

Article 5. Junk Yards

[Editor's Note: Article 5 was adopted in its entirety by Ordinance No. 339, passed on August 1, 1990]

§10-501 JUNK YARD; REGULATION. It shall be unlawful for any person to own, operate, or hold open for public use any junk yard as herein defined without first obtaining a permit to do so from the Municipality. Application for a permit to own, operate, or hold open for public use any junk yard shall be made in writing to the Municipal Clerk and shall require such information and documents, or copies thereof, that the Governing Body deems necessary to determine whether to grant or reject the said application. No such permit shall be granted for the location and maintenance of a junk yard until such location shall be completely screened from public view by a solid fence, eight feet or more in height, completely surrounding said junk yard location. Upon approval of the application, the Municipal Clerk shall issue the permit upon the payment of a fee set by resolution of the Governing Body. The permittee shall then be subject to any occupation taxes, bond requirements, and other rules and regulations which the Governing Body may determine to be beneficial to the Municipality. Any such bond shall be set by resolution of the Governing Body and will be conditioned upon the faithful observance of the provisions of this Code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard. (Ref. 69-202 RS Neb.)

§10-502 JUNK YARD; DEFINITION. A junk yard shall be defined as a premises wherein used motor vehicles, motor vehicle bodies, and motor vehicle chassis and parts therefrom; scrap iron, tin, or other metal; used furniture or appliances; used, worn out, wrecked or abandoned machinery of any kind or any parts thereof which are stored, collected, held for sale or trade, or dumped. This section shall not apply to such items noted above that are kept in a completely enclosed building. The term motor vehicle shall include automobiles, trucks, and tractors.

§10-503 JUNK YARD; OWNER'S RESPONSIBILITY. The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director, or employee thereof to see that the provisions of this Code will not be violated. In the event the provisions of this Code are violated, he shall be equally liable with

the operator(s), director(s), or employee(s) of said junk yard for the said violation of the provisions herein.

§10-504 JUNK YARD; NUISANCE. Any junk yard that becomes a danger to the public health, or is not operated in the manner herein provided, shall be deemed to be a public nuisance and, in addition, shall subject the owner and/or operator thereof to the penalty provisions set forth in section 10-801. (Ref. 18-1720 RS Neb.)

§10-505 JUNK YARD; RODENTS. Any person who owns, operates, directs, or is employed by a junk yard shall make a diligent and continuous effort to exterminate all rats, mice, and other harmful rodents frequenting the said junk yard. Any junk yard that fails to abide by this section shall be deemed to be a public nuisance and, in addition, shall subject the owner and/or operator thereof to the penalty provision set forth in section 10-801. (Ref. 18-1720 RS Neb.)

§10-506 JUNK YARD; RECORDS REQUIRED. All persons who shall be engaged in the business of operating a junk yard shall keep a ledger and complete card, to be furnished by the City, on which shall be legibly written in ink, at the time of any purchase, the following information:

- (1) The date of purchase;
- (2) The name of the person from whom the property is purchased or received, his or her signature, date of birth, and driver's license number or other means of identification;
- (3) A full and accurate description of the property purchased or received, including the manufacturer's identification insignia or serial number;
- (4) The amount of purchase money for each item; and
- (5) The identification and signature of the clerk or agent for the business who handled the transaction.

(Ref. 69-204, RS Neb.)

§10-507 JUNK YARDS; REPORTS TO POLICE. It shall be the duty of every person operating a junk yard, every day except Sunday before the hour of 12:00 noon, to deliver to the Police Department of the Municipality a legible and correct copy of each card or ledger entry required by the previous section for the transactions of the previous day. Transactions occurring on Saturday shall be reported on the following Monday. No card shall be required for goods purchased from manufacturers or wholesale dealers having an established place

of business, or goods purchased at open sale from any bankrupt stock or from any other person doing business and having an established place of business in the City, but such goods must be accompanied by a bill of sale or other evidence of open and legitimate purchase, and must be shown to the Mayor or any law enforcement officer when demanded. Dealers in scrap metals, except gold and silver, shall not be included in the provisions of this section. (Ref. 69-205 RS Neb.)

