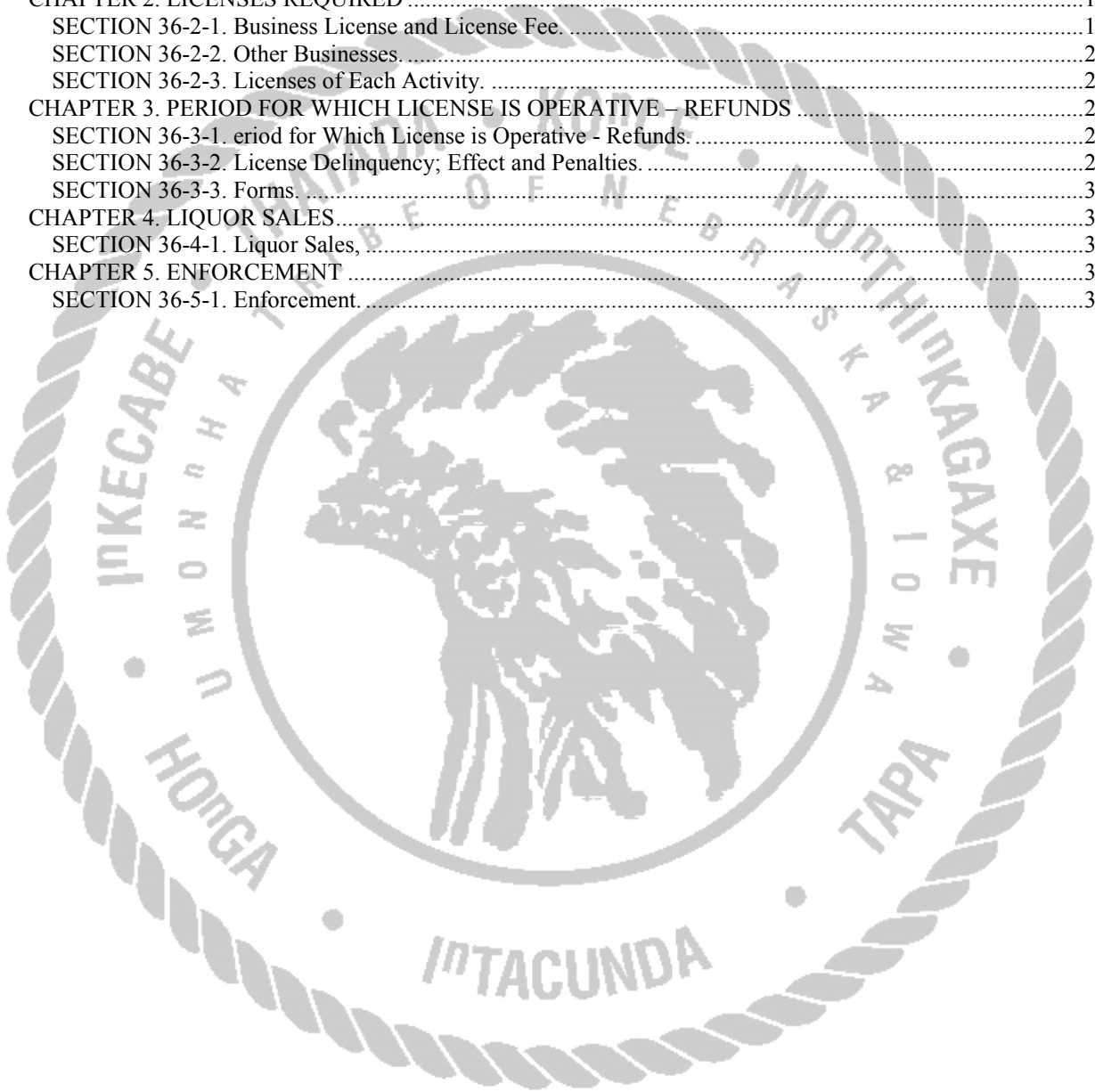


**OMAHA TRIBAL CODE (2013)**

**TITLE 36. BUSINESS REGULATIONS**

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# OMAHA TRIBAL CODE (2013)

