the duty of each and every person, firm, association or corporation to pay the tax levied against him, her, them or it at the time the same becomes due as provided in Section 4-103.

SECTION 4-107: PAID TO TREASURER; NOT ASSIGNABLE

The tax herein levied shall be paid in cash to the city treasurer or other person designated by resolution of the mayor and City Council who, upon the payment thereof, shall issue receipt thereof to the person, persons, partnerships, firm or corporation paying the same, properly dated and specifying on behalf of whom and for what the sum is paid. The city treasurer's receipt shall be the warrant and proper authority of any person to carry on and conduct the business specified in said receipt and for which the money has been paid; provided, said receipt shall not be assignable.

SECTION 4-108: NO REFUND

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

SECTION 4-109: VIOLATION; PENALTY

Any person, firm, association or corporation who shall refuse or neglect to pay the occupation tax or taxes herein levied or who shall transact any such business or engage in any such occupation without having complied with the provisions of this article shall, upon conviction thereof, be fined in a sum not less than \$5.00 nor more than \$500.00 and assessed the court costs of prosecution; provided, every suit brought under this section shall be in the name of this city and may be commenced by a warrant and arrest of the person or persons against whom the suit is brought, or that suit may be commenced by a common summons; and provided further, whenever any of the above-enumerated businesses or occupations shall be conducted by an agent for a corporation or a non-resident, such agent shall be subject to arrest and punishment under the provisions of this section if his/her principal shall not have complied with the provisions of this ordinance.

ARTICLE II - LIQUOR REGULATIONS

SECTION 4-201: TERMS, DEFINED

Unless the context otherwise requires, the words and phrases defined in Neb. Rev. Stat. §53-103, or as hereafter amended or revised, shall be adopted for the purpose of construing this article; and said words and phrases are hereby incorporated by reference the same as though copied at full length herein.

SECTION 4-202: LICENSE REQUIRED

No persons shall manufacture for sale, sell, keep for sale, barter, or exchange under any pretext any alcoholic liquor within this city unless said person shall have in full force and effect a license therefor as provided by the Nebraska Liquor Control Act as amended. A violation of this section shall constitute a misdemeanor, and any persons convicted of such shall be fined in any sum not exceed permitted by Nebraska law and assessed the court costs of prosecution. (Ref. Neb. Rev. Stat. §53-168.06)

SECTION 4-203: LIQUOR APPLICATION; RETAIL LICENSING STANDARDS

The City Council adopts the following licensing standards and criteria for consideration by the Liquor Control Commission of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, in accordance with the Nebraska Liquor Control Act, Neb. Rev. Stat. §53-132 (3) (a) and Section 7 of LB 911, 89th Legislature, Second Session, 1986:

1. The adequacy of existing law enforcement resources and services in the area.
2. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on- street and off-street parking.
3. Zoning restrictions.
4. Sanitation or sanitary conditions on or about the proposed licensed premises.
5. The existing population and projected growth, both city- wide and within the area to be served.
6. Existing liquor licenses, the class of such license and the distance and time of travel to such licenses.

7. The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.

8. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(Ref. Neb. Rev. Stat. §53-134)

SECTION 4-204: SALE TO MINORS AND INCOMPETENTS PROHIBITED

1. No persons shall within this city sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquors, to or for any person who is physically or mentally incapacitated by the consumption of such liquors.

2. No minor shall have in his/her possession alcoholic liquor in any tavern, public place, street or alley in this city or inside a vehicle while upon any street, alley or public place in this city.

3. No minor shall obtain or attempt to obtain alcoholic liquor, by misrepresentation of age or any other method, in any tavern or other public place where liquor is sold in this city.

(Ref. Neb. Rev. Stat. §53-180)

SECTION 4-205: HOURS OF SALE

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

Alcoholic Liquors (except beer and wine)

Secular Days

Off Sale

6:00 A.M. to 1:00 A.M.

On Sale

6:00 A.M. to 1:00 A.M.

Sundays

Off Sale

12:00 Noon to 1:00 A.M.

On Sale

12:00 Noon to 1:00 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 1:00 A.M.

Sundays

Off Sale

6:00 A.M. to 1:00 A.M.

On Sale

6:00 A.M. to 1:00 A.M.