§10-508 JUNK YARDS; RESTRICTIONS ON DISPOSITION. No personal property received or purchased by any Junk Dealers shall be sold or permitted to be taken from the place of business of such person for fourteen days, after the copy of the card or ledger entry required to be delivered to the Police Department or Sheriff's Office shall be delivered as required. (Ref. 69-206 RS Neb.)

Article 6. Franchises

§10-601 FRANCHISE; NATURAL GAS. (1) The Governing Body has granted to the People's Natural Gas Division of the Northern Natural Gas Company, Inc. the authority to construct, maintain, and operate a gas transmission, and distribution system within the Municipality. Actual details of the agreement, and the present gas rates, charges, and fees are available at the Municipal Clerk's office.

(2) A franchise tax on natural gas companies was established by Ordinance 4-2008 and is on file at the Municipal Clerk's office for public inspection during normal business hours.

(Ref. 17-528.02 RS Neb.) (Amended by Ord. Nos. 98-1, 3/4/98; 4-2008, 2/14/08)

§10-602 FRANCHISE; TELEPHONE. The Governing Body has granted to the Northwestern Bell Telephone Company, Inc. the authority to maintain, and operate a telephone system within the Municipality. Actual details of the agreement, and the present telephone rates, charges, and fees are available at the Municipal Clerk's office. *(Ref. 17-525 RS Neb.)*

§10-603 FRANCHISE; CABLE TELEVISION SYSTEM. The Governing Body has granted approval for the transfer of the cable television franchise to Huntel Cablevision, Inc. to operate a cable television system with the City. Actual details of the franchise and the present cable television rates are available at the Municipal Clerk's office for public inspection during normal business hours. *(Ord. No. 307, 9/2/81) (Amended by Ord. Nos. 98-4, 5/6/98; 00-3, 2/16/00; 01-11, 8/8/01)*

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Article 7. Occupation Taxes

§10-701 OCCUPATION TAX; AMOUNTS. For the purpose of raising revenue an occupation tax is hereby levied on the following businesses:

(1) Alcoholic Beverages:

- a. Class A liquor license \$ 50.00
- b. Class B liquor license \$ 50.00
- c. Class C liquor license \$ 400.00
- Class C nonprofit liquor license \$ 150.00
- d. Class D liquor license \$ 400.00
- e. Class E liquor license \$ 300.00
- f. Class F liquor license \$ 50.00
- g. Class H liquor license
 - (i) inside the corporate limits \$ 100.00
 - (ii) outside the corporate limits \$ 500.00
- h. Class I liquor license \$ 200.00
- i. Class J liquor license \$ 150.00
- j. Class K liquor license \$ 250.00
- k. Class L brew pub license \$ 500.00
- l. Class M bottle club license \$1,000.00
- m. Class W wholesale beer license \$ 500.00
- n. Class X wholesale liquor license \$1,000.00
- o. Annual catering license \$ 150.00
- p. Special designated license \$50.00/day

(2) Fire Insurance Companies:

For the use, support and maintenance of the merged Fire Protection District, an occupation tax of five (\$5.00) dollars per year shall be, and is hereby levied upon each and every fire insurance company, corporation and association doing business in the City; and the money paid to the City Clerk under the provisions of this section shall be considered as a portion of the City of Wakefield's contribution to the merged District.

(Ref. 17-525; 53-132(4) (d) RS Neb.) (*Amended by Ord. Nos. 382, 11/2/94; 397, 3/6/96*)

§10-701.01 OCCUPATION TAX; NATURAL GAS COMPANIES. An occupation tax is hereby levied on natural gas

companies as follows:

A. Tax all natural gas companies doing business in the City are required to pay an occupation tax in amount equal to 3% of the gross calendar year receipts of the general service (domestic and small commercial) of sales of natural gas within the City.

