

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 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; LOCATION. It shall be unlawful for any person or persons to own, maintain, manage, or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within one hundred and fifty (150') feet of any church, school, hospital, or home for aged or indigent persons or veterans, their wives or children; Provided, this prohibition shall not apply to any location within such distance when the said establishment has been licensed by the Nebraska Liquor Control Commission at least two (2) years, and to hotels offering restaurant service, regularly organized clubs, or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the said hotel, club, or restaurant were licensed and in operation prior to May 24, 1935. No alcoholic liquor, other than beer, shall be sold for consumption, on the premise within three hundred (300') feet from the campus of any college within the Municipality. (*Ref 53-177 RS Neb.*)

§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

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conspicuous place on the licensed premise. (Ref 53-148 RS Neb)

§10-106 ALCOHOLIC BEVERAGES; LICENSEE REQUIREMENTS. It shall be unlawful for any person or persons to own an establishment that sells at retail any alcoholic beverages unless said person is a resident of the county in which the 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; a person who has never been associated with, or kept, a house of ill fame; a person who has never been convicted of, or pleaded guilty to, a crime or misdemeanor opposed to decency and morality; 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 53-124.07, 53-125 RS Neb)

§10-107 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; MUNICIPAL EXAMINATION. Any person or persons desiring to obtain a license to sell alcoholic liquors at retail shall file with the Liquor Control Commission. The Commission shall then notify the Municipal Clerk by registered or certified mail. The Governing Body shall then meet and determine the desirability of the application and report its recommendation for approval or denial of the application in writing to the Nebraska Liquor Control Commission within forty-five (45) days of receipt from the Nebraska Liquor Control Commission. The Governing Body 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 the purpose of obtaining any of the information desired, the Governing Body may authorize its agent, Municipal Clerk or the Municipal Attorney, to act on its behalf. The Governing Body may conduct the examination and hold the hearing upon

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the receipt from the Commission of the notice and copy of the application. The Governing Body shall fix a time and place at which a hearing will be held, and at which time the Governing Body shall receive evidence, under oath, either orally, or by affidavit, from the applicant and any other person concerning the propriety of the issuance of such 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 (1) time not less than seven (7), nor 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 local Governing Body in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than forty-five (45) days after the receipt of notice from the Commission. After such hearing, the Governing Body shall cause to be spread at large in the minute record of its proceedings a resolution recommending either issuance or refusal of such license. The Municipal 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. (Ref 53-131, 53-134 RS Neb.) (Amended by Ord. Nos. 1014, 6/17/86: 1101, 11/21/89)

§10-108 ALCOHOLIC BEVERAGES; LIQUOR LICENSE RENEWAL.
Retail liquor licenses issued by the Commission and outstanding may be automatically renewed in the absence of a request by the Governing Body to require the said licensee to issue an application for renewal. The Municipal Clerk, upon notice from the Commission, between January tenth (10th) and January thirtieth (30th) of each year, shall cause to be published in a legal newspaper in, or of general circulation in the Municipality, one (1) time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the Municipality; Provided, Class C license renewal notices shall be published between the dates of July tenth (10th) and July thirtieth (30th) of each year. The Municipal Clerk shall then file with the Commission proof of publication of said notice on or before February tenth (10th) of each year or August tenth (10th) of each year for Class C licenses. In the event that written protests are filed by three (3) or more residents of the Municipality against said license renewal, the Municipal Clerk shall

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deliver the protests to the Governing Body who shall thereupon proceed to notify the Commission that they are to require the said licensee to submit an application. (Ref 53-135, 53-135.01 RS Neb.)

§10-109 ALCOHOLIC BEVERAGES; MUNICIPAL POWER 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, bottle club, or craft brewery licensees carried on within the corporate limits of the Municipality. (Neb. RS 53-134.03)

(B) During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission an application for a new license to sell alcoholic liquor at retail, a bottle club license, or a craft brewery 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. (Neb. RS 53-131(2))

(C) The Governing Body, with respect to licenses within the corporate limits of the Municipality and with respect to Class D-1 licenses outside the corporate limits but within the extraterritorial zoning jurisdiction of the Municipality, has the following powers, functions, and duties with respect to retail, bottle club, and craft brewery licenses:

(1) To cancel or revoke for cause retail, bottle club, or craft brewery 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

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manner provided in the Act;

(4) To receive retail license fees, bottle club license fees, and craft brewery license fees as provided in Neb. RS 53-124 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 licensee, bottle club licensee, or craft brewery 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 10-122 (Citizens Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133;

(7) (a) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, 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 arty 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 7 and not more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the Governing Body in support of or in protest against the issuance of such license may do so at the time of the hearing:

(b) The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the Governing Body shall cause to be recorded in the minute record of their

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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. (Neb. RS 53-134)

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

(a) The license fee if by the terms of Neb. RS 53-124(5) 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 Neb. RS 53-135.01; 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 times the amount of the license fee required to be paid under the Act to obtain such license. (Neb. RS 53-132(4))
(Ord. No. 1550, 03/04/03)

§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.