Provided, that such limitations shall not apply after 12:00 noon on Sunday to a

licensee which is a nonprofit corporation holding a license pursuant to Neb. Rev. Stat. §53-124(5)(C) and (H), Reissue 1943.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed herein for stopping the sale of alcoholic beverages on 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 other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(Ref. Neb. Rev. Stat. §53-179)

SECTION 4-206: RESTRICTIONS ON PLACE OF CONSUMPTION

No person shall drink or consume alcoholic liquors on any street or alley in this city or inside any vehicle on any street or alley of this city or in any place open to the general public, other than a premises having an on-sale liquor license.

(Ref. Neb. Rev. Stat. §53-186, 53-186.01)

SECTION 4-207: OCCUPATION TAX

1. Occupation taxes shall be charged for liquor licenses within the City as follows. The amount for each class shall be as set by the City Council by resolution and kept on file in the city office.

Class A: Beer only, except for craft breweries, for consumption on the premises.

Class B: Beer only, except for craft breweries, for consumption off the premises, sales in original packages only.

Class C: Alcoholic liquor for consumption on the premises and off the premises, sales in original packages only, except for farm winery or craft brewery sales outlets.

Class D: Alcoholic liquor, including beer, for consumption off the premises, sales in the original packages only, except for farm winery or craft brewery outlets.

Class I: Alcoholic liquor for consumption on the premises, the sum of \$250.00, except for farm winery or craft brewery sales outlets.

Class L: Alcoholic liquor for consumption on the premises, including craft breweries.

Special Designated Permits: Alcoholic liquors pursuant to the special designated permit issued to said retailer by the Liquor Control Commission under Neb. Rev. Stat. §53-124.11.

2. The amount of such liquor license fee and occupation tax shall be deposited with the city treasurer at the time the application for license is made, whether such application be filed with the city clerk or the Nebraska Liquor Control Commission, and the city treasurer shall hold such occupation tax as a trust fund until the application is finally passed on. If the application is refused and license denied, then the amount thereof shall be returned to the applicant without interest. The occupation tax year shall commence on May 1 of each year and shall end on April 30 the next succeeding year; provided, during any license year no license shall be issued unless the occupation tax for the full license year shall have been deposited with the treasurer as hereinabove provided, regardless of the time when the license application was made, and no reduction shall be made in the amount of the occupation tax regardless of the time when the application shall have been made and regardless of the time when such license was issued.

3. The city treasurer shall credit such occupation tax fees to the general fund of the City. Upon the failure of any such applicant to pay such occupation tax as provided for by this section, it shall be mandatory upon the mayor and City Council to pass a resolution denying the application for a license, or requesting the Liquor Control Commission to deny such application and such resolution shall state the reason therefore and shall be forwarded to the commission.

(Ref. Neb. Rev. Stat. §17-525) (Am. Ord. Nos. 929, 12/6/04; 946, 1/9/06; 1123, 11/7/16)

SECTION 4-208: ENTRY OF PREMISES FOR INSPECTION

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

SECTION 4-209: FORM FOR CITIZEN COMPLAINT

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

To the mayor and City Council of the City of Atkinson, Nebraska.

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

(Ref. Neb. Rev. Stat. §53-134.04)

SECTION 4-211: COMPLAINT INITIATED BY CITY COUNCIL

The mayor and City Council may on their own motion, by resolution, fix the time and place for a hearing on whether or not a licensee has violated any section of the Nebraska Liquor Control Act, the regulations of the Nebraska Liquor Control Commission or this code, which resolution shall state the section or sections in question. Said resolution shall be served in the same manner and within the same time as the initial resolution mentioned in Section 4-210 of this code, and insofar as possible the procedure shall be the same as is provided in that section.

SECTION 4-212: PREREQUISITES TO DELIVERY OF LICENSE

Retail licenses issued or renewed by the Nebraska Liquor Control Commission for licensees within this city shall be delivered to said licensee by the city clerk, but he/she shall not deliver any such license to a licensee who does not exhibit receipts showing payment of the occupation tax levied under Section 4-207 of this code, payment of the license fee, payment of the publication fee for giving notice of the hearing before the City Council on any application for license and, if a renewal, payment of the publication fee of the automatic renewal notice provided for in this code.