B. Tax; When Paid. Payment of the tax levied herein shall be made semi-annually, using the calendar half year as a basis for computing the amount due. Each semi-annual payment shall be due within forty-five days after the end of each calendar half year. The occupation tax levied herein shall be paid to the City Clerk who shall furnish proper receipt upon payment. The amount of payment shall be recorded and credited by the Clerk to the City General Fund.

C. Tax; Delinquent Payments. Payments of the occupation tax as provided herein, which are made after the due date, shall be subject to a penalty of 1% of the amount due for each month or fraction of a month past due; this amount shall be paid in addition to the tax which is due. Payment of the occupation tax shall be accompanied by a statement of gross receipts subject to the tax; such statement shall be certified by an authorized representative of the company.

D. Tax; Adjustments. Each succeeding payment of the occupation tax levied pursuant to this article may include any adjustment which is shown on any previous report. Such adjustments may include uncollectible amounts or other amounts that cause an increase or decrease in the amount of tax paid in any previous semi-annual period.

E. Tax; Records. The City shall have the right at any reasonable time to require any natural gas company to produce all books and records necessary to verify any report submitted pursuant to this article.

F. Tax; Collection. In case any natural gas company shall fail to make payment of the occupation tax provided for by this

article, the City shall have the right to sue in any court of competent jurisdiction for the amount of such tax due and payable under the terms and provisions of this article and may recover judgment against any such company for such amount so due, together with interest, and penalties, and have execution thereon.

(Ord. No. 311, 6/1/83) (Amended by Ord. No. 313, 1/4/84)

§10-701.02 OCCUPATION TAX; FIREWORKS VENDORS.

An occupation tax is hereby levied annually on fireworks vendors in the sum of one hundred fifty (\$150.00) dollars. *(Ord. No. 400, 4/3/96) (Amended by Ord. No. 1-2004, 5/5/04)*

§10-702 OCCUPATION TAX; COLLECTION DATE. All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; provided, occupation taxes collected from Class C liquor licensees shall be due and payable on the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to him. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. *(Ref. 17-525 RS Neb.)*

§10-703 OCCUPATION TAX; CERTIFICATES. The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person, and business that paid the said tax. The Occupation Tax Certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted. *(Ref. 17-525 RS Neb.)*

§10-704 OCCUPATION TAX; FAILURE TO PAY. If any person, company, or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due, and payable, the Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one (1%) percent per month until paid. *(Ref. 17-525 RS Neb.)*

§10-705 BOTTLE CLUB; TAXES. Each and every member of a bottle club licensed by the State of Nebraska shall pay a tax of one (\$1.00) dollar annually; provided, a membership issued to a husband and wife shall be considered a single membership.

This tax shall be collected by the bottle club and shall inure to the benefit of the Municipality. *(Ref. 53-160.03 RS Neb.)*

§10-706 BOTTLE CLUB; FAILURE TO PAY TAX. Each bottle club licensee shall collect the tax imposed by law from its members for each membership issued. If any member shall fail, refuse or neglect to pay said tax, the membership shall be terminated by the licensee and the member shall thereafter be denied membership privileges. *(Ref. 53-160.04 RS Neb.)*

§10-707 BOTTLE CLUB; PAYMENT TO MUNICIPALITY. On or before the fifteenth (15th) day of each month the licensee shall submit to the Municipality a list stating the name and address of each member, and spouse if it be a joint membership, of any and all members from whom the tax was collected during the previous month. Accompanying said list shall be the tax prescribed by law. *(Ref. 53-160.05 RS Neb.)*

§10-708 BOTTLE CLUB; FAILURE TO COLLECT OR REMIT TAX. Any bottle club licensee failing to collect or remit the tax, submit the list of taxpayers, or to discontinue membership of a taxpayer delinquent in his tax shall be subject to suspension or revocation of his license and shall be liable to the Municipality for the payment of all taxes uncollected or unremitted. *(Ref. 53-160.07 RS Neb.)*

Article 8. Cable Television
Community Access Channel

§10-801 GENERAL OPERATING RULES AND PROCEDURES.

