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### **CHAPTER IV – BUSINESS REGULATIONS**

#### **ARTICLE I – OCCUPATION TAX**

## **SECTION 4-101: AMOUNTS**

A. For the purpose of raising revenue, occupation taxes are hereby levied on the following businesses:

### *Retail liquor license holders:*

1. Class A: Beer only except for craft breweries, for consumption on the premises, the sum of \$200.00 per annum.
2. Class B: Beer only except for craft breweries, for consumption off the premises, sales in the original packages only, the sum of \$200.00 per annum.
3. Class C: Alcoholic liquor (beer, wine and distilled spirits) for consumption on the premises and off the premises, sales in original packages only, the sum of \$600.00 per annum.
4. Class D: Alcoholic liquor (beer, wine and distilled spirits) for consumption off the premises, sales in the original packages, the sum of \$400.00 per annum.
5. Class I: Alcoholic liquor (beer, wine and distilled spirits) for consumption on the premises, the sum of \$500.00 per annum.

### *Non-resident sales:*

1. Per day, the sum of \$25.00.
2. For a period of 12 consecutive months from the date of issuance of the license, the sum of \$250.00.

### *Games of chance and lotteries:*

1. For each person engaging in the occupation of conducting games of chance and lottery activities within the City, 5% of the gross receipts received by said person in each calendar year.
2. For engaging in the occupation of distributing gambling devices within the City, 5% of the gross receipts received by a distributor in each quarter of a calendar year.

B. For all new licenses issued effective May 1, 2005, license fees will be pro-rated. When there is a purchase of an existing licensed business and a new license for the same class is issued, or upon the issuance of a new license for a location which has not been previously licensed, the license fee and occupation taxes shall be pro-rated on a quarterly basis as of the date of issuance.

(Ref. Neb. Rev. Stat. §17-525)

## **SECTION 4-102: FIRE INSURANCE COMPANIES**

For the use, support, and maintenance of the city Fire Department, all revenue realized

from the occupation tax on fire insurance companies shall be appropriated to the Fire Department Fund. (Ref. Neb. Rev. Stat. §35-106)

**SECTION 4-103: COLLECTION DATE**

All occupation taxes shall be due and payable to the city clerk on May 1 each year, except in the event that the said tax is levied daily. Upon the payment thereof by any person, he/she shall be given a receipt, properly dated and specifying the person paying the said tax and the amount paid; provided, occupation taxes collected from Class C liquor licenses shall be due and payable on November 1. The revenue collected shall then be immediately deposited into the General Fund by the city treasurer. All forms and receipts herein mentioned shall be issued in duplicate and one copy shall then be kept by each party in the transaction. (Ref. Neb. Rev. Stat. §17-525)

**SECTION 4-104: 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. Neb. Rev. Stat. §17-525)

**SECTION 4-105: FAILURE TO PAY**

If any person, company or corporation fails or neglects to pay the occupation taxes as provided herein on the day they become due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% percent per month until paid. (Ref. Neb. Rev. Stat. §17-525)

**SECTION 4-106: REGISTRATION FEES**

The annual fees for registration of certain contractors and workmen are as follows:

Electrical Contractor	\$25.00
Electrical Journeyman	10.00
Electrical Apprentice	5.00
Fire Alarm Installer	10.00
Mechanical Contractor	25.00
Mechanical Journeyman	10.00
Master Plumber	25.00
Journeyman Plumber	10.00
Apprentice Plumber	5.00
Water Service and Drain Layer	25.00
Lawn Sprinkler Installer	25.00
General Contractor	25.00

**ARTICLE II – LIQUOR REGULATIONS**

## **SECTION 4-201: TERMS DEFINED**

Unless the context otherwise requires, the words and phrases defined in Neb. Rev. Stat. §53-103, 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; any persons convicted of such shall be fined in any sum not to exceed that permitted by Nebraska law and assessed the court costs of prosecution. (Ref. Neb. Rev. Stat. §53-168.06)

## **SECTION 4-203: LICENSE 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 licenses and the distance and time of travel to such licenses.
7. The nature and needs of the neighborhood or community where the proposed premises is 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. Neb. Rev. Stat. §53-134)

## **SECTION 4-204: SALE TO MINORS AND INCOMPETENTS PROHIBITED**

1. No persons in this city shall 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 alcoholic liquor in his/her possession 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. Neb. Rev. Stat. §53-180)

#### **SECTION 4-205: HOURS OF SALE**

1. For the purposes of this section, (A) "on sale" shall be defined as alcoholic beverages sold by the drink for consumption on the premises of the licensed establishment; (B) "off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

2. It shall be unlawful for any licensed person or his/her agents to sell any alcoholic beverages within the City except during the hours provided herein:

<i>Alcoholic Liquors (except Beer and Wine)</i>	
Monday through Saturday	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.
Sunday	
Off Sale	12:00 Noon to 1:00 A.M.
On Sale	12:00 Noon to 1:00 A.M.
<i>Beer and Wine</i>	
Daily	
Off Sale	6:00 A.M. to 1:00 A.M.
On Sale	6:00 A.M. to 1:00 A.M.

3. Such limitations shall not apply after 12:00 noon on Sunday to a licensee which is a nonprofit corporation holding a license pursuant to Neb. Rev. Stat. §53-124(5)(C) and (H), Reissue 1943.

4. No person(s) 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.

5. 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. Neb. Rev. Stat. §53-179)

#### **SECTION 4-206: RESTRICTIONS ON PLACE OF CONSUMPTION**

No person shall drink or consume alcoholic liquors on any street or alley, inside any vehicle on any street or alley or in any place open to the general public, other than a premises having an on-sale liquor license.

(Ref. Neb. Rev. Stat. §53-186, 53-186.01)

**SECTION 4-207: ENTRY OF PREMISES FOR INSPECTION**

The mayor, any member of the City Council, the chief of police, any police officer 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.

**SECTION 4-208: FORM FOR CITIZEN COMPLAINT**

The following form is hereby prescribed for the use of residents of this city desiring to complain to the mayor and the City Council that any licensee is violating any provision of the Nebraska Liquor Control Act, regulations prescribed by the Nebraska Liquor Control Commission or any provision of this ordinance.

To the mayor and City Council of the City of Valley, Nebraska.

The undersigned respectfully state:

1. That they are each residents of the City of Valley, Nebraska.

2. That they believe that \_\_\_\_\_, the holder of a Class \_\_\_\_ license in the aforesaid city, has violated Section \_\_\_\_\_ of (check one or more)

\_\_\_\_\_ the Nebraska Liquor Control Act.

\_\_\_\_\_ the regulations prescribed by the Nebraska Liquor Control Commission.

\_\_\_\_\_ the Municipal Code of the City of Valley, Nebraska.

3. That the aforesaid belief is based on the following facts, to-wit:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

Subscribed in my presence and sworn to before me by \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and  
\_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.



#### **SECTION 4-209: FORMS, CONTINUED; PROCEDURE**

1. 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. 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 there is a reasonable cause for such belief based upon the facts alleged, they shall, by resolution, set the matter for hearing within ten days from the filing of the complaint.

2. Said resolution shall state the time and place of said hearing and shall direct the city police chief 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. Such resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission.

(Ref. Neb. Rev. Stat. §53-134.04)

#### **SECTION 4-210: 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. Such resolution shall state the section(s) in question and shall be served in the same manner and within the same time as the initial resolution mentioned in Section 4-209 of this code. Insofar as possible the procedure shall be the same as is provided in that section.

