

## ARTICLE II - NON-RESIDENT SALESPEOPLE

### SECTION 5-201 APPLICATION FOR PERMIT

Any non-resident salesperson intending to sell or attempting to sell at retail any merchandise, magazines, books, services or other items of value or attempting to take orders or subscriptions for the same within the corporate limits of the City shall prior to making any attempt to sell such items, register with the City Clerk. Such registration may be for periods of either one week or one year.

There shall be a registration fee of \$\_\_\_\_.00 for a week long permit and a fee of \$\_\_\_\_.00 for an annual permit. At the end of each permit period, the sales person shall be required to obtain a new permit. The fee is due upon the issuance of the permit by the City Clerk.

The City Clerk may issue the permit after the following is provided:

- (1) All sales persons full name, date of birth, current address, telephone number and proof of identity (which will be verified by law enforcement);
- (2) A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
- (3) The specific location, if any, in which the vendor intends to conduct business;
- (4) If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation;
- (5) If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle registration number and permit number;
- (6) A sales tax permit as required by Neb. R.S. § 77-2705; and,
- (7) Proof of a public liability bond or insurance policy in an amount not less than \$300,000.00 for property damage and injuries, including death, caused by the operation of the business.

### SECTION 5-202 REGISTRATION, EXCEPTIONS

The provisions of Section 5-201 shall not extend to individuals calling on retail merchants in corporate limits of the City for the purpose of taking orders or selling of merchandise for resale by such merchants, or farmers selling produce

raised in their gardens or on their farms.

#### SECTION 5-203 ISSUANCE OF PERMIT

The applicant shall be notified in writing by the City Clerk of his or her decision to issue or deny the permit no earlier than three (3) days, nor later than thirty (30) days, after the applicant has filed a completed application for the permit with the City Clerk. Each permit shall show the name and address of the applicant; the duration of the permit; the kind of goods to be sold; the amount of the permit fee; the date of issuance and expiration;; the license plate number of any vehicle the applicant will use in conducting business; the permit number; an identifying description of any vehicle or conveyance used by the permit plus, where applicable, the motor vehicle registration number.

#### SECTION 5-204 DUTY TO CARRY AND DISPLAY PERMIT

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

Permits are non-assignable and non-transferable, and permits may be revoked or suspended by the Mayor upon a vote of the City Council following a public hearing of which the applicant is notified by mail not less than 10 days prior to the hearing.

#### SECTION 5-205 HOURS OF SOLICITATION

It shall be unlawful for any solicitor, salesperson or peddler to solicit any individual between the hours of 8:00 P.M. and 9:00 A.M., unless the have a previous appointment with the resident or residents on the premises solicited.

#### SECTION 5-206 FAILURE TO OBTAIN A PERMIT; VIOLATION

A sales person who has failed to obtain a permit or who violates Section 5-205 shall be guilty of a misdemeanor. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.



## ARTICLE III - OCCUPATION TAXES

### SECTION 5-301 TELECOMMUNICATIONS SERVICES OCCUPATION TAX

1. Commencing March 1, 2009, there is hereby charged on all telecommunications companies an occupation tax equaling five percent (5%) on the gross receipts resulting from any toll services and charges on basic local exchange services; inter-exchange services; mobile services; and other telecommunication services as provided for herein.

a. Basic local exchange services shall include the access and transmission of two-way switched communications within the city, including local telephone and telecommunication services.

b. Inter-exchange services shall mean the access and transmission of communications between two or more local exchange areas, provided that such inter-exchange service either (a) originates from an end user within the city or (b) terminates with an end user within the city, and is charged to a service address within the city regardless of where the charges are actually paid.

c. Mobile services shall include any radio or similar communication services provided pursuant to license or authority granted by the Federal Communications Commission, charged to a service address within the city regardless of where the charges are actually paid, including cellular, radio paging, and mobile radio services.

d. Any other similar telecommunication services involving any electronic or electromagnetic transmission of messages originating and terminating in the State of Nebraska and charged to a service address in the City, regardless of where the charges are actually paid.

e. Gross receipts shall not include any toll services and charges as follows:

(1) For interstate telecommunications between persons in this city and persons outside of this state.

