

# CHAPTER IV BUSINESS REGULATIONS

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# CHAPTER IV BUSINESS REGULATIONS

## ARTICLE I -TELECOMMUNICATION AND TELEVISION SERVICE REGULATIONS

### SECTION 4-101: INSTALLATION IN PUBLIC RIGHT OF WAY

a. No telecommunications or television service company shall construct, operate, and maintain telecommunications lines and related facilities along, upon, across, and under public right of way of the City of Albion without first obtaining the consent of the governing body of the City of Albion. Said consent of the governing body must be obtained on an annual basis unless otherwise agreed to by the parties in writing.

b. Any telecommunications company or television service company wishing to construct, operate, and maintain telecommunications lines and related facilities along, upon, across, and under public right of way of the City of Albion must file a written application with the City Clerk for consideration by the City Council at the next regularly scheduled City Council Meeting.

c. Applicant shall be responsible for verifying that Applicant's installation will not adversely affect any other utility (public or private). In the event said installation does adversely affect another utility, Applicant shall be responsible for returning said utility to its condition as it was immediately prior to installation.

### SECTION 4-102: EXISTING UTILITY LOCATED WITHIN PUBLIC RIGHT OF WAY

a. No telecommunications or television service company shall operate, and maintain existing telecommunications lines and related facilities along, upon, across, and under public right of way of the City of Albion without first obtaining the consent of the governing body of the City of Albion. Said consent of the governing body must be obtained on an annual basis unless otherwise agreed to by the parties in writing.

b. Any telecommunications or television service company wishing to operate, and maintain existing telecommunications lines and related facilities along, upon, across, and under public right of way of the City of Albion must file a written application with the City Clerk for consideration by the City Council at the next regularly scheduled City Council Meeting.

### SECTION 4-103: PUBLIC RIGHT OF WAY PERMIT; APPLICATION; ANNUAL

a. Written applications may be made utilizing provided form and shall contain:

1. Legal name of applicant;
2. Type and nature of telecommunication line and/or related facilities to be constructed, operated, and maintained; and,
3. Legal description of public right of way to be occupied by telecommunication line and/or related facilities to be constructed, operated, and maintained.

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- b. Written application shall be accompanied by:
1. Drawing and/or diagram of entire intended route of new telecommunication line and/or related facilities to be constructed, operated, and maintained, or the actual route of existing telecommunication line and/or related facilities to the operated and maintained;
  2. Public Right of Way permit fee of \$100.00, renewable annually;
  3. Insurance Certificate, naming the City of Albion as additional insured, verifying at least: General Liability of \$1,000,000.00; Personal Injury of \$500,000.00; Product & Completed Operations Aggregate of \$1,000,000.00; Medical Expense (Any One Person) of \$5,000.00; Each Occurrence of \$500,000.00; and,
  4. If new construction, a surety bond or certified check payable to the City of Albion in the amount of 10% of the total utility installation and construction to be returned upon satisfactory installation and construction of utility and written approval of satisfactory restoration of public right of way.
- c. Upon formal consent and approval of application by the governing body of the City of Albion, a right of way permit shall be issued by the City Clerk.

1. Right of way permit shall be renewable annually on May 1 of each year following the first full year of installation, operation, and maintenance of the telecommunication line and/or related facilities located along, upon, across, and under public right of way of the City of Albion.
2. Each entity occupying right of way belonging to the City of Albion shall be required to pay an annual right of way permit fee of \$100.00 due on or before May 1 of each year following installation of the entity's initial telecommunication line and/or related facilities. This fee shall be limited to \$100.00 per entity occupying the City right of way regardless of the number of permits in effect for that entity.
3. The City may grant, upon request, a multi-year right of way permit; however, the annual permit fee shall not be waived. The Grantee of a multi-year right of way permit may pay the entire permit fee balance for the multiple years, at the time the permit is granted. Absent such payment the annual permit fee shall be due at the same time as all other right of way permit fees. Failure to pay any permit fees due under a multi-year permit shall result in the immediate cancellation of said right of way permit and the Grantee will need to reapply.

## SECTION 4-104: TELEVISION SERVICE FRANCHISE

- a. Approved application and associated right of way permit shall be considered valid franchise authorization as required by 18-2202, RS.S. Neb.

## SECTION 4-105: REQUIRED TELEVISION SERVICE QUALITY STANDARDS

- a. The Mayor and City Council may prescribe reasonable television service quality standards at the time that the application for right of way permit is considered for approval.