#### **SECTION 4-211: PREREQUISITES TO DELIVERY OF LICENSE**

Any retail license issued or renewed by the Nebraska Liquor Control Commission for a licensee within this city shall be delivered to said licensee by the city clerk, but any such license shall not be delivered to a licensee who does not exhibit receipts showing payment of the occupation tax levied under Section 4-208 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.

#### **SECTION 4-212: ACTION ON APPLICATION FOR LICENSE**

1. Upon receipt from the Nebraska Liquor Control Commission of the notice and copy of the application provided for in Neb. Rev. Stat. §53-131, the city clerk shall present it at the next meeting of the mayor and the City Council, who 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.

2. 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 pre-paid, a copy of the resolution, which shall state the cost of the published notice. (Ref. Neb. Rev. Stat. §53-131, 53-132, 53-134)

#### **SECTION 4-213: RENEWAL OF LICENSE**

1. The city clerk shall cause to be published in a legal newspaper in this city, one time between January 10th and January 30th of each year, individual notice of the right of automatic renewal of each retail liquor and beer license for which provisions are made in Neb. Rev. Stat. §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, 20\_\_\_\_, 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 Valley on or before February 10, 20\_\_\_\_, 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)

2. 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 February 6th of each year.

#### **SECTION 4-214: 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/she would be required to do for an original license. 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 4-215: SPIKING BEER**

It shall be unlawful for any person(s) who own, manage or lease any premises in which the sale of alcoholic beverages is licensed to serve or offer for sale any beer to which any alcohol has been added or permit any person to add alcohol to any beer on the licensed premises of such licensee.

(Ref. Neb. Rev. Stat. §53-174)

#### **SECTION 4-216: 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 complies in all respects with the requirements of the Nebraska Liquor Control Act as amended. The city clerk shall present said application and statement to the next meeting of the mayor and City Council, who shall, by resolution, approve or disapprove the transfer. If they approve the transfer, such approval shall be endorsed on the license by the mayor and attested by the city clerk.

#### **SECTION 4-217: GAMBLING**

Unless sanctioned by Nebraska law, no licensee in this city holding a license covering any 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/she permit the operation or possession of any payoff gambling device, slot machine or punchboard, mechanical or otherwise, whether payoff is in cash or merchandise, in, on or about the licensed premises.

#### **SECTION 4-218: 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 4-219: 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 4-220: NO DELIVERY AFTER CLOSING HOURS**

No retail licensee in this city operating any premises open to the public shall act as retailer 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 4-221: 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 any 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 4-222: CONDUCT PROHIBITED ON LICENSED PREMISES**

No licensee 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 4-223: ADVERTISEMENTS AND SALES**

Advertising by licensees in this city shall not contain misrepresentations 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.

#### **SECTION 4-224: SANITATION**

Sanitary conditions conducive to public health and welfare must be maintained at all times in or about licensed premises in this city. (Ref. Neb. Rev. Stat. §53-118)

#### **SECTION 4-225: SALES FOR CASH ONLY**

No person shall 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. Neb. Rev. Stat. §53-183)

#### **SECTION 4-226: 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. Neb. Rev. Stat. §53-148)

#### **SECTION 4-227: REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY**

1. Any law enforcement officer with the power of 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 semi-public property. Any officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated person to his/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 doctors who have previously represented a willingness to accept and treat such individuals and who regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that such custody shall be used only as long as is necessary to preserve life or to prevent injury and under no circumstances longer than 24 hours. The placement of such person in civil protective custody shall be recorded at the facility or jail to which he/she is delivered and then com-

municated to his/her family or next of kin, if they can be located, or to such person designated by that person taken into civil protective custody.

2. The law enforcement officer who acts in compliance with this section shall be deemed to be acting in the course of his/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.

3. For purposes of this section, (1) "public property" shall mean any public right-of-way, street, highway, alley, park or other state, county or city-owned property; (2) "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. Neb. Rev. Stat. §53-1,121)

## **SECTION 4-228: CATERING LICENSE**

1. The holder of a Class C, Class D, or Class I license issued under Neb. Rev. Stat. §53-124(5), or a brewpub license, may obtain an annual catering license as prescribed in this section. Any such licensee desiring to obtain a catering license shall file an application with the Liquor Control Commission.

2. Upon receipt from the Commission of the notice and copy of the application as provided in Neb. Rev. Stat. §53-124.12, the City Council shall fix a time and place at which a hearing will be held and at which time the City Council shall receive evidence, under oath, either orally or in writing, from the applicant and any other person concerning the propriety of the issuance of such license. Such hearing shall be held not more than 45 days after the receipt of the notice from the Commission. The City Council 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 purposes of obtaining any of the information desired, the Council may authorize its agent, the city clerk or the city attorney to act on its behalf.

3. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the City one time, not less than seven nor more than 14 days before the time of the hearing. Such notice shall include but not be limited to a statement that all persons desiring to give evidence before the City Council in support of or in protest against the issuance of such license may do so at the time of the hearing.

4. The City Council shall, after the hearing provided in subsection (2) above, approve or deny the application within 45 days of receipt of such application from the Commission and shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying such application. The city clerk shall thereupon mail or deliver to the Commission a copy of the decision to approve or deny the application.

5. Any resolution denying an application rendered by the City Council shall be in writing or stated in the record and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant shall be notified of the decision in person or by mail.

6. The City Council, with respect to catering licensees within the corporate limits, may cancel a catering license for cause for the remainder of the period for which such license is issued. Any person whose catering license is canceled may appeal to the District Court.

(Ref. Neb. Rev. Stat. §53-124.12)

## **SECTION 4-229: NUDITY; REVOCATION OR SUSPENSION OF LICENSE**

It shall be cause for revocation or suspension of license, as herein provided, if any licensee or his/her manager or agent, under the Nebraska Liquor Control Act, shall allow any live person to appear or have reasonable cause to believe that any live person shall appear in any licensed premises in a state of nudity to provide entertainment, to provide service, to act as hostess, manager or owner, or to serve as an employee in any capacity. The term "nudity" shall mean the showing of human male or female genitals, pubic area or the human female breast including the nipple or any portion below the nipple with less than a full opaque covering.

## **ARTICLE III – NON-RESIDENT SALES**

### **SECTION 4-301: REGULATION**

1. All non-resident individuals or businesses going door to door with the intent to sell any goods, service, product or insurance shall, before doing business within the City, make application for and be issued a license. This registration and licensing is to prevent the sale of fraudulent, dangerous and unhealthful goods and services, to protect the public by maintaining records of the products sold and the persons and companies responsible for such sales, to designate a place of trade if on public property and for the purpose of raising revenue.

2. Application for a license shall be made to the city clerk upon blank forms supplied by the City, which shall contain all the necessary information and documents required for the protection of the residents of the City. Any person or persons granted a license shall be subject to any fees, occupation taxes and other rules and regulations which the City Council deems appropriate for the purposes stated herein. Any license so granted shall be subject to revocation in the event that the information provided is inaccurate or misleading.

### **SECTION 4-302: HOURS OF SOLICITATION**

It shall be unlawful for any license holder to solicit any individual between the hours of 6:00 P.M. and 8:00 A.M. unless they have a previous appointment with the resident of the premises solicited. It shall be unlawful at any hour for any person to solicit without having a proper license on his/her person at all times.

### **SECTION 4-303: EXCEPTIONS**

Nothing herein shall be construed to apply to any person selling produce raised within the county, to wholesale salespeople soliciting merchants directly, to residential route salespersons, or to persons canvassing residents within the City for religious, political or other noncommercial purposes.