SECTION 4-213: ACTION ON APPLICATION FOR LICENSE

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

Notice of the time and place of such hearing shall be published in a legal newspaper in this city one time, not less than three nor more than seven days

before the time of hearing. The hearing shall be held not more than 21 days after the date of receipt of the notice and copy of the application by the city clerk. After said hearing, the mayor and City Council shall, by resolution, spread at large in the minute record of their proceedings, recommend either the issuance or the refusal of said license. The city clerk shall thereupon mail to the Nebraska Liquor Control Commission by first class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.
(Ref. Neb. Rev. Stat. §53-131, 53-132, 53-134)

SECTION 4-214: RENEWAL OF LICENSE

The city clerk shall cause to be published in a legal newspaper in this city one time between January 10th and January 30th of each year, individual notice of the right of automatic renewal of each retail liquor and beer license for which provisions are made in Neb. Rev. Stat. §53-124(5), R.R.S. Neb. 1943 in the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR LICENSE

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

(Name of Licensee)

(Address of licensed premises)

Notice is hereby given that a written protest to the issuance of automatic renewal of license may be filed by any resident of the City of Atkinson on or before February 10, 20____, in the office of the city clerk; that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of said license should be allowed.

(Name)

(City Clerk)

The city clerk shall file or cause to be filed with the Nebraska Liquor Control Commission proof of publication of said notices on or before February 6th of each year.

SECTION 4-215: PROTESTS AGAINST RENEWAL

In the event written protests are filed with the city clerk by three or more residents of this city against the automatic renewal of a license, the city clerk shall present the same to the mayor and City Council at their next meeting and they shall thereupon, by resolution, direct the licensee to submit an application in the same manner as he would be required to do for an original license, and the city police chief shall forthwith serve said resolution on said licensee by delivering to him/her personally a true and certified copy thereof. Upon receipt by the city

clerk from the Nebraska Liquor Control Commission of the notice and copy of application, the same procedure shall be followed as is provided for in the case of an application for an original license.

SECTION 4-216: SPIKING BEER

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 serve or offer for sale any beer to which there has been added any alcohol, or permit any person to add alcohol to any beer on the licensed premise of such licensee.

(Ref. Neb. Rev. Stat. §53-174)

SECTION 4-217: CHANGE OF PREMISES

Any retailer licensee desiring to transfer his/her license from one premises to another shall file a written request for permission to do so with the city clerk, and shall also file with said clerk a sworn statement showing that the premises to which removal is to be made comply with all respects with the requirements of the Nebraska Liquor Control Act as amended. The city clerk shall present said application and statement to the mayor and City Council at their next meeting, and they shall, by resolution, approve or disapprove the transfer. If they approve the transfer, the approval thereof shall be endorsed on the license by the mayor and attested by the city clerk.

SECTION 4-218: GAMBLING

Unless sanctioned by Nebraska law, no licensee in this city holding a license covering premises open to the public for the sale of intoxicating liquor or beer shall directly or indirectly permit gambling on or in the licensed premises; nor shall he permit the operation or possession of any pay-off gambling device, slot machine, or punchboard, mechanical or otherwise, whether pay-off is in cash or merchandise, in, on or about the licensed premises.

SECTION 4-219: SALE FOR RESALE

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

SECTION 4-220: TRANSPORTATION OF LIQUOR OF RETAIL LICENSEES

No retail licensee in this city shall permit the transportation of alcoholic liquor from his/her licensed premises for storage purposes in any manner for any

purpose, or to any location other than has been expressly authorized in writing by the commission.

SECTION 4-221: NO DELIVERY AFTER CLOSING HOURS

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

SECTION 4-222: RESTRICTIONS ON CONDUCT OF OTHER BUSINESS

Retail licensees in this city shall not maintain in their licensed premises any door opening into or access leading into the premises owned, used, or occupied by other persons; nor shall any retail licensee permit any other person to use his/her licensed premises for the purpose of carrying on within such licensed premises any business activity of such other persons in any of its phases, such as solicitation, sale, service, delivery, storage or otherwise.

SECTION 4-223: CONDUCT PROHIBITED ON LICENSED PREMISES

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

SECTION 4-224: ADVERTISEMENTS AND SALES

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

SECTION 4-225: SANITATION

Sanitary conditions conducive to public health and welfare must be maintained at all times in or about licensed premises in this city.
(Ref. Neb. Rev. Stat. §53-118)

SECTION 4-226: SALES FOR CASH ONLY

No person shall, in this city, sell or furnish alcoholic liquor at retail: (1) on credit or on a passbook, or (2) order on a store, or (3) in exchange for any goods, wares or merchandise, or (4) in payment for any services rendered.
(Ref. Neb. Rev. Stat. §53-183)

SECTION 4-227: PREMISES OPEN TO VIEW

In premises within this city in which the sale of alcoholic liquor for consumption upon the premises is licensed, other than as a restaurant, hotel or club, no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the door of such premises which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times, and no booth, screen, partition or other obstruction nor any arrangements of lights or lighting shall be permitted in or about the interior of such licensed premises which shall prevent a full view of the entire interior of such licensed premises from the street, road or sidewalk. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural or artificial white light so that all parts of the interior of the premises shall be clearly visible.

