

CHAPTER 3: BUSINESS REGULATIONS

ARTICLE 1: ALCOHOLIC LIQUORS

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§ 3-101 LIQUOR SALES; LICENSE REQUIRED.

It shall be unlawful for any person, firm, or corporation to sell or keep for sale any alcoholic liquor within the City unless the person, firm, or corporation shall have in full force and effect, at the time, a license therefore as provided by the Nebraska Liquor Control Act.

(Ord. 1000, passed 12-4-1978) Penalty, see § 18-104

§ 3-102 LIQUOR SALES; OCCUPATION TAX.

For the purpose of raising revenue within the City, there is hereby levied an occupation tax upon the businesses hereinafter described, and the occupation tax shall be paid to the City Clerk at the time the proper license issued by the Nebraska Liquor Control Commission is delivered to the licensee, and at the time of each renewal thereafter. The occupation tax shall be cited in the current Chadron Fee Ordinance.

(Ord. 1111, passed 12-19-1998; Ord. 1117, passed 4-17-1989; Ord. 1276, passed 3-7-2005)

§ 3-103 LIQUOR SALES; SUNDAY REGULATIONS; HOURS; EXCEPTION.

(Ord. 1193, passed 12-12-1995; Repealed Ord. 1387, passed 5-16-2016)

§ 3-104 LIQUOR SALES; REGULATION; HOURS.

No alcoholic liquors, including beer, shall be sold at retail on Monday through Sunday between the hours of 1:01 a.m. and 8:00 a.m.

(Ord. 1000, passed 12-4-1978; Am. Ord. 1334, passed 6-21-2010; Ord. 1387, passed 5-16-2016)

Penalty, see § 18-104

§ 3-105 LICENSED PREMISES; POLICE OFFICERS MAY ENTER.

All police officers of the City are hereby authorized to enter at any time upon the premises of any licensee under the Nebraska Liquor Control Act within the City to determine whether any of the provisions of the Act or of this article, or any other rules or regulations adopted by the City or by the Nebraska Liquor Control Commission, have been or are being violated and at the time to examine sufficiently the premises of the license in connection therewith.

(Ord. 1000, passed 12-4-1978)

§ 3-106 LICENSED PREMISES; PUBLIC ENTRANCE.

No person holding a license for the sale at retail of alcoholic liquors, including beer, shall sell any such liquors or conduct any of the business for which the license is required in any premises not provided with a public entrance at the front or side thereof, opening upon a public street; and no person holding the license shall permit the use of any entrance other than the front or side entrance for any purposes other than the use thereof by the licensee, his or her family or employees, or for ingress and egress by other persons for the purpose of lawful labor or business other than the purchase at retail or the consumption of alcoholic liquors.

(Ord. 1000, passed 12-4-1978) Penalty, see § 18-104

§ 3-107 LIQUOR CONSUMPTION; OPEN CONTAINER; PLACES UNLAWFUL; EXCEPTIONS.

It shall be unlawful for any person to consume, or to have in his or her possession or physical control, any open container of alcoholic liquor in the public streets, alleys, parking areas, roads, or highways, or inside vehicles while upon the public streets, alleys, parking areas, roads, or highways; or upon property owned by the state or any governmental subdivision thereof, unless authorized by the governing bodies having jurisdiction over the properties; except where the premises has been issued a license for the sale of alcoholic liquor at retail by the

Nebraska Liquor Commission with the consent of the City Council.
(Ord. 1075, passed 12-16-1985) Penalty, see § 18-104

§ 3-108 LIQUOR; REMOVAL OF UNSEALED BOTTLE OF WINE; CONDITIONS.

(1) A restaurant holding a license to sell alcoholic liquor at retail for consumption on the licensed premises may permit a customer to remove one unsealed bottle of wine for consumption off the premises if the customer has purchased a full-course meal and consumed a portion of the bottle of wine with such full-course meal on the licensed premises. The licensee or his or her agent shall securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine and the full-course meal.

(2) If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(3) For purposes of this section, full-course meal means a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking.