## **ARTICLE IV – TRAILER COURTS**

### **SECTION 4-401: TERMS DEFINED**

The following definitions shall be applied throughout this article. When no definition is specified, the normal dictionary usage of the word shall apply.

“Fire prevention authority” shall mean the Volunteer Fire Department.

“Permit” shall mean a written permit issued by the city clerk, permitting the trailer court to operate under this code and any regulations promulgated thereunder.

“Street” shall mean any public street, avenue, road, alley, or highway located in the City and established for the use of vehicles, the boundaries of which are hereby determined to be the outer boundaries of said street, avenue, road, or alley, platted and dedicated as shown by the official records of the City and the County and as shown on the official records in the office of the county clerk as official streets, avenues, roads, or alleys within the corporate limits.

“Trailer coach” or “trailer” means any vehicle or structure so designed and constructed in such manner as will permit (1) occupancy thereof as sleeping quarters for one or more persons, or (2) the conduct of any business or profession, occupation or trade or use as a selling or advertising device; and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks.

“Trailer court” means any park, trailer park, trailer court, court, camp, site, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach and upon which any trailer coach is parked, and shall include all buildings used or intended for use as part of the equipment thereof whether or not a charge is made for the use of the trailer camp and its facilities. “Trailer camp” shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

“Trailer space” shall mean a plot of ground within a trailer court designated for the accommodation of one trailer coach.

“Travel trailer,” “camper” and “converted bus,” shall mean any portable structure or vehicle supported upon its own axle(s), (1) used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such and (2) constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons for a limited or temporary time or basically designed for travel or camping purposes, propelled or drawn by its own or other motive power.

### **SECTION 4-402: PERMIT REQUIRED**

1. It shall be unlawful for any person to construct, maintain, operate or alter any trailer court within the corporate limits unless he/she holds a valid permit for the specific trailer court. All applications for permits shall be made to the county clerk, who shall issue a permit upon compliance by the applicant with provisions of this code relative to trailer courts. No permit shall be transferable. Every person holding such a permit shall give notice in writing to the city clerk within 72 hours after having sold, transferred, given away,

or otherwise disposed of any interest in or control of any trailer court. Such notice shall include the name and address of the person succeeding to the ownership or control of such trailer court.

2. Applications for permits shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application, and shall contain the following:

- A. The name and address of the applicant.
- B. The location and legal description of the trailer court.
- C. A complete plan of the trailer court, showing compliance with all applicable provisions of this code and regulations promulgated thereunder.
- D. Such further information as may be requested by the Board of Health to enable it to determine that the proposed trailer court will comply with legal requirements.

#### **SECTION 4-403: MAINTENANCE**

All trailer courts shall be maintained under the management and supervision of the owner or person in control of the premises on which the same is located, or of a duly authorized representative of such owner, who shall be personally responsible for the maintenance of such trailer court in accordance with all sanitary and fire protection rules and regulations of the City and the State.

#### **SECTION 4-404: INSPECTIONS**

All trailer courts shall be under the supervision of the Board of Health, which shall make and provide for inspections at reasonable times and shall recommend to the City Council such additional rules and regulations as may be deemed advisable or necessary for the sanitation, safety and proper maintenance of said trailer courts.

#### **SECTION 4-405: LIABILITY OF OWNER**

The operator of a trailer court shall be primarily liable for all utility service bills charged against each trailer house and shall make monthly remittances to the City for such bills.

#### **SECTION 4-406: MANAGEMENT**

1. Every trailer court shall have an office building in which shall be located the office of the person in charge of said court. A copy of the license shall be posted therein and the court register shall at all times be kept in said office.

2. It is hereby made the duty of the attendant or person in charge, together with the licensee, to:

- A. Keep at all times a register of all occupants of each trailer space, which shall be open at all times to inspection by officers of the City, showing for all such occupants: Names and addresses; dates of entrance and departure; license



numbers of all trailers and other towed automobiles; states issuing such licenses; and evidence of payment of all required license fees and property and/or personal taxes.

B. Maintain the court in a clean, orderly and sanitary condition at all times.

3. Report to the Director of Health all cases of persons or animals affected or suspected of being affected with any communicable disease.

4. Prohibit the use of any trailer by a greater number of occupants than that which it is designated to accommodate.

#### **SECTION 4-407: REVOCATION OF PERMIT**

A permit to establish and maintain a trailer court may be revoked by the City Council for cause at any time for a violation of the provisions of this code or of the rules and regulations relating to trailers, or for any other cause or conduct reasonably deemed by the Council as sufficient cause for revocation of such permit. Before any such revocation, the City shall cause to be served on the operator of such trailer court a notice to appear and show cause on a specified day and at a specified time why his/her permit for such trailer court should not be revoked. Such notice to show cause may be served by mailing the same in the United States mail to the address of the operator given in his/her application in such permit, with sufficient postage affixed thereto. The operator of the trailer court involved shall be given reasonable opportunity to be heard at the time fixed for his/her appearance to show cause, and no permit for such trailer court shall be revoked until the operator involved has been heard at the designated time if he/she desires to be heard.

#### **SECTION 4-408: PROHIBITED LOCATION**

After the effective date hereof, except as otherwise provided, it shall be unlawful for any person to park a trailer or trailer coach within the corporate limits for purposes of using said trailer as a dwelling or sleeping place for one or more persons or the conduct of any business or profession, occupation or trade, or use as a selling or advertising device, except in a designated and approved trailer court for which a permit has been issued and is currently valid.

#### **SECTION 4-409: PROHIBITED PARKING**

It shall be unlawful for any person to park any trailer coach, travel trailer, camper or converted bus on any street, avenue, road, alley or highway within the corporate limits for a period of time in excess of two hours, and then only between the hours of sunrise and sunset and subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations as any resolution of the City Council may provide relating thereto.

#### **SECTION 4-410: REGULATIONS**

1. Trailer courts shall be located on well-drained sites and shall be so located that drainage will not endanger any water supply. All such trailer courts shall be in areas free from marshes, swamps or other potential breeding places for insects or rodents. The area of the trailer court shall be large enough to accommodate the following:

- A. The designated number of trailer court spaces.
- B. Necessary streets and roadways.
- C. Parking areas for motor vehicles.
- D. Service areas and playgrounds for trailer courts in which independent trailer coaches only are parked.

2. The number of trailers to be accommodated in any trailer court shall not exceed the number obtained by dividing the total square foot area of the trailer court site by 2,600. Each trailer space shall be clearly defined and laid out in such a manner that a minimum of 20 feet of space exists between any two trailers or ten feet between any trailer and any building, except that a maximum 100 square foot storage shed, meeting all state fire codes, may be placed a minimum of three feet from any trailer, other building or structure. No trailer shall be less than five feet from any adjacent property of the trailer court. Each trailer space shall abut on a driveway with unobstructed access to a public street. No trailer court shall be licensed unless it is large enough to accommodate a minimum of 15 trailers.

3. It shall be illegal to park a trailer coach less than two feet from any street or highway right of way or so that any part of such trailer will obstruct any roadway or walkway.

4. It shall be illegal to allow any trailer coach to remain in a trailer court while being occupied for dwelling or sleeping purposes unless a trailer space is available.

5. Access roads shall be provided to each trailer space. Each access road shall be continuous, shall connect with a street or highway, and shall have a minimum width of 20 feet.

6. Parking areas shall be provided for motor vehicles. Such areas shall have motor vehicle parking spaces in a number equal to or in excess of the number of trailer coach spaces provided.

7. Playground areas, when required, shall be provided and shall be restricted to such use. These areas shall be protected from the main highway and from parking areas. A minimum of 100 square feet per coach space shall be made available in one or more places for such playground areas.