## TITLE 36. BUSINESS REGULATIONS

*Source:* Omaha Tribal Council Resolution No. 07-69 (6-7-07); Resolution No. 07-68 (6-7-07); Resolution No. 94-46 (12-3-93); Resolution No. 86-41 (6-4-86)

### CHAPTER 1. DEFINITIONS

#### SECTION 36-1-1. Definitions

- (a) "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.
- (b) "Engaging in Business" means commencing, conducting, or continuing in business and also in the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- (c) "General mercantile business" includes the sale of groceries, dry goods, cigarettes, bottled drinks, meats, hardware, etc.
- (d) "Gross Sales" means the value proceeding or accruing from the sale of tangible personal property, or for services rendered, without any deduction.
- (e) "Peddler" means a person, with no fixed place of business, who carries goods, wares, or merchandise with him, and sells or offers to sell them by personal solicitation, and delivers them at the time he solicits business. A person who travels from place to place soliciting or taking orders for the purchase or sale of goods, wares, or merchandise to be delivered in the future also is a peddler within the meaning of this Section.
- (f) "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.
- (g) "Utility Company" includes a person operating, for hire or sale, a plant or system for the distribution of water or natural, artificial or mixed gas, for the generation, production, or distribution of electric energy, for conducting a telephone and/or telegraph business, for operating a community television antenna system, for the transportation, sale and delivery of steam for heating purposes, and for steam power, and for the operation of any transportation system for the conveyance of persons and/or property.
- (h) "Professions" means persons engaged in the business of rendering any type or professional service.
- (i) "Sale" means the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration. It includes conditional sales contracts, leases with option to purchase, and any other contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It shall also include the furnishing of food, drink, or meals, for compensation, whether or not consumed upon the premises.

### CHAPTER 2. LICENSES REQUIRED

#### SECTION 36-2-1. Business License and License Fee.

There is levied and shall be collected from every person a business license fee for the issuance of a license authorizing such person to engage in business activities within the Omaha Indian Reservation, as follows:

- (a) For the operation of a general mercantile business, \$50.00 per annum.

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- (b) For operating a garage for the repair of automobiles, trucks, tractors, and the like, \$25.00 per annum.
- (c) For the operation of a gasoline service station, including grease pack, sale of tires, and tubes and auto accessories, \$15.00 per annum.
- (d) For operating petroleum products bulk station, \$25.00 per annum.
- (e) For operating motels or cabins, \$30.00 per annum for the first eight (8) units or less, and \$6.00 per annum for each additional unit.
- (f) For operating hotels or rooming houses, \$30.00 per annum for each location.
- (g) For operation of tackle shop either separately or as part of the operation of a fishing resort, \$15.00 per annum.
- (h) For operation of a fish buying business, \$50.00 per annum.
- (i) For the operation of gas and oil floats for the sale of oil and gas fishing boats, \$15.00 per annum.
- (j) For the operation of any public utility, \$25.00 per annum.
- (k) For the operation of freezer lockers and cold storage plants, \$15.00 per annum.
- (l) For persons practicing a profession, \$25.00 per annum.
- (m) For operating a fireworks stand, \$50.00 per annum.
- (n) For operation of a commercial fishing vessel, \$25.00 per annum for a vessel 18' and under, \$50.00 for any vessel over 18'.

Deposit required for temporary businesses. Any person conducting a temporary business shall be required to pay a clean up fee of \$25.00 to the Tribal Treasurer prior to opening of business. Clean up fee shall be refunded after inspection of site by authorized tribal official and is found satisfactory. Temporary business constitutes a business normally operated less than 30 working days per annum.

### **SECTION 36-2-2. Other Businesses.**

All persons engaging in a business and occupation other than those specifically mentioned in this Section are hereby required to be licensed to engage in such business activities within the Omaha Indian Reservation and shall pay a license fee of \$25.00 per annum.