(2) For local carrier access charges, transmission facilities and switching services provided to telecommunications companies.

(3) From accounts charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivision or

departments.

2. This occupation tax on telecommunications services shall be due, and made payable to the Plattsmouth City Treasurer, as follows:

a. For services provided from January through March of each year, said tax shall be due on May 1 of that year;

b. For services provided from April through June of each year, said tax shall be due on August 1 of that year;

c. For services provided from July through September of each year, said tax shall be due on November 1 of that year; and

d. For services provided from October through December of each year, said tax shall be due on February 1 of the following year.

3. The City Treasurer shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the City Treasurer. The City treasurer shall keep an accurate account of all revenue turned over to him/her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Ref. *Neb. Rev. Stat.* §§ 16-205 and 86-704).

#### SECTION 5-302 FIRE INSURANCE COMPANIES OCCUPATION TAX

There is hereby charged an occupation tax of not more than five dollars per annum on each fire insurance corporation, company or association, doing business in the City of Plattsmouth, for the use, support, and benefit of volunteer fire department. The City Clerk shall collect with diligence the occupation tax so imposed and upon receipt shall pay over the proceeds to the City Treasurer who shall credit the same to a fund to be known as special occupation tax fund for benefit of the volunteer fire department. Upon proper claim filed by the chief of the fire department and allowed by the local governing body of the municipality, the City Treasurer shall pay over the proceeds of the tax in the fund from time to time for the use of the fire department, as hereinbefore provided. Said tax shall be due each year no later January 31. (Ref. *Neb. Rev. Stat.* §§ 16-205 and 35-106)

#### SECTION 5-303 RETAIL LIQUOR LICENSEES AND CRAFT BREWERY LICENSEES OCCUPATION TAX

There is hereby charged an occupation tax on all retail liquor licensees and craft brewery licensees doing business within the corporate limits of the City of Plattsmouth in an amount equal to the license fee imposed under the Nebraska

Liquor Control Act to obtain such license. Said fee is due upon the issuance and renewal of such licenses by the Liquor Control Commission. Said tax shall be paid to the City Treasurer who shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid. The revenue collected shall then be immediately deposited into the General Fund by the City Treasurer. The City Treasurer shall keep an accurate account of all revenue turned over to him/her. All forms, and receipts herein mentioned shall be issued in duplicate. One copy shall then be kept by each party in the transaction. (Ref. *Neb. Rev. Stat.* §§ 16-205 and 53-132)

#### SECTION 5-304: 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.* §16-205)

#### SECTION 5-305: FAILURE TO PAY

If any person, company or corporation fails or neglects to pay the occupation taxes as provided herein on the day it becomes due and payable, the City shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid. (Ref. *Neb. Rev. Stat.* §16-205)

## ARTICLE IV - FAIR HOUSING REGULATIONS

### SECTION 5-401: PURPOSE

The purpose of this article is to promote the general welfare of the residents of Plattsmouth, Nebraska, by endorsing the provisions of the Nebraska Fair Housing Act, Sections 20-301 through 20-344 RS Neb., to the effect that there shall be no discrimination in the City of Plattsmouth, Nebraska, in the acquisition, ownership, possession or enjoyment of housing in accordance with Article I, Section 25, of the Constitution of the State of Nebraska.