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## SECTION 4-106: TELEVISION SERVICE RATE REGULATION

a. The Mayor and Governing Body of the City of Albion shall regulate rate increases so as to provide reasonable and compensatory rents or rates for such service including installation charges in the manner as prescribed by Nebraska State Statute as follows:

- 1 Approval of a rate increase for a person or entity furnishing community television service shall be required and shall be made by resolution or ordinance by the Albion City Council.
- 2 Prior to voting on a rate increase the council shall hold at least two public meetings at which the ratepayers and the franchisee may comment on the programming content and rates of such franchisee.
- 3 At least thirty days prior to the first public meeting held to examine programming content and rates, each ratepayer or subscriber shall be notified by a billing statement or other written notice when and where such public meeting shall be held. Such notice shall also provide information as to what rates are proposed by the franchisee for consideration by the council or board of trustees.

(Ref. 86-701 through 86-704, 18-2201 through 18-2206, RS.S. Neb.)

{Chapter IV, Article I repealed and replaced via ORDINANCE NO. 223(13) EFFECTIVE MAY 1, 2014}

{Section 4-101 repealed and replaced via ORDINANCE NO. 245(16) EFFECTIVE APRIL 1, 2016}

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## ARTICLE II -LIQUOR REGULATIONS

### SECTION 4-201: TERMS, DEFINED

Unless the context otherwise requires, the words and phrases defined in Section 53-103, R.R.S. Neb. 1943, 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. 53-102 RS Neb.)

### 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. 53-134 RS Neb.)

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## 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. 53-180 RS Neb.)

## 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 AM. to 1 :00 AM.
On Sale	6:00 AM. to 1 :00 AM.

### Sundays

Off Sale	6:00 AM. to 1 :00 AM.
On Sale	6:00 AM. to 1 :00 AM.

Beer and Wine

### Secular Days

Off Sale	6:00 AM. to 1 :00 AM.
On Sale	6:00 AM. to 1 :00 AM.

### Sundays

Off Sale	6:00 AM. to 1 :00 AM.
On Sale	6:00 AM. to 1 :00 AM.;

Provided that any licensee who sells beer and wine "on sale" on Sundays, as provided in this section, shall also provide food service to the public during the hours that they are open for such "on sale"; and provided that such limitations shall not apply after 12:00 Noon on Sunday to a licensee which is a non-profit corporation holding a license pursuant to Section 53-124(5) (C) & (H) Reissue Revised Statutes of Nebraska 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. 53-179 RS Neb.)

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## 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. 53-186, 53-186.01 RS Neb.)

## SECTION 4-207: OCCUPATION TAX

Occupation taxes for these and similar retail establishments shall be:

Class A.	Beer only for consumption on the premises	\$25.00 per year
Class B.	Beer only for consumption off the premises	\$25.00 per year
Class C.	Alcoholic beverages for consumption on and off the premises, sales in original packages only	\$200.00 per year
Class D.	Alcoholic beverages, including beer, for consumption off the premises, sales in original packages only	\$100.00 per year
Class I.	Selling or dispensing alcoholic liquors for consumption On the licensed premises only	\$100.00 per year
Class J.	Beer and wine only, for consumption on the premises Of restaurants only	\$75.00 per year
	Special Designated Permit for consumption of alcoholic liquors at Designated location	\$10.00 per permit application

The amount of such liquor license fee and occupation tax set forth above 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, and 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 30th 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 city treasurer as hereinabove provided, regardless of the time when the application for license shall be made, and no reduction shall be made in the amount of the occupation tax, regardless of the time when the application for license shall have been made and regardless of the time when such license is issued.

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 Nebraska Liquor Control Commission.

(Ref. 17-525 RS Neb.)

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## 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.



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## SECTION 4-210: FORMS, CONTINUED; PROCEDURE

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

Said resolution shall state the time and place of said hearing and shall direct the city marshal to serve the same on the licensee by delivering to him/her personally a true and certified copy thereof at least 72 hours prior to the time of hearing. Said resolution shall also state the section or sections of the Nebraska Liquor Control Act, the regulations prescribed by the Nebraska Liquor Control Commission or this 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. 53-1,114 RS Neb.)

## 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.

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## SECTION 4-213: ACTION OF APPLICATION FOR LICENSE

Upon receipt from the Nebraska Liquor Control Commission of the notice and copy of the application provided for in Section 53-131, R.R.S. Neb. 1943, 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. 53-131,53-132,53-134 RS Neb.)