SECTION 4-228: DISPLAY OF LICENSE

Every licensee in this city shall cause his/her license to be framed and hung in plain view in a conspicuous place on the licensed premises.
(Ref. Neb. Rev. Stat. §53-148)

SECTION 4-229: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY

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 person to his/her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctors which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he/she is delivered and communicated to his/her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

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

For purposes of this section, "public property" shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; and "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. Neb. Rev. Stat. §53-1,121)

SECTION 4-230: CATERING LICENSE

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

2. Upon receipt from the Commission of the notice and copy of the application as provided in Section 53-124.12 RS Neb., the City Council shall fix a time and place at which a hearing will be held and at which time the City Council shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The City Council may examine, or cause to be examined, under oath, any applicant; examine, or cause to be examined, the books and records of any such applicant, to hear testimony, and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the City Council may authorize its agent, the city clerk or the city attorney, to act on its behalf.

3. Notice of the time and place of such hearing shall be published in a legal newspaper in, or of general circulation in, the City one time not less than seven nor more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

4. The City Council shall, after the hearing provided in subsection (2), approve or deny the application within 45 days of receipt of such application from the Commission, and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The city clerk

shall thereupon mail or deliver to the Commission a copy of the decision to approve or deny the application.

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

6. The City Council, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the District Court.
(Ref. Neb. Rev. Stat. §53-124.12)

ARTICLE III - NONRESIDENT SALESMEN

SECTION 4-301: REGULATION

All non-resident individuals going door to door in the residential district with the intent to sell any goods, service, product or insurance or to solicit money for any purpose, shall, before doing business within the City, make application for and be issued a license. This registration and licensing is 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. Application for a license shall be made to the city clerk upon blank forms supplied by the City, and shall contain all the necessary information and documents required for the protection of the residents of the City. Any person or persons granted a license shall be subject to any fees, occupation taxes and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any license so granted shall be subject to revocation in the event that the information provided is inaccurate or misleading.

SECTION 4-302: HOURS OF SOLICITATION

It shall be unlawful for any license holder to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M., unless they have a previous appointment with the resident of the premises solicited. It shall be unlawful at any hour for any person to solicit without having a proper license on his/her person at all times.

SECTION 4-303: EXCEPTIONS

Nothing herein shall be construed to apply to any person selling produce raised within the county, to wholesale salespeople soliciting merchants directly, to residential route salespersons, nor to persons canvassing residents within the City for religious, political or other noncommercial purposes.

ARTICLE IV - PLUMBERS

SECTION 4-401: LICENSED PLUMBER DEFINED

The term "licensed plumber" as used in the ordinances of this city is hereby defined to denote any person to whom a plumber's license has been duly issued or renewed, as hereinafter provided, which has not been revoked or terminated by lapse of time.

SECTION 4-402: PROCEDURE TO OBTAIN LICENSE

Any person wishing to obtain a license as a plumber shall file in the office of the city clerk a written application asking to become a licensed plumber and stating his/her willingness to be governed in all respects by the ordinances of said city and all rules and regulations now in effect or hereafter to be adopted by said city concerning its utility systems. Such application shall be presented by the city clerk to the City Council at its next meeting thereafter held, and upon the City Council being satisfied of the business capacity, qualifications and good reputation of the applicant and of his/her worthiness to receive a license, and upon his/her payment to the city clerk of a license fee of \$35.00 and his/her filing with the city clerk of a bond with corporate surety to be approved by the City Council in the penal sum of \$50,000.00, conditioned upon his/her indemnifying and keeping harmless the City from all liability for any damage arising from any negligence or unskilled act in doing or protecting his/her work, or from any unfaithful or inadequate work done in pursuance of his/her license, and conditioned upon his/her restoring the streets, alleys, sidewalks and pavements over the pipes he/she may lay, and filling all excavations made by him/her so as to leave said streets, alleys, sidewalks and pavements in as good condition as he/she found them, and keeping and maintaining the same in good order to the satisfaction of the City Council for the period of one year next thereafter and that he/she will pay all fines that may be imposed upon him/her for a violation of any of the ordinances, rules and regulations adopted by this city and in force during the term of his/her license, said council may grant to such applicant a license to be issued by the city clerk, authorizing the applicant to engage in business as a licensed plumber in said city for and during the then current municipal year. Said license and bond shall cover all employees of the applicant.