### **SECTION 36-2-3. Licenses of Each Activity.**

Every person engaging in businesses, occupations, and/or professions which are within the purview of two or more classifications with respect to which a license is required to engage therein as provided in this Section, shall be required to have a license for each kind of business activity in which he engages.

## **CHAPTER 3. PERIOD FOR WHICH LICENSE IS OPERATIVE – REFUNDS**

### **SECTION 36-3-1. eriod for Which License is Operative - Refunds.**

The license provided for herein shall be for the privilege of operating on the Reservation for a period of one year. The fee shall be paid in full to the Tribal Treasurer prior to the commencing of business operations and the renewal fee shall be due each succeeding year on or before the anniversary date of the initial license payment. If such a license is revoked prior to the expiration of the period for which it was issued, by virtue of a change of the tribal policy reflected in a new tribal Section or in an amendment to a tribal Section, such person is entitled to a refund on a prorated basis for that portion of the year for which the license was revoked.

### **SECTION 36-3-2. License Delinquency; Effect and Penalties.**

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(a) The failure of any person to pay the business license fee within 30 days of the annual anniversary date constitutes a "breach of the privilege of doing business within the reservation, and such person's license to engage in business within the Omaha Indian Reservation shall be automatically revoked by operation of law.

(b) In the event of such revocation, the person whose license has been revoked may petition for reinstatement of his or her license by (1) filing within 30 days of revocation a written request for reinstatement of the license; (2) tendering with the license the overdue license fee plus a 50% penalty [calculated as 50% x the overdue license fee]. The Secretary shall have authority to approve petitions for reinstatement which comply with this part.

(c) If the petition for reinstatement is filed at any time after 30 days of the date of revocation, the Secretary shall not approve it, but shall refer the late petition to the Tribal Council which may approve reinstatements on such terms and conditions as it may deem appropriate.

(d) Persons who are not members of the Omaha Tribe and whose license is so revoked and who continue thereafter to do business on the reservation shall be expelled from the reservation as trespassers.

(e) Unlicensed businesses may be closed pursuant to order of the Omaha Tribal Court or of any other Court of competent jurisdiction on petition of the Omaha Tribe, acting by and through its Tribal Chairman.

### SECTION 36-3-3. Forms.

Before engaging in business on the Reservation and during all times that any person is engaged in such business, all persons shall comply with the following form filing and display requirements:

(a) Form T-1 Business License and Registration Application.

Before engaging in business, all persons shall file with the Omaha Tribal Council Form T-1, which shall constitute an application for a business license and registration under the Business Section.

(b) Form T-2 Certificate of Registration.

Before engaging in any business on the Reservation all persons shall have in their possession a certificate of registration duly issued by the Omaha Tribal Council by and through the Secretary of the Tribal Council and all persons shall display at all times a valid and current certificate.

(c) The Secretary of the Tribal Council shall maintain a complete and accurate file of business license applications, revocations, reinstatements and related documents.

## CHAPTER 4. LIQUOR SALES

### SECTION 36-4-1. Liquor Sales,

Nothing in this Section shall be construed to limit the power of the Omaha Tribal Council to impose further licensing requirements, taxes, or other regulation on the sale or distribution of liquor or of any other good or service within the Omaha Reservation.

## CHAPTER 5. ENFORCEMENT

### SECTION 36-5-1. Enforcement.

(a) Suit for enforcement of this Section or collection of unpaid taxes may be brought in the Omaha Tribal Court or other court of competent jurisdiction. The Tribe by and through the office of the Tribal Chairman is hereby empowered to seek such legal or equitable remedies as may deem appropriate to enforce the provisions of this Section.

(b) Judgments determining the existence of any overdue license fees and penalties may be

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collected by execution upon any asset located within reservation boundaries which belongs to the person who has incurred the obligation for overdue fees or penalties, or by other garnishment or attachment proceeding.

(c) The Omaha Tribal Council shall have the authority to prohibit the sale of any product that is deemed dangerous to the health, safety and welfare of the Omaha Tribe of Nebraska.

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