## SECTION 4-214: RENEWAL OF LICENSE

The city clerk shall cause to be published in a legal newspaper in this city one time between February 20 and March 5 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license for which provisions are made in Section 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, \_\_\_\_\_, 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 Albion on or before March 15, \_\_\_\_\_, 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 March 12 of each year.

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## 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. 53-174 RS Neb.)

## 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: SIGNS

No retailer licensed in this city shall use an exterior sign describing, or with reference to, his/her liquor business larger than 600 square inches, and only one such sign shall be used at any time.

No retailer licensee shall use an interior sign describing, or with reference to, his/her liquor business larger than 28 square feet, including its frame, and no brand name included in said sign shall exceed 100 square inches.

All signs in or about any licensed retail premises shall be considered exterior signs when the same, in whole, at all times cannot be conveniently read by those within that portion of the licensed premises normally occupied by customers or the general public, exclusive of entry way or entry hall.

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## SECTION 4-219: 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 4-220: 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 4-221: 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 4-222: 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 4-223: 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 4-224: 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 4-225: 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.

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## SECTION 4-226: SANITATION

Sanitary conditions conducive to public health and welfare must be maintained at all times in or about licensed premises in this city.

(Ref. 53-118 RS Neb.)

## SECTION 4-227: 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. 53-183 RS Neb.)

## SECTION 4-228: 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 4-229: 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. 53-148 RS Neb.)

## SECTION 4-230: MINOR'S PRESENCE

It shall be unlawful for any person who owns, manages or leases an establishment selling alcoholic beverages at retail to allow any minor under the age 18 years to frequent or otherwise remain in the said establishment unless the said minor is accompanied by his/her 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.)

## SECTION 4-231: ORIGINAL PACKAGE

It shall be unlawful for any person who owns, manages or leases any premise in which the sale of alcoholic beverages is licensed to have in their possession for sale at retail any alcoholic liquor contained in casks or other containers, except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.

(Ref. 53-184 RS Neb.)

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## SECTION 4-232: OPEN CONTAINERS PROHIBITED

It shall be unlawful for any person to have in his/her possession or control any open container, containing beer or alcoholic liquor, within the corporate limits of the City in the following locations:

1. On the public streets, alleys, public sidewalks, parking areas, roads, public right-of-ways, highways or upon property owned by the United States Government, State of Nebraska or any governmental subdivision thereof, property owned by the County of Boone, City of Albion, Nebraska, School District or any property owned by the public.
2. On all private property in the business area of Albion, Nebraska, located outside of buildings, including sidewalks, driveways, vacant lots and parking lots.
3. In the residential area of the City, all areas owned by a church or religious organization that is outside of the building, except the church parsonage and front and back yard of parsonage.
4. On all private property in the residential area where a business is being conducted that is outside the building.
5. On all private property in the residential area where a residence is located and a business is being conducted in the residence, all areas located outside the residence building, without the consent of the owner or person in possession of the property as tenant.
6. On all private property in the residential area of the City located outside the buildings, without the consent of the owner or person in possession of the property as tenant.
7. Inside vehicles, except inside garages or on owner's property or property in their possession as tenant.
8. Church parsonage, including front and backyard of parsonage, without the consent of clergyman or clergywoman occupying the parsonage.

An open container shall be any container which contains beer or other alcoholic beverages upon which the seal has been broken, whether or not any of the contents have been consumed or otherwise disposed of.

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## ARTICLE III -NON-RESIDENT SALES PERMITS

### SECTION 4-301: REGISTRATION

- a. Any non-resident salesperson intending or attempting to sell at retail any merchandise, magazines, books or other items of value or attempting to take orders or subscriptions of the same within the corporate limits of the City shall, prior to making any attempt to sell such items, register with the City Clerk. The City Clerk shall require satisfactory evidence of identification, product to be sold, principal place of business, employers name and address, telephone numbers, address if employed, Federal Tax Identification Number, and such other additional evidence necessary for identification and location. Upon registration the Clerk shall have the authority to issue a sales permit to such person and/or entity. There shall be a charge for such registration in an amount to be set by resolution of the City Council, to be paid at the time such permit is issued. Said license shall be valid for the term identified on the permit issued. The clerk may also require written satisfactory recommendation or approval from the Better Business Bureau or such other organization as to said salesperson, his/her product and business prior to issuing such permit. All sales registration fees collected by the clerk shall be credited by the treasurer to the General Fund of the City.

### SECTION 4-302: REGISTRATION, EXCEPTIONS

- a. The provisions of Section 4-301 shall not extend to individuals calling on retail merchants in corporate limits of the City for the purpose of taking orders or selling of merchandise for resale by such merchants, or to any person or persons selling produce grown within the county.