8. Sufficient concrete or asphalt sidewalks shall be provided to insure that each trailer space is served by at least one such sidewalk. In all cases there must be at least one such sidewalk constructed so that a hard-surfaced entry connects either the parking space provided or the access road with each trailer space.

#### **SECTION 4-411: ALTERATIONS AND ADDITIONS**

1. No permanent enclosed additions of any kind shall be built onto nor become a part of any trailer coach. Skirting of coaches is required within 30 days after locating such coach in the court, but such skirting shall not attach the trailer permanently to the ground, provide a harborage for rodents, or create a fire hazard.

2. Jacks or stabilizers shall be placed under the frame of each trailer to prevent movement on the springs while it is parked and occupied. Four anchors shall be provided

for each trailer space. Each trailer shall be anchored as soon as possible after being situated on its space.

#### **SECTION 4-412: WATER SUPPLY**

An adequate supply of pure water shall be furnished through a pipe distribution system connected directly with a city water main, with supply outlets located at every trailer space.

#### **SECTION 4-413: PLUMBING, ELECTRICAL AND BUILDING CODES**

All plumbing, electrical, building, and other work on or at any court shall be in accordance with the laws of the City regulating such work.

#### **SECTION 4-414: TEMPORARY STORAGE**

It shall be lawful for any person to store or otherwise keep on any premises travel trailers or campers, propelled or drawn by their own or other motive power, upon any area, provided that said trailer or camper be stored as near as possible to the rear of the premises. It further shall be lawful for any person to keep and maintain a travel trailer or camper, propelled or drawn by its own or other motive power, upon any premises to be used for occupancy as dwelling or sleeping space for any period not to exceed two weeks in duration. Any travel trailer or camper, propelled or drawn by its own or other motive power, so temporarily placed shall be placed upon said premises or portion thereof as far away as possible from the street abutting said premises.

#### **SECTION 4-415: CERTIFICATE OF OCCUPANCY**

1. It shall be unlawful for any owner or manager of any trailer court within the City to permit the occupation of a trailer home by any occupant until a certificate of occupancy has been issued by the building inspector.

2. The owner or manager of the trailer court or the prospective occupant shall make application for such certificate to the city clerk and shall pay a fee of \$75.00.

3. The city building inspector shall inspect such trailer and trailer site and determine that the trailer and trailer site comply with the provisions of the building code and the zoning ordinances then in effect in the City.

4. A certificate of occupancy, when issued, shall describe the premises and the use proposed to be made by the applicant, and shall state that such proposed use complies with the applicable codes of the City.

### **ARTICLE V – SALVAGE YARDS**

#### **SECTION 4-501: DEFINITIONS**

1. For the purposes of this article, any lot, portion of a lot or tract of land, or any building or other premises (1) where dismantling, demolition or salvage operations of automobiles, trucks, semi-trailers or other vehicles or parts thereof are carried on; or (2) where parts and accessories are removed from used, wrecked or abandoned automobiles, trucks, semi-trailers or other vehicles or where parts or accessories therefrom are

stored; or (3) where salvage operations of such wrecked, abandoned or used automobiles, trucks, semi-trailers or other vehicles are carried on is hereby declared to be an automobile salvage and used parts business, subject to the provisions of this ordinance.

2. The term "salvage" shall mean scrap copper, wood, brass, rope, rags, batteries, paper, or rubber; dismantled, non-operating or wrecked automobiles; trucks, trailers, equipment, machinery, mobile homes, tractors, and farm machinery, or other vehicles or parts thereof; or iron, steel, and any scrap ferrous or non-ferrous materials.

3. The term "non-operating" shall mean any item of salvage as defined in this article which, without alteration or repair, cannot be immediately moved as intended when designed and constructed.

4. The term "salvage yard or scrap processing operation" shall mean an establishment or place of business maintained or operated wholly or partially for storing, keeping, receiving, reusing, processing, wrecking, dismantling, recycling, re-melting, collecting, dealing, buying or selling salvage. A business having facilities for processing and re-melting iron, steel, or non-ferrous scrap and whose principal product is scrap iron and steel or non-ferrous scrap for re-melting purposes shall be excluded from this definition.

5. An establishment or place of business may hold salvage for not more than 90 days without being considered a salvage yard or a scrap processing operation when:

- A. The salvage is unaltered and is impounded by legal authority, or
- B. The salvage is repaired to a non-salvage state within a 90-day period.

6. The term "person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

7. The term "business premises" or "premises" shall mean the area used as a salvage yard, scrap processing operation yard or auto salvage yard as described in the license or application for license for such business.

8. The term "salvage yard or scrap processing operator" shall mean and include any person engaged in the business of owning or operating a salvage yard or scrap processing operation.

9. The term "inspector" shall mean the building inspector of the City of Valley or his/her authorized representative.

#### **SECTION 4-502: SALVAGE YARD OR SCRAP PROCESSING OPERATOR; LICENSE REQUIRED**

It shall be unlawful for any person to engage in or carry on the business of a salvage yard or scrap processing operation or conduct, operate or maintain a salvage yard or scrap processing operation within the City or within its extraterritorial jurisdiction without first having obtained a written license for the operation of such business.

#### **SECTION 4-503: APPLICATION; CONTRACT**

Application for a license under this article shall be in writing upon a form provided for that purpose by the city clerk. The application shall be sworn to by the applicant and shall set

forth:

- A. Name and address of the applicant;
- B. Exact location of the existing establishment or of the proposed establishment, as the case may be;
- C. Exact nature of the business conducted or to be conducted, as the case may be;
- D. Where the business is conducted;
- E. Evidence of compliance with the zoning laws; if not established, shall be conducted inside of a building or outside a building, or partly within or partly without a building; and
- F. The dimension and character of the building.

#### **SECTION 4-504: INVESTIGATION**

The inspector may cause investigations to be made by the necessary city departments to determine whether any salvage yard or scrap processing operation will be in compliance with all requirements of this article and all other city ordinances and regulations and shall have the authority to enter the applicant's premises at reasonable times to determine if he/she is in compliance with the terms of this article.

#### **SECTION 4-505: LICENSE FEE**

The inspector shall collect \$25.00 with each license application to help defray the cost of investigation and enforcement of this article, which sum shall be nonrefundable.

#### **SECTION 4-506: PERIOD OF LICENSE; RENEWAL PROCEDURE**

Unless otherwise provided by the City Council, any license or renewal license issued hereunder shall be effective as of the date of its issuance and shall expire on August 31 each year. An applicant for a renewal license shall file with the city clerk a written application, together with two copies of the application and information about applicant's demeanor and about the conduct and operation of his/her licensed business during the preceding license period as is reasonably necessary to enable the City Council to determine the applicant's eligibility for a renewal license.

#### **SECTION 4-507: LICENSE NOT TRANSFERABLE**

No license issued under this article shall be transferred or assigned or used by any person other than the one to whom it was issued, and no salvage dealer's license shall be used at any location other than the one described in the application upon which it was issued.