(1) Community access shall be available to any person, group, organization or other entity, on a non-discriminatory basis, for non-commercial (nonprofit) cablecasting upon the filing of an application with the Local Origination Channel Operation Board. Cablecasting of the request will depend on the availability of time. Applications, regulations regarding use of equipment and cable access facilities, and cablecasting regulations shall be promulgated by the Local Origination Channel Operation Board.

(2) Whenever there are several requests for the same time slot, the Local Origination channel Operation Board shall prioritize the requests and suggest alternate times to those whose programs cannot be aired at the time requested. The Committee shall establish a policy to accommodate requests for specific time slots.

(3) Access usage shall be reviewed periodically by the Local Origination Channel Operation Board and policies shall be adopted as warranted.

(4) Advertising designed to promote the sale and/or identification of commercial products or services (including advertising by or on behalf of candidates for public office) is prohibited.

(5) No program, production or presentation shall involve directly or indirectly any lottery or any lottery information.

(6) No program, production or presentation shall involve any obscene or indecent material. The Local Origination Channel Operation Board shall have the authority to refuse access usage for or to interrupt cablecasting of any program, production, or presentation which the Local Origination Channel Operation Board determines to be obscene or indecent in whole or in part. The City of Wakefield and the Wakefield Local Origination Channel Operation Board shall be held harmless by the user from any and all liability or other injury (including reasonable costs of defending claims or litigation) arising from or in connection with claims for failure to comply with any applicable laws, rules, regulations or other requirements of local state, or federal authorities; for claims of libel, slander, invasion of privacy, or infringement of common law or statutory copyright; for unauthorized use of trademark, trade name, or service mark; or for breach of contractual or other obligations.

(7) No program, or presentation shall involve any libelous or slanderous material. The Local Origination Channel Operation Board

shall have the authority to refuse access usage for or to interrupt cablecasting of any program, production, or presentation which the Local Origination Channel Operation Board determines to be libelous or slanderous in whole or in part. The Local Origination Channel Operation Board shall be held harmless by the user from any and all liability or other injury (including reasonable costs of defending claims or litigation) arising from or in connection with claims for failure to comply with any applicable laws, rules regulations, or other requirements of local, state, or federal authorities; for claims of libel, slander, invasion of privacy, or infringement of common law or statutory copyright; for unauthorized use of trademark, trade name or service mark; or for breach of contractual or other obligations.

(8) All use of access components must comply with applicable FCC Standards, City of Wakefield cable access rules and procedures and other applicable federal, state, and local standards.

(9) It is the responsibility of the user to obtain the appropriate copyright and talent releases for any material used in production and cablecasting.

(10) The user assumes full responsibility for the damage to any equipment or to the cable access facilities, normal wear and tear excepted.

(11) If the user is under eighteen (18) years of age, he/she must have a parent or an adult sponsor from a recognized institution or organization co-sign his/her application form and agreement. The co-signer shall then be responsible for the ensuing use.

(12) In order to use the access equipment, the user must have demonstrated production capability and familiarity with the cable access equipment.

(13) User shall mean any person, group, organization, or other entity who requests cable access time and whose program, production or presentation is aired on the Wakefield Community Access Channel. (Ord. No. 386, 2/1/95)

Article 9. Penal Provisions

§10-901 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction, thereof, shall be fined not more than five hundred (\$500.00) dollars for each offense, recoverable with costs. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. *(Ref 17-505 RS Neb)*
(Amended by Ord. No. 7-2009, 11/11/09)

§10-902 ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 18-1720, 18-1722 RS Neb.)*

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