It shall be unlawful for any licensee, manager or employee of such licensee or manager to drink any alcoholic liquor during the time that such person is on duty in the conduct of such business; and it shall be unlawful for any licensee, manager or employee to serve or sell alcoholic

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liquor while under the influence of such liquors. (*Ref. 53-1,101 RS Neb*) (*Amended by Ord. No. 1077, 3/7/89*)

§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, if such act is committed or omission made with the authorization, knowledge or approval of the employer or licensee, 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; MINORS AND INCOMPETENTS. It shall be unlawful for any person or persons to sell, give away, dispose of, exchange, permit the sale of or make a gift of, any alcoholic liquors, or to procure any such alcoholic liquors to or for any minor, or to any person who is mentally incompetent. (*Ref. 53-180 RS Neb.*)

§10-113 ALCOHOLIC BEVERAGES; CREDIT SALES. No person shall sell or furnish alcoholic liquor at retail to any person or persons for credit of any kind, barter, or services rendered; Provided, nothing herein contained shall be construed to prevent any club holding a class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of the said members or guests in accordance with the by-laws of any such club; and Provided further, nothing herein shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the said hotel, and charged to the accounts of such guests. (*Ref. 53-183 RS Neb.*)

§10-114 BEVERAGES; 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 or persons to add alcohol to any beer on the licensed premise of such licensee. (*Ref. 53-174 RS Neb.*)

§10-115 ALCOHOLIC BEVERAGES; ORIGINAL PACKAGE. It shall be

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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.)

§10-116 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 other-wise 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.)

§10-117 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)

§10-118 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.)

§10-119 ALCOHOLIC BEVERAGES; CONSUMPTION IN PUBLIC PLACES.

(A) Except when the Nebraska Liquor Control Commission has issued a license as provided in Neb. RS 53-186(2), 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.

(B) It is unlawful for any person owning, operating, managing, or conducting any dance hall, restaurant, cafe,

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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, cafe, 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 division does not apply to a retail license while lawfully engaged in the catering of alcoholic beverages.

Provided, it shall be lawful for persons to consume alcoholic liquors on the public property known as Tuxedo Park in the City of Crete, Saline County, Nebraska; Provided, that nothing herein shall be construed to allow said consumption inside motor vehicles while said motor vehicles are upon the public streets within said park. Provided further, that it shall be lawful for Fire Department members, their invitees and guests to consume alcoholic liquors on the public property known as the Fire Hall Building and Fire Training Grounds in the City of Crete, Saline County, Nebraska, at such times and in connection with Fire Department functions as determined by the officers of said Fire Department. (53-186(1), 53-186.01 RS Neb.) (Amended by Ord. No. 1040, 7/7/87; Ord. No. 1552, 03/04/03))

§10-120 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

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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 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 years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment;

(7) Persons who are sixteen 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 years old or older from serving or selling alcoholic liquor in the course of their employment. (*Ref. 53-168.06, 53-175, 53-194.03 RS Neb.*) (*Amended by Ord. No. 1329, 7/2/96; Ord. No. 1546, 02/04/03*)

§10-121 ALCOHOLIC BEVERAGES; 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 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.

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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.

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.

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.

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.)

§10-122 ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS. Any five (5) residents of the Municipality shall have the right to file a complaint with the Governing Body stating that any retail or bottle club 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 thereto. Such complaint shall be in writing in the form prescribed by the Governing Body and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the Governing Body is satisfied that the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten (10) days from the date of the filing of the complaint and shall serve notice upon the licensee of the

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time and place of such hearing and of the particular charge in the complaint; Provided, that the complaint must in all cases be disposed of by the Governing Body within thirty (30) days from the date the complaint was filed by resolution thereof, said resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided by law. (*Ref. 53-1, 114 RS Neb.*)

§10-123 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, including 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.