#### **SECTION 4-508: GENERAL OPERATING REQUIREMENTS**

The following general operating requirements shall apply to that portion of every premises required to be licensed under this article which is not in an enclosed building:

1. The license issued pursuant to this article shall be plainly displayed on the business premises.
2. The salvage yard or scrap processing operation, together with the items kept therein, shall at all times be maintained in a safe and sanitary condition, including but not limited to the following:
  - A. Weeds and vegetation on the premises, other than trees, shrubs and vines, shall be kept at a height of not more than 12 inches;
  - B. No refuse of any kind shall be kept on the premises, unless such refuse is salvage, as defined herein, and is in use in the licensed business;
  - C. The enumeration of the above shall not be to the exclusion of all other acts or things necessary to maintain the salvage yard or auto salvage yard in a reasonable sanitary condition.
3. No salvage shall be allowed to rest upon or protrude over any public street, walkway or other public property, and no salvage or refuse shall be allowed to be scattered or blown off the business premises.
4. Salvage, as defined herein, shall be arranged so as to permit easy access to all such salvage for firefighting purposes.
5. No salvage or other materials shall be burned on the premises in the open, except in accordance with the applicable laws governing burning.
6. Regulations in regard to fencing and screening:
  - A. The area on the premises where salvage is kept or stored shall be enclosed, except for entrances and exits, with a vertical wall or fence of a minimum height of eight feet measured from ground level. The wall or fence shall not contain any posters or advertising except one sign of the licensee not exceeding 100 square feet. The fences on the sides which do not face a public street, roadway or adjacent residential property may be of chain link fence.
  - B. The fence of the licensed premises which faces a public street, roadway or adjacent residential property shall be screened from public view where possible.
  - C. Materials for use in screening of the licensed premises may consist of plant material, fence or a combination of plant material and fence. Plant material for use in screening shall consist of trees and shrubs. All plant material used for screening shall be of a size and quantity to obscure the salvage contained on the licensed premises from the view of the public within five years. Plant material shall be primarily of coniferous varieties to provide year-round screening.
  - D. Fencing material shall consist of wood, metal or other material commonly used in the building trade and shall be of one natural color.

- E. All screening shall be placed and located on the licensed premises in a manner that will provide adequate visibility of traffic from all driveways, streets and roads.

7. Any person who shall engage in the automobile salvage and used parts business shall keep a book in which shall be legibly written in ink in the English language at the time of purchase of any used, wrecked or abandoned automobile or major parts or accessories readily identifiable by serial numbers or other distinctive markings or characteristics:

- A. An accurate, detailed description of the same;
- B. The quantity purchased;
- C. The amount paid;
- D. The date and time purchased; and
- E. The name, address and identity of the person selling such automobiles, parts and accessories.

Such record need not be kept, however, if a certificate of title or other legal instrument evidencing title in the seller is obtained at the time such purchase is made. The record book required by this section, as well as any used, wrecked or abandoned automobiles, parts or accessories, shall be open to the inspection of the inspector or his/her designated agent at all reasonable times.

8. The licensee shall, at reasonable times, remove from the premises all salvage not usable or saleable and shall also store all flammable material so as to reduce the fire hazard as much as possible and in conformity with the lawful orders of the fire inspector made from time to time.

#### **SECTION 4-509: NUISANCE**

All salvage yards or scrap processing operations as defined herein within the corporate limits of the City or within its extraterritorial jurisdiction who operate without the license required herein are declared to be a nuisance, and it shall be unlawful for any person to operate or permit the same to remain at any place within the corporate limits of the City or its extraterritorial jurisdiction. The City may apply to the District Court of Douglas County, Nebraska, for an injunction to abate such nuisance and for such other relief as may be necessary, if proper.

#### **SECTION 4-510: PENALTIES**

Whenever a nuisance exists, the City 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, along with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this article, 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 \$500.00 dollars for each such offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. In addition to the penalty contained herein, the City may seek relief through abatement proceedings.

## **SECTION 4-511: ANNUAL INSPECTION**

The inspector or his/her authorized agent shall cause all businesses licensed under this article to be inspected at least once a year to determine whether such businesses are being operated in a lawful manner and in accordance with this article and all other applicable provisions of law.

## **SECTION 4-512: REVOCATION AND SUSPENSION**

The inspector or his/her authorized agent may recommend to the City Council that the license may be revoked, denied, or suspended, as he/she determines after due and diligent investigation that:

1. The licensee has failed to comply with this article or any provision of law applicable to the premises, equipment, or operation of the licensed business; or
2. The licensee has obtained his/her license through fraud or misstatement; or
3. The licensed business is being conducted in a manner detrimental to the health, safety, or general welfare of the public, or is a nuisance, or is being operated in any unlawful manner; or
4. The licensed business is no longer being operated by the licensee.

## **SECTION 4-513: HEARING ON GRANTING, DENIAL, RENEWAL OR REVOCATION OF LICENSE**

Any person aggrieved by an order of the inspector granting, denying, renewing or revoking a license for a proposed or existing business subject to the provisions of this article may file a written request for a hearing before the City Council within ten days after issuance of such order. The city clerk shall give notice of public hearing upon this request to be held in not less than 30 days after service of the notice on the person requesting the hearing. The city clerk may also give notice of the hearing to other persons directly interested in the order in question. At such hearing, the City Council shall determine whether the granting, denial, renewal or revocation of the license was in accordance with the provisions of this article and shall issue written findings of fact, conclusions of law, and an order to carry out its findings and conclusions. These findings of fact, conclusions of law, and order shall be filed with the city clerk and served by the City Council upon all parties appearing or represented at said hearing.

## **SECTION 4-514: EXCLUSIONS AND EXEMPTIONS; FENCES FOR EXEMPTED PROPERTY**

1. The provisions of this article shall not apply to used cars, trucks and machines in operating condition which may be displayed in a neat and orderly manner on premises for which a permit has been granted on any lot, portion of a lot, or tract of land or any building or other premises used only to temporarily store and protect automobiles, trucks, semi-trailers or other vehicles towed from the scene of a traffic violation, accident or breakdown at the direction of a law enforcement officer or other owner or operator of the vehicle, until the vehicle is reclaimed or disposed of by the owner.

2. In any event, lots, portions of lots, tracts of land, or other premises otherwise



exempt from the provision of this article shall be fenced with a fence not less than eight feet in height from ground level with a solid fence or a chain link fence with inserted slats so as to screen the same from public view. Such fencing materials may consist of wood, metal or other material commonly used in the building trade and, if within the corporate limits of the City or its extraterritorial jurisdiction, shall comply with the municipal code for fences.

#### **SECTION 4-515: ZONING ORDINANCES**

Nothing in this article shall be deemed or construed to repeal, abrogate or modify any zoning law or any provision thereof in effect in the City or within its extraterritorial jurisdiction.

### **ARTICLE VI – RAILROADS**

#### **SECTION 4-601: OBSTRUCTIONS**

No railroad or railroad company, railroad engineer, train conductor or other person shall cause or allow any locomotive, engine, car or cars or train of cars to stop in or remain upon the crossing of Spruce Street within the City for a longer period than five minutes, or upon any other street or railroad crossing within said city for a longer period than 12 minutes any one time; provided, however, that in case a collision should take place on any or either of the crossings aforesaid, a reasonable time shall be allowed to remove any obstruction that may be caused thereby. It shall be the duty of each and every railroad or railway company upon whose railroad line such obstruction may occur, their agents and employees and persons in charge of such train, on or before the expiration of said five minutes on Spruce Street and 12 minutes on any other street, when from any cause the entire train cannot be propelled or moved from any street obstructed as aforesaid, to cause such cars as are or may be on or near such street crossing to be uncoupled and one division of the train as thus made, removed from the aforesaid street and railroad or railway crossing in such manner as to leave such crossing entirely unobstructed. Said train, when again coupled, shall be removed forthwith from such crossing.