SECTION 4-403: RENEWAL OF LICENSES

Any license granted as provided in the preceding section may be renewed from year to year at the option of the City Council, on application therefor, upon payment of the license fee of \$35.00 for the year and the renewal of applicant's bond.

SECTION 4-404: TERM OF LICENSE

The term of each license or renewal may be revoked at any time, at the option of the City Council.

SECTION 4-405: FEES TO BE PAID TO CITY TREASURER

The city clerk shall pay over to the city treasurer all license fees collected pursuant to this article.

ARTICLE V - TRAILER REGULATIONS

SECTION 4-501: TERMS DEFINED

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

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

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

SECTION 4-502: TRAILER COURTS; PERMIT REQUIRED

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

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

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

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

SECTION 4-503: PERMIT RENEWAL

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

SECTION 4-504: ASSIGNING PERMIT PROHIBITED

It shall be unlawful to assign or transfer without the written consent of the city clerk and the authorization of the City Council any permit issued by the City for the purpose of allowing the operation of a trailer court.

SECTION 4-505: PERMIT REVOCATION

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

SECTION 4-506: UNIT SPACES

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

SECTION 4-507: DRAINAGE

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

SECTION 4-508: PLUMBING FACILITIES

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

SECTION 4-509: WASTE DISPOSAL

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

SECTION 4-510: ELECTRICAL SUPPLY

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

SECTION 4-511: UNLAWFUL PARKING

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

SECTION 4-512: CONVERSION

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

SECTION 4-513: EXCEPTIONS

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

different location, all the provisions of this article shall become immediately applicable thereto.

SECTION 4-514: LIABILITY

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

SECTION 4-515: INSPECTIONS

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

ARTICLE VI - CARNIVALS AND AMUSEMENT OPERATORS

SECTION 4-601: PERMIT APPLICATION

Any person, firm or corporation desiring to locate a carnival or other public amusement or recreational enterprise within the City for temporary or permanent operation shall, before proceeding with the construction or location of any part of the enterprise, make application to the city clerk for a carnival permit. Said application shall state the type or types of rides, games, concessions and booths to be constructed and operated, the length of time for which the applicant desires the permit to be effective, the name and number of persons accompanying or employed by the enterprise, and any other information requested by the City Council.

SECTION 4-602: PERMIT REQUIREMENTS

Before issuance of the permit, the applicant shall provide proof that he/she has obtained prior approval from the electric company servicing the City to hook up to electric service and said applicant must show proof that he/she has made adequate prepayment for said electric service.

SECTION 4-603: ISSUANCE OF THE PERMIT

The city clerk shall forward the application to the City Council, who shall then study the application and, if satisfied that the applicant has met all requirements and will not violate any ordinances of the City or laws of the State of Nebraska, shall issue the permit. Said permit shall be effective for any duration of time determined by the City Council and as stated on the permit; provided, any permit so granted shall be subject to revocation at any time for good and sufficient cause by the City Council.

SECTION 4-604: COMPLIANCE WITH OTHER ORDINANCES

It shall be unlawful for any person, firm or corporation operating a carnival or amusement enterprise within the City to violate any fire regulation or other ordinance of the City.

SECTION 4-605: OCCUPATION TAX

Upon issuance of the carnival permit, said carnival owner shall pay to the city clerk any occupation tax as required in Article I of this chapter.

SECTION 4-606: LOCATION

Under no circumstances shall any person, firm or corporation operating a carnival or other public amusement enterprise locate said carnival anywhere

within the City other than the location designated by the City Council on the permit issued.

SECTION 4-607: CLEANUP REQUIRED

It shall be unlawful for any person, firm or corporation operating a carnival or public amusement within the City to leave the City without cleaning up all litter, garbage, and other debris at the location of the enterprise or before making arrangements approved by the City Council to have said litter removed and disposed by other personnel.