(Neb. RS 53-123.04) Penalty, see § 18-104

§ 3-109 ALCOHOLIC LIQUOR; MINORS SELLING, DISPENSING, CONSUMING, OR HAVING IN POSSESSION OR PHYSICAL CONTROL UNLAWFUL; EXCEPTIONS.

Except as provided in Neb. RS 53-168.06, it shall be unlawful for any minor to sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence, or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual, or ceremony; provided, however, when a minor is arrested for a violation of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify the minor's parent or guardian of the arrest.

(Ord. 1091, passed 5-4-1987; Ord. 1262, passed 12-17-2001) Penalty, see § 18-104

§ 3-110 LIQUOR APPLICATION; EXAMINATION BY CITY COUNCIL.

Any person or persons desiring to obtain a license to sell alcoholic liquors at retail within the City of Chadron shall file with the Liquor Control Commission the application, license fees, state registration fee, bond, and security for costs as provided by Neb. RS 53-131, as amended. After the City Clerk receives from the Commission notification of the pending application, the City Council shall hold a hearing within 45 days after the receipt of the notice to determine the desirability of the application and report its recommendation for approval or denial by sending a copy of its resolution as provided in § 3-116 of this code to the Nebraska Liquor Control Commission within 45 days of the receipt of the notification.

(Ord. 1083, passed 6-16-1986)

Statutory reference:

Related state law provisions, see Neb. RS 53-131

§ 3-111 LIQUOR APPLICATION; NOTICES OF HEARING.

Notice of the time and place of the hearing on any liquor application 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. The 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 the license may do so at the time of the hearing. Notice of the hearing shall also be given to the applicant of the date, time, and location of the hearing by certified mail addressed to the address of the applicant as shown on the application.

(Ord. 1083, passed 6-16-1986)

§ 3-112 LIQUOR APPLICATION; HEARING; PROCEDURE.

During the hearing on the application, the City Council shall receive evidence under oath, either orally or by affidavit, from the applicant and any other person concerning the propriety of the issuance of the license. The hearing will be informal and conducted by the Mayor who may limit testimony where it appears incompetent, irrelevant, or unduly repetitious. The intent is an inquiry into the facts, not an adversary action. Each witness shall be sworn and may present their testimony in narrative fashion or by question and answer. Any member of the City Council, the City Attorney and City Manager may

question any witness, call witnesses, or request information. The City Council and its representatives shall not be bound by the strict rules of evidence, and shall have full authority to control the procedures of the hearing including the admission or exclusion of testimony or other evidence. The City Council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals. In all cases, the burden of proof and persuasion shall be on the party filing the application. If there is opposition to any application and the opposition desires the opportunity to present arguments and to cross-examine

the applicant and any witnesses in favor of the application, they shall choose a spokesperson to perform the function who shall notify the Mayor of his or her representation prior to the start of the hearing. The City may make further inquiry and investigation following the hearing. Two or more proceedings which are legally or factually related may be heard and considered together unless any party thereto makes a showing sufficient to satisfy the City Council that prejudice would result therefrom.

(Ord. 1083, passed 6-16-1986)

Statutory reference:

Related state law provisions, see Neb. RS 53-134

§ 3-113 LIQUOR APPLICATION; HEARING RECORD; TRANSCRIPT.

The City Council or the applicant may order the hearing to be recorded by the City Clerk, at the expense of the applicant. The costs and expense of the preparation of a written transcript of the hearing shall be paid by the person requesting the same.

(Ord. 1083, passed 6-16-1986)

§ 3-114 LIQUOR APPLICATION; HEARING; ORDER OF PROCEEDING.

During the hearing on the application, the order of the proceeding shall be as follows:

(1) Exhibits will be marked in advance by the City Clerk and presented to the Mayor during the presentation;

(2) Presentation of evidence, witnesses, and arguments by applicant;

(3) Testimony of any other citizens in favor of the proposed license;

(4) Examination of applicant, witnesses, or citizens by City Attorney, City Manager, City Council, or duly appointed agent;

(5) Cross-examination of applicant, witnesses, or citizens by spokesperson for opposition, if any;

(6) Presentation of evidence and witnesses by opposition;

(7) Testimony of any other citizens in opposition to the proposed license;

(8) Presentation of evidence by City and law enforcement personnel;

(9) Cross-examination by applicant;

(10) Rebuttal evidence by both parties, and by City administration and agent; and

(11) Summation by applicant and opposition spokesperson, if any.