### SECTION 4-303: DUTY TO CARRY AND DISPLAY PERMIT

- a. The sales permit as herein provided shall at all times be carried on the person of said salesperson and shall be displayed by the salesperson upon the request of any citizen of the City or any police officer of the City.

### SECTION 4-304: HOURS OF SOLICITATION

- a. It shall be unlawful for any solicitor, salesperson, or peddler to solicit any individual between the hours of 5:00 P.M. and 9:00 A.M., unless they have a previous appointment with the resident or residents of the premises solicited.

(Ref. 17-134 R.S.S. Neb.)

(ORDINANCE NO. 223(13) EFFECTIVE MAY 1, 2014)

# CHAPTER IV BUSINESS REGULATIONS

## ARTICLE IV -RAILROAD COMPANIES

### SECTION 4-401: SAFE CROSSINGS

It shall be the duty of every railroad company doing business in or traveling through the City to keep in a suitable and safe condition the crossings and right-of-way in the City. If any such crossing shall at any time fall into disrepair and become unsafe or inconvenient for public travel, the City Council may, by resolution, call upon the said company to make whatever repairs that they may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail or neglect to repair and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein.

(Ref. 17-143, 17-144, 17-551, 17-552, 17-414 RS Neb.)

### SECTION 4-402: SPEED

It shall be unlawful for any railroad company, its employees, agents or servants to operate a railroad engine, locomotive or other vehicle on its tracks within or through the City at a speed in excess of 25 miles per hour.

### SECTION 4-403: OBSTRUCTING TRAFFIC

It shall be unlawful for any railroad company, its employees, agents or servants operating a railroad through the City to obstruct traffic on any public street, except in the event of an emergency, for a longer period at one time than 15 minutes.

(Ref. 17-552 RS Neb.)

### SECTION 4-404: OBSTRUCTING VIEW AT CROSSING PROHIBITED

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 25 feet of the crossing of any such railroad track and a public road within the corporate limits of the City; provided, however, in no instance shall any person who is authorized to control the movement of such railroad car within such distance be prevented from reasonably conducting his/her business.

(Ref. 74-1323 RS Neb.)

### SECTION 4-405: SPEED LIMIT ORDINANCE, PROCEDURE

No speed limitation ordinance which would directly affect the operations of an interstate railroad shall be valid or enforceable unless its adoption is in compliance with this section. Before the first reading of the proposed ordinance, the railroad whose operations would be directly affected by the ordinance shall be given written notice by U.S. Mail of the proposed ordinance and the date, time and place of such reading. Such notice shall be given at least ten days prior to the reading. The affected railroad shall have an opportunity to be heard at the first reading. After enactment, the railroad whose operations would be directly affected shall be provided a written or printed copy of the ordinance by U.S. Mail.

# CHAPTER IV BUSINESS REGULATIONS

## ARTICLE V -MUNICIPAL LOTTERY

### SECTION 4-501: MUNICIPAL LOTTERY, ESTABLISHED

(A) As authorized by the Nebraska County and City Lottery Act (SS 9-601 to 9-653), and duly approved by a majority of the registered voters of the City of Albion, the City of Albion hereby establishes a Municipal Lottery for the purpose of "community betterment", as that term is defined by Nebraska statute, which includes funding capital improvements and maintenance of the City of Albion Swimming Pool and tax relief.

(8) The City of Albion shall operate the Municipal Lottery pursuant to the Nebraska County and City Lottery Act (SS 9-601 to 9-953) requirements, and reserves the right to tax, regulate, control, or prohibit any lottery conducted by resolution or ordinance pursuant to the Act (SS 9-643).

(ORDINANCE NO. 214(12) EFFECTIVE AUGUST 22, 2012)

# CHAPTER IV BUSINESS REGULATIONS

## ARTICLE VI -BUSINESS TAXATION

### SECTION 4-601: SALES AND USE TAX

a. Pursuant to the approval of the electors of the City of Albion, Nebraska, at a special election held on March 24, 1998 there is hereby adopted pursuant to the Nebraska Revenue Act of 1967 as amended, a sales and use tax which tax shall be one percent (1 %) upon the same transactions within the corporate limits of the City of Albion, Nebraska, on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the aforementioned statutes of the State of Nebraska as the same may from time to time be amended; said sales and use tax shall be perpetual in nature and as approved by the electors of the City of Albion, Nebraska twenty-five percent (25%) of the sales tax revenues collected, up to \$75,000 annually shall be used for the purpose of funding economic development projects within the City of Albion, Nebraska, and remaining proceeds from such sales and use taxes, consisting of such proceeds as shall not have been allocated for economic development, including all such proceeds collected after the expiration of 10 years, or, including all proceeds, in the event that the economic development program is not approved by the voters, shall be used for the system of public works, which includes sewer, water systems, and streets within the City of Albion, Nebraska, including payment of principal and interest on any bonds which may otherwise be lawfully issued for such purposes within the City.