#### **SECTION 4-602: OBSTRUCTING VIEW AT CROSSINGS 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 500 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 or cars within such distance be prevented from reasonably conducting his/her business. (Ref. Neb. Rev. Stat. §74-1323)

#### **SECTION 4-603: LIABILITY**

Any engineer, conductor, fireman or brakeman who shall allow or cause any locomotive engine, car or cars or train of cars to stop or remain upon any street or railroad crossings as prohibited by this article shall, on conviction thereof, be fined for each and every such offense in any sum not less than \$10.00 nor more than \$100.00.

### **ARTICLE VII – SELF-SERVE MOTOR FUEL DISPENSING**

## **SECTION 4-701: DEFINITION**

“Self-service motor fuel dispensing” stations as used in this article are defined as that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant, and shall include any facility available for the sale of other retail products.

## **SECTION 4-702: N.F.P.A. STANDARDS ADOPTED**

The operation of all self-service motor vehicle fuel dispensing stations, including all use, sales, storage, transportation and installation of flammable and combustible gases, shall be in conformity with (1) the provisions of standards of the National Fire Protection Association for the storage and handling of flammable gases, known as Pamphlet No. 30, dated 1981, which are hereby included and made part of this section by this reference, having the same force and effect as if physically set out herein, and (2) the statutes of the State of Nebraska. Self-service motor fuel dispensing stations shall be permitted provided that they comply with all provisions hereinafter set forth.

## **SECTION 4-703: APPROVED SELF-SERVICE DISPENSERS**

Only those special dispensing devices and remote controlled types, or equivalent, approved by Underwriters Laboratories shall be permitted at self-service stations.

## **SECTION 4-704: APPROVED SELF-SERVICE NOZZLES**

Hose nozzle valves used at self-service stations shall be automatic-closing type with a latch-open device, or equivalent, approved by Underwriters Laboratories.

## **SECTION 4-705: ATTENDANT REQUIRED; RESPONSIBILITIES**

All self-service stations shall have at least one qualified attendant on duty while the station is open to the public. During all times when gasoline, gasohol or diesel fuel is being dispensed, the attendant's primary function shall be to supervise, observe and control the dispensing of said fuels. It shall be the responsibility of the attendant to prevent the dispensing of gasoline, gasohol or diesel fuel into portable containers unless the container (1) is constructed of metal or is approved by the office of the Nebraska State Fire Marshal, (2) has a tight closure with screwed or spring cover, and (3) is fitted with a spout or so designed that the contents can be poured without spilling. It shall also be the responsibility of the attendant to control sources of ignition such as, but not limited to, requiring that the motors of all equipment being fueled be shut off during the fueling operation, and to immediately handle accidental spills and fire extinguishers if needed.

## **SECTION 4-706: ATTENDANT; SUPERVISION AND CONTROL**

At self-service stations where a remote controlled dispensing device is being used, the attendant shall be required to remain within arm's length distance of the remote control console and shall have visual contact with fuel dispensers at all times while gasoline, gasohol or diesel fuels are being dispensed.

## **SECTION 4-707: EMERGENCY CONTROLS**

1. A main power shut-off or switches shall be installed at a location not more than 15 feet from the attendant's principal control location and not more than 100 feet from the dispensers, and shall be accessible at all times.

2. A fixed fire extinguisher system which complies with the provisions of the N.F.P.A. Pamphlet No. 17 and is suitable for the extinguishment of flammable liquid fire shall be installed at each self-service station. Said system shall (A) utilize any dry chemical or its equivalent approved by the state fire marshal, (B) be capable of covering the entire area where gasoline, gasohol or diesel fuels are being dispensed, and (C) be capable of being activated by the attendant.

3. Each service station shall be provided with at least one portable fire extinguisher having a minimum classification of 5 to 8 BC, located so that an extinguisher will be within 75 feet of each dispenser.

4. A functional method of communicating with the Fire Department shall be located not more than 15 feet from the attendant's principal control station.

## **SECTION 4-708: OPERATION INSTRUCTIONS; POSTING**

The instructions for the operation of each dispenser shall be conspicuously posted on either the dispenser or the dispenser island. Conspicuous and legible weather-resistant signs prohibiting smoking shall be posted on either the dispenser or the dispenser island and shall be visible from both sides of the dispenser island.

## **SECTION 4-709: VISIBLE DISPENSING REQUIRED**

The dispensing operation shall at all times be in clear view of the attendant, and the placing or allowing of any foreign obstacle to come between the dispensing operation and the attendant so as to obstruct the attendant's view is prohibited.

## **SECTION 4-710: WARNING SIGN**

On each and every dispenser island shall be conspicuously posted the following words of warning:

WARNING – IT IS UNLAWFUL TO DISPENSE GASOLINE  
INTO ANY PORTABLE CONTAINER UNLESS THE CONTAINER  
IS APPROVED BY THE NEBRASKA STATE FIRE MARSHAL.

## **ARTICLE VIII – FACTORY-BUILT HOUSING**

### **SECTION 4-801: PURPOSE**

The purpose of this article is to control the quality of factory-built housing installed within the corporate limits and within the jurisdictional area outside the corporate limits of the City by adopting minimum standards for quality and use of construction materials, quality and methods of fabrication and by establishing standards for inspection.

## **SECTION 4-802: SCOPE**

This article shall apply to any factory-built housing, as defined herein, installed within the corporate limits and within the jurisdictional area of the City. Except as specifically provided herein, quality and use of construction materials and quality and methods of fabrication shall be in conformity with the provisions of this code as if the house were being conventionally built on site.

## **SECTION 4-803: DEFINITIONS**

“Dwelling unit” shall mean one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

“Factory-built housing” shall mean one family dwelling unit not to exceed one story in height, which is either wholly or partially fabricated at an off-site location to be wholly or partially assembled on site, but not to include mobile homes.

“Fabrication” shall mean to construct, build or assemble standardized parts by putting together floors, side walls, interior partitions, ceilings, roofs, or any parts or portions thereof as assembled units (including all parts and portions of electrical, plumbing, heating and air conditioning systems and mechanical equipment included therein), before incorporating them into one completed structure as a factory-built house.

“Fabricator” shall mean an individual, firm or corporation fabricating factory-built houses.

“Family” shall mean an individual or two or more persons related by blood, marriage or law; or a group of persons who need not be related, living together in a dwelling unit.

“Installation” shall mean the assembly of a factory-built house on site and the process of affixing the structure to land, a foundation or footings.

“Site” shall mean the entire tract, subdivision or parcel of land on which a factory-built house is installed.

## **SECTION 4-804: MATERIALS AND METHODS OF CONSTRUCTION**

The city building inspector shall have the authority to approve materials, methods of construction and arrangement of materials for use under this article. Before any such material, or any such method of construction, or any such arrangement of materials shall be approved, reasonable tests as required by the said building inspector shall have been made and found by him/her to be safe and in conformity with the provisions of this code. Such tests shall be made in accordance with current standards of the American Society for Testing and Materials. All expenses for such tests shall be made by the applicant, and security for payment of the cost thereof may be required.

## **SECTION 4-805: TESTS OF ASSEMBLIES**

1. *Durability Tests.* The building inspector may require reasonable special tests to be made on assemblies to determine their durability and weather resistance.

2. *Insulation.* Factory-built houses shall be so insulated that the coefficient of heat

transmission (U) shall not exceed 0.25 BTU per hour per square foot of surface area per degree of Fahrenheit difference in temperature between the air on the two sides for ceilings, sidewalks and floors, except that where there is a heated basement, no special provision for insulation of floor between this space and the first or ground story shall be required.