(Ord. 1083, passed 6-16-1986)

§ 3-115 LIQUOR APPLICATION; ALCOHOLIC LIQUOR RETAIL LICENSING STANDARDS.

The City Council shall only consider the requirements of the Nebraska Liquor Control Act and the following criteria at the hearing and an evaluation of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, and for the purpose of formulating a recommendation to the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

- (1) The adequacy of existing law enforcement resources and services in the area;
- (2) The recommendation of the Police Department or any other law enforcement agency;
- (3) Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking;
- (4) Zoning restrictions and the local governing body's zoning and land use policies;
- (5) Sanitation or sanitary conditions on or about the proposed licensed premises;
- (6) The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- (7) The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
- (8) The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments issued the licenses;
- (9) Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- (10) Whether the type of business or activity proposed to be operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest and declared in Neb. RS 53-101.01;
- (11) Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. RS 53-168.06;
- (12) Whether the applicant has taken every reasonable precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

(13) Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

(14) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the act;

(15) The background information of the applicant established by information contained in the public records of the commission and investigations conducted by law enforcement agencies;

(16) Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the local governing body, and other governmental unit, or any court of law;

(17) Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the commission or local governing body or the employees of the commission or local governing body in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;

(18) Proximity of and impact on schools, hospitals, libraries, parks, and other public institutions;

(19) Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

(20) Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

(Ord. 1083, passed 6-16-1986; Ord. 1125, passed 6-4-1990)

§ 3-116 LIQUOR APPLICATION; HEARING CONCLUSION; RESOLUTION.

At the conclusion of the hearing, the City Council shall cause to be spread at large in the minute record of its proceedings a resolution recommending either issuance or refusal of the license. The City Clerk shall thereupon mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice.

(Ord. 1083, passed 6-16-1986)

§ 3-117 ALCOHOLIC BEVERAGES; LICENSES; REVOCATION.

A retail license to sell alcoholic liquors, which the City Council is legally empowered to conditionally revoke, may be conditionally revoked by the City Council, subject to a final order by the Liquor Control Commission, 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 the State Liquor Control Act, or of this article, or rule or regulation of the Nebraska Liquor Control Commission; or any statutory provision or ordinance of the City now existing or hereafter passed, enacted in the interest of good morals and decency; or for any one or more of the following reasons:

(1) The licensee, his or her manager, or agent in charge of the premises licensed has been convicted of or has pleaded guilty to a felony under the laws of the state or of any other state of the United States;

(2) The licensee, his or her manager, or agent in charge of the premises licensed has been convicted of or has pleaded guilty to being the proprietor, manager, or agent in charge of a gambling house or of pandering or other crime or misdemeanor opposed to decency and morality;

(3) The licensee, his or her manager, or agent in charge of the premises licensed has been convicted of or pleaded 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 or her application for the license or has failed to comply with the statements and representations made by the answer to any question or questions in the application or has failed to perform in accordance with any other statement or representation or keep and promise, oral or written, made to the Council in connection with the licensee's requests for the license; and/or

(5) The licensee, his or her 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, regulations, or ordinances referred to in this section.

(Neb. RS 53-116, 53-116.01, and 53-116.02) (Ord. 1302, passed 9-4-2007)

§ 3-118 ALCOHOLIC BEVERAGES; VIOLATIONS BY MANAGERS, AGENTS, AND EMPLOYEES.

Every act of omission of whatsoever nature constituting a violation of any of the provisions of the Nebraska Liquor Control Act by any officer, director, manager, or other agent or employee of any licensee, if the act is committed or omission is made with the authorization, knowledge, or approval of the licensee, shall be deemed and held to be the act of the employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by him or her or her personally.

(Neb. RS 53-1,102) (Ord. 1302, passed 9-4-2007)