ARTICLE VII - JUNK YARDS

SECTION 4-701: DEFINITIONS

"Junk dealer" shall mean any person, firm or corporation engaged in the business of buying, selling, receiving or collecting or dealing in metal scraps, bottles or rags, or junked automobiles.

"Junkyard" shall mean any lot, piece or parcel of real estate used as a depository for such metal scraps, bottles, rags or junked automobiles; provided, these provisions shall not apply to any person going from house to house collecting iron, copper, brass and zinc, scraps, rags or bottles and selling the same to licensed junk dealers, and shall also not apply to persons conducting a bona fide business as an automobile dealer selling new or used cars, unless such dealer shall also be in the business of junking automobiles for sale of scraps and parts of said automobiles.

(Ref. Neb. Rev. Stat. §17-123, 17-123.01)

SECTION 4-702: LICENSE REQUIRED

It shall be unlawful for any person or corporation to keep, conduct or operate within this city any junkyard, or to engage in business as a junk dealer within this city, without first making written application to and obtaining from the mayor and City Council a license therefor.

(Ref. Neb. Rev. Stat. §17-123, 17-123.01)

SECTION 4-703: APPLICATION, LICENSE, LICENSE YEAR

Any person, firm or corporation desiring to conduct business as a junk dealer within this city shall make application in writing to the mayor and Council for a license therefor. Said application shall particularly describe the location of the proposed junkyard and shall set out the name or names of the persons applying for such license. Said application shall be filed with the city clerk and action shall be taken thereon either at the next special or regular meeting of the Council; and the mayor and Council may grant or reject the application if a majority of the Council favor such action. If the application be granted, the city clerk shall issue a license under the seal of the City authorizing said application to conduct a junk dealer's business at the location described in the application. Said license shall terminate at the end of each municipal year during which it is granted or issued and shall not be assignable; provided, any license issued under this article shall be revoked by the mayor and Council whenever it shall appear to said mayor and Council that the holder of such license is failing or neglecting to keep and operate a decent and orderly place of business in accordance with the provisions hereof; and provided further that no license shall be revoked unless due notice shall have been given to the licensee by said

mayor and Council that such action is contemplated and said licensee be given opportunity to appear before the Council and be heard.
(Ref. Neb. Rev. Stat. §17-123, 17-123.01)

SECTION 4-704: LICENSE FEE

The amount of the fee to be charged for a license hereunder shall be a sum set by resolution of the City Council and on file at the office of the city clerk. The fee shall be paid annually in advance by May 1st of each year.
(Ref. Neb. Rev. Stat. §17-123, 17-123.01)

SECTION 4-705: REGULATIONS; PRACTICES PROHIBITED

All junk collected by such junk dealers shall be kept upon the premises licensed hereunder and shall be enclosed within a solid board fence not less than six feet in height, which fence shall at all times be kept in a sightly condition. No junk dealer shall allow any of the materials collected and held by him/her to be deposited upon any public road or within the road right-of-way, nor to be deposited so as to obstruct use of the public street or sidewalk. Any junkyard in violation of this article is hereby declared to be a nuisance.
(Ref. Neb. Rev. Stat. §17-123, 17-123.01)

ARTICLE VIII - GAMES OF CHANCE AND/OR LOTTERIES

SECTION 4-801: DEFINITIONS

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

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

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

"Distributor" shall mean any person who engages in the business of selling, leasing or delivering possession or custody of gambling devices for consideration to a person engaged in the occupation of conducting games of chance and/or lotteries.

SECTION 4-802: OCCUPATION TAX

1. An occupation tax is hereby imposed on each person conducting games of chance and/or lottery activities within the City in the amount and manner specified in Section 4-101.

2. An occupation tax is hereby imposed on each person engaged in the occupation of distributing gambling devices within the City in the amount and manner specified in Section 4-101.

SECTION 4-803: PROHIBITION

It shall be unlawful for any person to engage in the occupation of conducting games of chance and/or lottery activities without first obtaining a license to do so.

SECTION 4-804: PERMIT APPLICATION

Every person desiring a license required by the provisions of this article shall make application to the city clerk. Accompanying each application shall be:

1. A sworn statement by each designated supervising member that such member will be responsible for compliance with the rules and regulations for each occasion of games of chance and/or lotteries which he/she supervises.
2. A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, seller profits, compensation, reward or recompense shall be paid to any person or organization not sanctioned by the laws of the State of Nebraska and the City of Atkinson, Nebraska; and that all profits shall be spent for a lawful purpose.