#### **SECTION 4-806: CONNECTIONS**

1. *Design.* Bolts or other devices designed to connect fabricated assemblies to be used in factory-built houses shall be capable of developing the strength of members connected and to resist wind loads as specified in the National Building Code, as amended, recommended by the American Insurance Association.

2. *Roof Connections.* Connections consisting of bolts or other devices between roofs and the supporting walls shall be capable of withstanding an uplift equal to not less than ten pounds per square foot of horizontally projected roof area, in addition to withstanding the other stresses specified in the National Building Code, as amended, recommended by the American Insurance Association.

3. *Weatherproofing.* Individual units or sections of fabricated assemblies, either floor, wall, ceiling or roof, shall be so connected that joints shall be weather- and wind-proof. Said joints shall be properly caulked in an approved manner and covered on the weather side with approved battens or other approved weather covering.

#### **SECTION 4-807: ALLOWANCES FOR NON-INCORPORATED PIPES, CONDUITS AND ELECTRICAL WIRING**

1. *Structural Design.* In the structural design of an assembly, due allowance shall be made for any material to be removed for the installation of pipes, conduits, electrical wiring or other equipment at a place other than the factory or which has been installed but not inspected at the factory.

2. *Tests.* Panels which are required to be tested shall be tested after all chases and cavities for such equipment have been cut.

3. *Additional Cutting.* No additional material shall be removed from any fabricated assembly during construction, other than as provided in this section, unless specifically approved by the building inspector.

#### **SECTION 4-808: PERMITS, FEES AND APPROVAL OF PLANS**

It shall be unlawful for any fabricator to begin fabricating a factory-built house for use within the corporate limits or jurisdictional area of the City until (1) such fabricator, person, firm or corporation shall have filed plans and specifications, including details for electrical, plumbing, heating, air conditioning and distributions systems, together with an application and fees for a permit thereunder in the same manner and amount as any owner, his/her agent or a contractor building the same house on site and (2) the said permit and copy of said plans and specifications bearing said permit number and stamped "approved" by the building inspector shall have been received by the fabricator.

## **SECTION 4-809: CERTIFICATE OF INSPECTION**

1. *Materials.* Materials and the assembly thereof as a factory-built house shall be inspected to determine compliance with this article. Every material or fabricated assembly shall be labeled with stickers, affixed by the building inspector or an approved certifying agency, bearing the permit number under which it was fabricated, certifying compliance with the approved plans and specifications and the provisions of this code.

2. *Shop Inspections.* During the process of fabrication, all assembling of materials which are inaccessible for inspection in each fabricated panel or unit after completion shall be inspected for compliance with this article before being covered, by checking to make sure it complies with the approved copy of the plans and specifications.

3. *Certificate.* A Certificate of Compliance shall be furnished with every factory-built house. Such certificate shall certify that it has been inspected and approved and complies with (A) the copy of the plans, specifications or description of work, and (B) the provisions of this code.

4. *Certifying Agency.* To be acceptable, every Certificate of Compliance shall be made by the building inspector under the provisions of this code when the place of fabrication is within the corporate limits or jurisdictional area of the City. In the event the place of fabrication is outside the corporate limits or jurisdictional area of the City, the Certificate of Compliance may be made by the above authority or by an agency approved by the City Council. All compensation of such inspection and certifying services conducted outside the corporate limits or jurisdictional limits shall be paid by the person, firm or corporation manufacturing said factory-built house. Failure on the part of any approved certifying agency to make the required inspections, or the making by any approved certifying agency of false or improper certificates, or false or improper labeling of fabricated assemblies, shall be cause for cancellation of approval of such agency by the City Council and shall, in addition, render such agency subject to forfeiture of its penalty bond or liable to prosecution for failure of compliance with this article. All approved certifying agencies shall maintain a penalty bond in the sum of \$10,000.00, payable to the City.

5. *Continuous Inspection.* If continuous inspection is required for certain materials where construction takes place on the site, it shall also be required where the same materials are used in factory-built housing. In such event the fabricator of such factory-built house shall pay to the city clerk the cost of such inspections made by the building inspector. Such continuous inspections will not be required during fabrication if the approved certifying agency provides such continuous inspection and certifies compliance with the approved plans and specifications.

6. *Intermittent Inspection.* The fabricator shall permit the right of entry and be required to pay for seven trips per year by the city building inspector to allow him/her to make unscheduled plant inspections of the work in progress relating to any factory-built house to be installed within the corporate limits or jurisdictional area of the City.

## **SECTION 4-810: FIELD ERECTION**

Placement of a factory-built house on the building site shall be inspected by the city building inspector to determine compliance with this article, and said inspector shall require that anything not in compliance with the requirements of this code be immediately removed from the premises.

## **SECTION 4-811: APPEAL PROCEDURE**

Any person, firm or corporation feeling aggrieved by any order or decision of the building inspector concerning the construction of a building under the provisions of this code and controlled by this article may appeal to the Board of Adjustment.

## **ARTICLE IX – GAMES OF CHANCE AND/OR LOTTERIES**

### **SECTION 4-901: DEFINITIONS**

For the purposes of this article the following definitions shall apply:

1. The phrase “games of chance and/or lotteries” shall mean those forms of gambling authorized by the State of Nebraska pursuant to Article III, Section 24 of the Nebraska Constitution.

2. The phrase “gambling device” shall mean any and all machines or devices used by a person engaged in the occupation of conducting games of chance and/or lotteries.

3. The phrase “persons engaged in the occupation of conducting games of chance and/or lotteries” shall mean (A) any person who operates, owns or is the lessee of a place of business where any games of chance and/or lottery activities are conducted, whether or not any other type of business is conducted on the premises; or (B) any person who either directly controls or manages the games of chance and/or lotteries or owns any machine or device used to engage in the occupation of games of chance and/or lotteries but does not sell, lease or deliver possession or custody of such a device to other persons.

4. The word “distributor” shall mean any person who engages in the business of selling, leasing or delivering possession or custody of gambling devices for consideration to a person engaged in the occupation of conducting games of chance and/or lotteries.

### **SECTION 4-902: OCCUPATION TAX**

An occupation tax is hereby imposed on each person engaged in the occupation of conducting games of chance and/or lottery activities within the City, and every such person shall pay the tax in the amount and manner specified in Section 4-101.

### **SECTION 4-903: PROHIBITION; LICENSE REQUIRED**

It shall be unlawful for any person to engage in the occupation of conducting games of chance or lottery activities without first obtaining a license to do so.

### **SECTION 4-904: LICENSE APPLICATION**

Every person desiring a license required by the provisions of this article shall make application to the city clerk. Accompanying each application shall be:

1. A sworn statement by each designated supervising member that such member will be responsible for compliance with rules and regulations for each occasion of games of chance and/or lotteries which he/she supervises.

2. A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, seller profits, compensation, reward or recompense will be paid to any person or organization not sanctioned by the laws of the State and the City; and that all profits will be spent for a lawful purpose.

#### **SECTION 4-905: LICENSE FEE**

The license fee for engaging in the occupation of conducting games of chance and/or lotteries within the City shall be \$10.00 for each location wherein such activities are conducted.

#### **SECTION 4-906: DISPLAY OF LICENSE**

Every license issued under the provisions of this division shall be conspicuously displayed at the place where the game of chance and/or lottery activity is conducted at all times during the conduct thereof.

#### **SECTION 4-907: EXEMPTION**

Nonprofit organizations that desire to participate in games of chance and/or lotteries that are in compliance with the Small Lotteries and Raffles Act of the State of Nebraska are exempt from the provisions of this article.