b. Pursuant to the approval of the electors of the City of Albion, Nebraska, at an election held on May 9, 2006 there is hereby adopted pursuant to the Nebraska Revenue Act of 1967 as amended, a sales and use tax which tax shall be one half of one percent (0.5%) upon the same transactions within the corporate limits of the City of Albion, Nebraska, on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the aforementioned statutes of the State of Nebraska as the same may from time to time be amended; the additional sales and use tax shall be in addition to the perpetual one percent sales and use tax already imposed by the city, said tax proceeds shall be used for Fire Hall Building, Fire Equipment, Fire and Rescue Vehicles and Fire Hall Maintenance for a ten (10) year period commencing on August 1, 2006.

c. Pursuant to the approval of the electors of the City of Albion, Nebraska, at an election held on May 13, 2008 pursuant to the Nebraska Revenue Act of 1967 as amended, twenty-five percent (25%) of the perpetual one percent (1 %) local option sales and use tax revenues to be collected, up to \$75,000 annually, is hereby appropriated to the economic development program for a ten year period commencing on July 1, 2008.

# CHAPTER IV BUSINESS REGULATIONS

d. Pursuant to the approval of the electors of the City of Albion, Nebraska, at an election held on May 10, 2016, a sales and use tax originally approved by the electors of the City of Albion, Nebraska, at an election held on May 9, 2006, and in the amount of one-half of one percent (0.5%) upon the same transactions within the corporate limits of the City of Albion, Nebraska, on which the State of Nebraska is authorized to impose a tax pursuant to the provisions of the aforementioned statutes of the State of Nebraska as the same may from time to time be amended, is hereby renewed and adopted pursuant to the Nebraska Revenue Act of 1967 as amended for a period of ten (10) years; the one-half of one percent (0.5%) sales and use tax, which is in addition to the perpetual one percent sales and use tax already imposed by the city, shall be allocated as follows: thirty percent (30%) of the tax proceeds to be used for Fire Department Building, Equipment, and Maintenance requirements; ten percent (10%) of the tax proceeds to be used for Police Department Building, Equipment, and Maintenance requirements; five percent (5%) of the tax proceeds to be used for City Hall Building and Maintenance requirements; five percent (5%) of the tax proceeds to be used for Library Building and Maintenance requirements; and, fifty percent (50%) of the tax proceeds to be used for Swimming Pool Bond Property Tax Relief for a period of ten (10) years commencing on October 1, 2016.

e. The administration of the sales and use tax imposed by this section, the making of returns for the ascertainment and assessment, the provisions for tax claims and remedies, the laws governing consummation of sales, penalties and collection, and for the disposition and distribution of the taxes so imposed and collected shall be as provided by Sections 77-27,142 to 77-27,148 RRS Neb., 2003, as amended, Sections 77-2701 to 77-27,135, RRS. Neb., 2003, as amended, and as approved by the electors of the City of Albion, Nebraska at elections held on March 24, 1998; May 9, 2006; and, May 13, 2008, and May 10, 2016.  
(ORDINANCE NO. 246(16) EFFECTIVE MAY 18, 2016)

## SECTION 4-602: SPECIAL OCCUPATION TAX, FIRE INSURANCE

a. Each and every fire insurance company doing business within the City, on or before the first day of May in each year, shall pay a special occupation tax of \$5.00 to the City Treasurer, which shall entitle it to write business in the 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; such fund shall be dispersed upon the order of the mayor and Council for the support and maintenance of the Volunteer Fire Department of the City.

(Ref. 35-106 RS.S. Neb.)

{Chapter IV, Article VI repealed and replaced via ORDINANCE NO. 223(14) EFFECTIVE MAY 1, 2014}

{Chapter IV, Article VI repealed and replaced via ORDINANCE NO. 246(16) EFFECTIVE OCTOBER 1, 2016}

# CHAPTER IV BUSINESS REGULATIONS

## ARTICLE VII -PENAL PROVISIONS

### SECTION 4-701: 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 any sum not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.

{ORDINANCE NO. 223(13) EFFECTIVE MAY 1, 2014}