### SECTION 5-402: DEFINITIONS

As used in this article unless the context otherwise requires:

1. "Aggrieved person" shall include any person who: (a) claims to have been injured by a discriminatory housing practice, or (b) believes that he or she will be injured by a discriminatory housing practice that is about to occur;
2. "Commission" shall mean the Nebraska Equal Opportunity Commission;
3. "Dwelling" shall mean any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence for one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;
4. "Familial status" shall mean one or more minors being domiciled with: (a) a parent or another person having legal custody of such individual; or (b) the designee of a parent or other person having legal custody, with written permission of the parent or other person;
5. "Handicap" shall mean, with respect to a person: (a) a physical or mental impairment, excluding the current illegal use of or addiction to a controlled substance as defined in Section 28-401 RS Neb., which substantially limits one or more of such person's major life activities, (b) a record of having such an impairment, or (c) being regarded as having such an impairment;
6. "Person" shall include one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries;
7. "Rent" shall include lease, sublease, let, and otherwise grant for consideration the right to occupy premises not owned by the occupant; and

8. "Restrictive covenant" shall mean any specification limiting the transfer, rental or lease of any housing because of race, creed, religion, color, national origin, sex, handicap, familial status or ancestry.

#### SECTION 5-403: UNLAWFUL ACTS

Except as exempted by Section 5-407, it shall be unlawful to:

1. Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status or sex;
2. Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status or sex;
3. Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, handicap, familial status or sex or an intention to make any such preference, limitation or discrimination;
4. Represent to any person because of race, color, religion, national origin, handicap, familial status or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
5. Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status or sex of a person seeking to purchase, rent or lease any housing;
6. Include any transfer, sale, rental or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;
7. Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's compliance with this article on the Nebraska Fair Housing Act; and
8. Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status or sex.



The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any minor.

SECTION 5-404: HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS

1. Except as exempted by Section 5-407, it shall be unlawful to:

(a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

- (i) The buyer or renter;
- (ii) Any person associated with the buyer or renter; or
- (iii) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available; or

(b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:

- (i) Such person;
- (ii) Any person associated with such person; or
- (iii) A person residing in or intending to reside in the dwelling after it is so sold, rented or made available.

2. For purposes of this section, "discrimination" shall include:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use or enjoy a dwelling; and

(c) In connection with the design and construction of covered multi-family dwellings, a failure to design and construct the dwellings in such manner that:

- (i) The public use and common use portions of the dwelling are readily accessible to and usable by handicapped persons;

- (ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- (iii) All premises within the dwellings contain the following features of adaptive design:
  - (A) An accessible route into and through the dwelling;
  - (B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - (C) Reinforcements in bathroom walls to allow later installation of grab bars; and
  - (D) Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

3. Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (2)(c)(iii) of this section.

4. For purposes of this section, "covered multifamily dwellings" shall mean:

- (a) Buildings consisting of four or more units if such buildings have one or more elevators; and
- (b) Ground floor units in other buildings consisting of four or more units.

5. Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

#### SECTION 5-405: TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PROHIBITED

1. It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential estate to discriminate against any person in making available such a transaction because of race, color, religion, sex, handicap, familial status or national origin.

2. For purposes of this section, "transaction related to residential estate" shall mean any of the following:

- (a) The making or purchasing of loans or providing other financial assistance:

- (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
- (ii) Secured by residential real estate; or

(b) The selling, brokering or appraising of residential real property.

3. Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, handicap, familial status or sex.

**SECTION 5-406: MULTIPLE LISTING SERVICE; OTHER SERVICE;  
DISCRIMINATORY PRACTICES PROHIBITED**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, handicap, familial status or sex.

**SECTION 5-407: RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE  
CLUB, OR HOUSING FOR OLDER PERSONS;  
RESTRICTING USE NOT PROHIBITED**

1. Nothing in this article shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of a dwelling which it owns or operates, for other than commercial purposes, to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status or sex.

2. Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

3. Nothing in this article shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her home.

4. Nothing in this article regarding familial status shall apply with respect to housing for older persons. For purposes of this subsection, "housing for older persons" shall mean housing:

(a) Provided under any state program that the commission determines is specifically designed and operated to assist elderly persons or defined in the program;

(b) Intended for and solely occupied by persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

#### SECTION 5-408: INFORMATION

The city clerk, upon request, shall make available to an aggrieved person, or any other person, information regarding the Nebraska Fair Housing Act and the Nebraska Equal Opportunity Commission without cost to such individual. (Ref. Neb. Rev. Stat. §20-301 through 20-322)

## ARTICLE V - MINIMUM RENTAL HOUSING STANDARDS

### SECTION 5-501: RENTAL HOUSING STANDARDS CODE

To provide certain minimum standards, provisions and requirements for safe and stable design, construction, uses of materials, and maintenance of rental residential dwellings, the regulations promulgated by the U.S. Department of Housing and Urban Development and known as Section 8 Existing Housing Program, published by the U.S. Department of Housing and Urban Development and printed in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said regulations do not conflict with the statutes of the State of Nebraska. The City Council shall have the authority to establish regulations differing from the Section 8 Existing Housing Program, by resolution, and any such resolution is hereby incorporated by reference, together with the regulations known as Section 8 Existing Housing Program, shall constitute the Rental Housing Standards Code for the City. Three copies of the Rental Housing Standards Code are on file at the office of the city clerk and are available for public inspection at any reasonable time. The provisions of the Rental Housing Standards Code shall be controlling throughout the City. (Ref. Neb. Rev. Stat. §17-1001, 18-132, 19-902)

### SECTION 5-502: INSPECTION

To insure compliance with the Rental Housing Standards Code, every residential dwelling unit within the City which is not occupied by a person who is a record title owner of said unit shall be inspected by the City and brought into compliance with this Code by the owner of said dwelling at the time of any change of occupancy of said unit.

### SECTION 5-503: INSPECTION; EXEMPTION, FEE

An inspection shall not be required if, within the two-year period immediately preceding the change of occupancy, a change of occupancy occurred in the unit which resulted in an inspection and certification of compliance with the Rental Housing Standards Code. All costs of compliance with the Rental Housing Standards Code shall be paid by the owner of the unit. The owner of the dwelling shall pay a fee of \$50.00 for the inspection required under this section.

### SECTION 5-504: TIME LIMIT TO BRING OCCUPANCY INTO COMPLIANCE; EXTENSION, FEE

The owner of a residential dwelling unit shall have a period of 90 days from the date of initial inspection to bring the unit into compliance with the code. An additional 60-day period shall be allowed, upon payment of a fee of \$25.00 for said extension to the City, provided that the extension fee must be paid prior to the expiration of the initial 90-day period. Any further extension request will be

charged an additional \$25.00 fee and must be approved by the City Council prior to the expiration of the original period allowed for compliance. The City Council shall have the authority to grant or deny requests for additional extensions of time.

#### SECTION 5-505: VIOLATION

An owner of a residential dwelling unit who has failed to report a change of occupancy which requires an inspection; failed to allow the City to inspect a residential dwelling covered by this section; failed to pay fees required under this section; failed to bring a dwelling into compliance with the Code within the time allowed to said owner; or an owner in violation of any other aspect of this ordinance shall be guilty of a misdemeanor. A new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

#### SECTION 5-506: INSPECTION ORDERED BY HOUSING INSPECTOR

Notwithstanding the above, the city housing inspector shall have the authority to order an inspection of any residential dwelling covered by this section for the purpose of determining whether or not said dwelling is in compliance with the Code. No fee shall be required for the inspection ordered by the housing inspector under this provision. If it is determined, after any such inspection, that a dwelling is not in compliance, a \$50.00 inspection fee will be collected and all owners of said dwelling shall be in violation of this section until said dwelling is brought into compliance with this section, and a new violation shall be deemed to have been committed for each 24 hours of continued non-compliance.