#### **SECTION 4-908: LOTTERY SALES OUTLET LOCATIONS**

1. The lottery operator whom the City Council contracts to conduct its lottery shall not operate the lottery at a sales outlet location other than the location of the lottery operator without prior council approval of such sales outlet location. The Council shall approve or disapprove each sales outlet location and any individual, sole proprietorship, partnership or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in subsection (2).

2. Any individual, sole proprietorship, partnership or corporation which seeks to have its location approved as an authorized sales outlet location shall:

- A. Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level; filing false reports with any such agency; or any similar offense or offenses or any crime, whether felony or misdemeanor, involving gambling activity or moral turpitude;
- B. Not have had a gaming license revoked or cancelled under the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska County and City Lottery Act; and
- C. Be fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of the Nebraska County and City Lottery Act and the rules and regulations adopted and promulgated pursuant to the Act.



3. If the entity seeking to have its location approved as an authorized sales outlet location is a partnership or corporation, the qualification standards shall apply to every partner of such partnership, every officer of such corporation and every stockholder owning more than 10% of the stock of such corporation.

4. The City Council shall notify the Department of Revenue of all approved lottery locations within 30 days of approval.

## **ARTICLE X – MOBILE FOOD VENDORS**

(Ord. No. 717, 11/13/18)

### **SECTION 4-1001: DEFINITIONS**

1. “Food” shall mean any raw, cooked, or processed edible substance, beverage, ingredient, ice, or water used or intended for use or for sale in whole or in part for human consumption.

2. “Mobile food vendor” shall mean a person who by traveling from place to place upon the public ways sells or offer for sale food from public or private property to consumers for immediate delivery and consumption upon purchase. The following activities are excluded from such definition, and alone, do not subject a vendor to being covered by such definition: (A) the sale or offer for sale of farm products produced or raised by such a vendor from land occupied and cultivated by him/her; or (B) the sale or offer for sale of food by a caterer.

3. “Permanent food establishment” shall mean a fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food.

### **SECTION 4-1002: LAWFUL OPERATION**

It shall be unlawful for any person to operate as a mobile food vendor within the City unless such person complies with the requirements and regulations of this Article, including holding a valid and active mobile food vendor license issued by the city clerk pursuant to this Article; except that a mobile food vendor may operate at Valley Days or other similar events sponsored by or approved by the City without obtaining a mobile food vendor license if such vendor has obtained written consent from the City to operate at such event. Any such mobile food vendor shall be subject to all regulations contained in this Article.

### **SECTION 4-1003: APPLICATION FOR LICENSE**

1. An applicant for a license shall file with the city clerk a signed application on a form to be furnished by the city clerk, which shall contain the following information:

A. The applicant's business name, address, telephone number and email address, if any;

B. If the applicant is a business entity of any kind, the names of all officers and

managers of such entity;

- C. If food is to be sold from any motor vehicle, the vehicle license numbers and descriptions of such vehicle, the names of all persons authorized and expected to drive such vehicle, and a copy of a valid and currently existing policy of liability insurance for such motor vehicle;
- D. Documentation from the Douglas County Health Department showing its approval of the applicant's sale of food;
- E. A copy of the State of Nebraska sales tax permit or proof of an applicable sales tax exemption; and
- F. A copy of the applicant's policy or policies of commercial general liability insurance; and
- G. Such other documentation as the city clerk may require and as requested in the application.

2. Upon receipt of a completed application, the city clerk shall make or cause to be made any inquiry or investigation that may be necessary in order to determine whether the applicant is in compliance with all applicable laws. The city clerk may request and take into consideration the recommendations of other affected departments of the City.

3. After receipt of the completed application and a nonrefundable application fee in the amount of \$50.00, the city clerk shall either approve or deny the application.

#### **SECTION 4-1004: REGULATIONS**

Mobile food vendors shall comply with the following regulations:

1. A mobile food vendor shall not operate from a location within 50 feet of the main entrance of a permanent food establishment during the hours that food is sold within such establishment, unless such permanent food establishment has provided written consent.

2. A mobile food vendor may operate from a motor vehicle at a location in a city right-of-way open to traffic or parking but only from a motor vehicle parked in a location where a motor vehicle is authorized to park by law, signage or city permit.

3. A mobile food vendor shall not operate from a location which would involve customers to be waited on or served while standing in a portion of a street being traversed by motor vehicle traffic.

4. A mobile food vendor who operates from a location on property other than city right-of-way shall first obtain and possess, and be able to exhibit upon request, each of the following:

- A. Written consent of the owner of the property; and
- B. Any required temporary use permit to be issued by the City.

5. A mobile food vendor shall not operate from city park property unless it possesses written consent of the City.

6. A mobile food vendor shall not operate from a school property unless it possesses written consent of the school district.

7. A mobile food vendor shall not operate from a location authorized for a street show, festival, parade, block party, or similar event, or within 200 feet of any boundary of such authorized area, unless the said vendor possesses the written consent of the event permittee to operate from that location.

8. A mobile food vendor shall possess and be able to exhibit its license, all required Douglas County Health Department permits, a State of Nebraska sales tax permit or proof of sales tax exemption, and any other written consents or documentation required under this Article, at all times during which the mobile food vendor is operating.

9. Any city official may order a mobile food vendor to move from or leave a specific location if the operation of the vendor at that location causes an obstruction to vehicular or pedestrian traffic or otherwise endangers the health, safety or welfare of the public. If such order is refused, a city official of the Public Works Department or the Police Department may authorize that the vehicle be towed.

10. An individual representative of the mobile food vendor must remain with the motor vehicle, trailer or auxiliary equipment at all times.

11. A mobile food vendor may operate seven days a week but only from 7:00 A.M. to 11:00 P.M. It shall be unlawful for a mobile food vendor to operate at any other times.

12. A mobile food vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state or federal law.

13. It shall be unlawful for a mobile food vendor to sell or offer to sell alcohol in any form.

14. A mobile food vendor shall provide trash receptacles and shall properly dispose of all trash and litter within 20 feet of its location, but such trash shall not be disposed of in public trash containers on city right-of-way or city property.

15. A mobile food vendor shall comply with all city ordinances regarding noise.

#### **SECTION 4-1005: LICENSE RENEWAL**

A license issued shall expire on December 31st of each year unless renewed for the following year. An applicant shall renew a license for the following year by filing with the city clerk a statement updating or confirming the information provided in the immediately preceding application. The statement shall be on a form to be furnished by the city clerk. At the time of filing of such statement, a renewal fee of \$50.00 shall be due to the City.

#### **SECTION 4-1006: LICENSE REVOCATION OR SUSPENSION**

1. A license issued may be revoked or suspended by the city clerk for any of the following reasons:

- A. Any fraud, misrepresentation, or false statements contained in the application;
- B. Any fraud, misrepresentation, or false statements made in connection with the sale of food;
- C. Any violation of this Article or any applicable laws;
- D. Conduct of business in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

2. To revoke or suspend a license issued, the city clerk shall provide written notice to the license holder stating the revocation or suspension action taken, the grounds for such action, and the availability of an appeal. Such notice shall be served personally upon the license holder or sent by regular US mail to the license holder's address as stated in its application.

3. A license holder aggrieved by the decision of the city clerk under this section may file an appeal with the City Council.

4. A license holder whose license has been revoked under this section may not reapply for a new license for a period of six months after the effective date of the revocation.

## **ARTICLE XI – PENAL PROVISION**

### **SECTION 4-1101: VIOLATION; PENALTY**

Any person, firm, association or corporation violating any of the provisions of Chapter IV hereof for which no other penalty is imposed shall, upon conviction, be deemed guilty of a misdemeanor and be fined in a sum of not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.