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 other 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. 1105, 12/5/89; 1140, 7/16/91; 1435, 11/03/98; 1879, 12/3/13*)

§10-124 LIQUOR APPLICATIONS; RETAIL LICENSING STANDARDS; BINDING RECOMMENDATIONS. Local governing bodies shall only have authority to approve applications and deny licenses pursuant to the Nebraska Liquor Control Act. The Governing

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

- a. The adequacy of existing law enforcement resources and services in the area;
- b. The recommendation of the Police Department or any other law enforcement agency;
- c. 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;
- d. Zoning restrictions and the local governing body's zoning and land-use policies;
- e. Sanitation or sanitary conditions on or about the proposed licensed premises;
- f. The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- g. The existing population and projected growth within the jurisdiction of the local governing body and within the area to be served;
- h. The existing liquor licenses, the class of each such license, and the distance and times of travel between establishments that issued such licenses;
- i. Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- j. Operated or presently operated in conjunction with the proposed license is and will be consistent with the public interest as declared in section 53-101.01;
- k. Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with section 53-102;
- l. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;
- m. 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;

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- n. 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;
- o. The background information of the applicant established by information contained in the public records of the Commission and investigations conducted by law enforcement agencies;
- p. Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the local governing body, any other governmental board or agency of the local governing body, any other governmental unit, or any court of law;
- q. Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the commission or local governing body or the employees of the commission in regard to the license application or liquor investigations. The applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the local governing body;
- r. Proximity of and impact on schools, hospitals, libraries, parks, and public institutions;
- s. Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and
- t. 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.

It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in this subsection. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, "applicant" shall be synonymous with "license." (*Ref. 53-134 RS Neb.*) (*Ord. No. 1013, 6/17/86*) (*Amended by Ord. No. 1102, 11/21/89*)

§10-125 ALCOHOLIC BEVERAGES; LIQUOR APPLICATION; NOTICE; PROCEDURE.

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A. Notice. Notice of a hearing held pursuant to Neb. Rev. Stat. Section 53-134 shall be given to the applicant by the Municipal Clerk and shall contain the date, time, and location of the hearing. Two (2) 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 Governing Body that prejudice would result there from.

B. Procedure. Hearings will be informal and conducted by the Municipal Attorney. The intent is an inquiry into the facts, not an adversarial action. Each witness may present their testimony in narrative fashion or by question and answer. The Governing Body of the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s).

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

The order of the proceeding is as follows:

1. Exhibits will be marked in advance by the Clerk and presented to the Municipal Attorney during the presentation;
2. Presentation of evidence, witnesses, and arguments by applicant;
3. Testimony of any other citizens in favor of such proposed license;
4. Examination of applicant, witnesses or citizens by Municipal Attorney, Governing Body, or duly appointed agent;
5. Cross-examination of applicant, witnesses or citizens by spokesperson for opposition, if any;
6. Presentation of evidence and witnesses by opposition;
7. Testimony of any other citizens in opposition to such proposed license.
8. Presentation of evidence by Municipality and law enforcement personnel;
9. Cross-examination by applicant;

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10. Rebuttal evidence by both parties, and by Municipality administration and agent;

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

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

Any member of the Governing Body and the Municipal Attorney may question any witness, call witnesses, or request information.

All witnesses shall be sworn.

The Governing Body may make further inquiry and investigation following the hearing.

The Governing Body or the applicant may order the hearing to be recorded by the Clerk, at the expense of the applicant(s). (*Ref. 53-134 RS Neb.*) (*Ord. No. 1103, 11/21/89*)

§10-126 ALCOHOLIC BEVERAGES; CATERING LICENSE.

(A) The holder of a Class C, Class D, or Class I license issued under Neb. RS 53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(*Neb. RS 53-124.12(1)*)

(B) Upon receipt from the Commission of the notice and copy of the application as provided in Neb. RS 53-124.12, the governing body shall process the application in the same manner as provided in 10-109 (Alcoholic Beverages; Licenses; Municipal Powers). (*Neb. RS 53-124.12(3)*)

(C) The governing body, with respect to catering licensees within the Municipality's corporate limits, may cancel a catering license for cause for the remainder of the period for which the license is issued. Any person whose catering license is canceled may appeal to the District Court. (*Neb. RS 53-124.12(4)*)

(D) The Municipality may impose an occupation tax on the business of any person, firm, or corporation receiving a catering license and doing business within the Municipality. The tax may not exceed double the license fee for a catering license. (*Neb. RS 53-124.12(6)*) (*Ord. No.1287, 8/1/95, Ord. No. 1551, 03/04/03*)

§10-127 ALCOHOLIC BEVERAGES; SPECIAL DESIGNATED LICENSE; DESIGNATION OF THE CITY CLERK OF THE CITY OF CRETE TO ACT AS AGENT.

Pursuant to Nebraska Liquor Control Act of the State of Nebraska, the City Clerk is hereby appointed agent for the

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City for making recommendation, to approve or deny the application for special designated permit license, to the Nebraska Liquor Control Commission. In making his or her recommendation, the City Clerk shall consult with the Mayor, Chief of Police and City Attorney and follow guidelines established by the Nebraska State Statutes and the Ordinances of the City of Crete, Nebraska, for the issuance of said license. (*Ord. No. 1392; 11/18/97*)