SECTION 4-805: DISPLAY OF LICENSE

Every license issued under the provisions of this division shall be conspicuously displayed at the place where the game of chance or lottery activity is conducted at all times during the conduct thereof.

SECTION 4-806: LICENSE FEE

The license fee for engaging in the occupation of conducting games of chance and lotteries within the City shall be \$10.00 for each location wherein such activity is conducted.

SECTION 4-807: EXEMPTION

Nonprofit organizations that desire to participate in games of chance and/or lotteries that are in compliance with the Small Lotteries and Raffles Act of the State of Nebraska are exempt from the provisions of this article.

ARTICLE IX - SMOKING REGULATIONS

(Adopted by Ord. No. 996, 12/1/08)

SECTION 4-901: DEFINITIONS

“Place of employment” means an indoor area under the control of a proprietor that an employee accesses as part of his or her employment without regard to whether the employee is present or work is occurring at any given time. The indoor area includes, but is not limited to, any work area, employee break room, restroom, conference room, meeting room, classroom, employee cafeteria, and hallway. A private residence is a place of employment when such residence is being used as a licensed child care program and one or more children who are not occupants of such residence are present. (Neb. Rev. Stat. §71-5724)

“Public place” means an indoor area to which the public is invited or in which the public is permitted, whether or not the public is always invited or permitted. A private residence is not a public place. (Neb. Rev. Stat. §71-5726)

SECTION 4-902: SMOKING PROHIBITED; EXEMPTIONS

Except as provided hereafter, it is unlawful for any person to smoke in a place of employment or any public place within the City. The following are exempt from the provisions of this ordinance:

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

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

C. Tobacco retail outlets.
(Neb. Rev. Stat. §71-5729, 71-5730)

SECTION 4-903: VIOLATION; PENALTY

Any person violating the terms of this ordinance shall be guilty of an offense and fined in a sum not exceeding \$25.00. Each day's violation shall constitute a separate offense.

ARTICLE X – COMMERCIAL FOOD ESTABLISHMENTS

(Adopted by Ord. No. 1150, 10/1/18)

SECTION 4-1001: APPLICABILITY; EXCEPTIONS

This ordinance shall apply to any and all “commercial food establishments,” which includes but is not limited to operations that store, prepare, package, serve, sell, vend, deliver or otherwise provide food for human consumption, in conformance with the Nebraska Pure Food Act, Neb. Rev. Stat. §81-2,245.01. With particularity, “food trucks” shall be subject to this ordinance. For purposes of this ordinance, churches, schools and non-profit organizations with tax exempt status under 501(C)(3) of the Internal Revenue Code shall be exempt.

SECTION 4-1002: PERMITS

All commercial food establishments, as above defined, desiring to sell food or drinks within the corporate limits of the City shall procure an annual permit in advance from the city clerk, authorizing such establishments to operate in the City and shall be subject to the below terms and conditions:

A. *Permit Application.* Every commercial food establishment desiring to sell food or drinks within the corporate limits of the City must fill out, in its entirety, a permit application which shall be made available to each said establishment by the city clerk which shall include but not be limited to disclosure of the following information: Name of individual; name of entity; social security number; employer ID number; telephone number; address; type of food or drink to be served; dates of service; and location of establishment.

B. *Fee.* No annual application fee will be assessed, provided each vendor registers at the city clerk’s office by showing proof of a state license to vend food, the said license to be on display while vending food.

C. *Violation.* In the event that a commercial food establishment violates the requirement of obtaining an annual permit and then proceeds to do business within the corporate limits of the City without first obtaining an annual permit, a penalty of \$100.00 per violation shall be imposed.

SECTION 4-1003: SALES TAX

Commercial food establishments shall be subject to payment of city and state sales taxes and, contemporaneous with submission of permit application, shall agree to pay any and all sales taxes which may be due and owing.

SECTION 4-1004: LICENSING

Commercial food establishments shall be duly licensed in conformance of the

laws of the State of Nebraska, including but not limited to the Nebraska Pure Food Act, and shall, contemporaneous with submission of a permit application, swear under penalties of perjury that they are duly licensed.

ARTICLE XI - PENAL PROVISIONS

SECTION 4-1101: VIOLATION; PENALTY

Any and all persons violating any of the provisions of the several articles of this chapter for which penalty is not therein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.