#### SECTION 5-507: CONTINUOUS VIOLATION; NUISANCE, ABATEMENT

Any violation of this ordinance or any part thereof which continues for more than seven consecutive days is hereby declared to be a threat to public safety and a nuisance. The City may proceed by a suit in equity to enjoin, prevent, abate and remove the same in the manner provided by law. (Ref. Neb. Rev. Stat. §17-123, 18-1720)

## ARTICLE VI - TRAILER REGULATIONS

### SECTION 5-601: TERMS DEFINED

The term "court" as used in this code shall mean and include any tract of land upon which are located two or more trailers or other temporary enclosures used for living purposes, whether a charge is made or not.

The term "trailer" as used in this code shall mean and include any vehicle commonly designated as such, also called "mobile home," and constructed to permit occupancy for sleeping, advertising, or business purposes, and so designed that it is or may be mounted on wheels and used as a conveyance on the public ways, and does not comply with the city building code.

The term "unit space" as used in this code shall mean and include the ground space that is actually set aside in a trailer court for the occupancy by and use of a trailer or other temporary dwelling.

### SECTION 5-602: TRAILER COURTS; PERMIT REQUIRED

It shall be unlawful for any person to establish a trailer court within the City or within two miles beyond the corporate limits until he or she shall first obtain a permit for such purpose from the City Council. The city clerk shall provide permit application forms, which shall require: the name and address of the applicant; the name and residence of the proposed manager of the premises; the location and size of the court; a plat of the court showing the number and location of each unit space; the water service available; the toilet or sewer facilities available; the proposed means of disposing of garbage; the electrical current sources available; and the type of buildings proposed to be erected thereon.

Upon receipt of any such permit application, the city clerk shall furnish the city inspector with a copy of the said application. The city inspector shall then examine the premises involved and the proposed unit spaces for the purpose of determining whether the proposed court will violate any of the provisions of the municipal code or the laws of the State of Nebraska. The city inspector's findings shall then be submitted in writing to the City Council.

The City Council at its next regular meeting shall consider such application, and if the members find that all of the provisions of this ordinance are complied with, shall issue a permit for the operation of the trailer court. In the event that any of the provisions of this ordinance shall not be provided for in such permit application, then such trailer court permit shall not be issued until the City Council receives assurances that

all provisions of this ordinance shall be complied with.

In the event that all of the terms and conditions of this ordinance have been complied with and the City Council votes to permit such trailer court to exist, then the city clerk shall issue a permit to such applicant, which permit shall be for a one-year period, to be renewed annually. All permits shall run from March 1 through the last day of February of the next calendar year.

#### SECTION 5-603: PERMIT RENEWAL

Applications for renewal, and all required documentation associated therewith, shall be due by December 31. If the same together with the applicable fee are not received by the City Clerk by December 31, then the applicant shall be assessed a late fee in the amount of \$100 on the immediately following January 1 and on the first day of each month thereafter until the application, required documentation, fee, and late fee are received by the City Clerk; provided, applicant shall remain subject to the penalty set forth in Section 5-1101 for each day applicant operates a trailer court without such permit on and after March 1.

The annual fee for such permit shall be set by resolution of the City Council and shall be on file at the office of the city clerk. Except to the extent provided in this Section, the same procedure shall apply for the renewal of a permit as was heretofore prescribed for the issuance of a permit. No permit shall be issued for any period longer than one year.

#### SECTION 5-604: ASSIGNING PERMIT PROHIBITED

It shall be unlawful to assign or transfer without the written consent of the city clerk and the authorization of the City Council any permit issued by the City for the purpose of allowing the operation of a trailer court.

#### SECTION 5-605: PERMIT REVOCATION

Any permit granted under the provisions of this code shall be subject to revocation at any time by the City Council. Notice shall be served by the city clerk upon the person holding such permit, setting forth the manner in which the owner or operator of the court has failed to comply with the provisions of this code and allowing him/her an opportunity for a hearing before the City Council at a day and hour therein specified. The said hearing shall be held not less than three days after the personal service of the said notice. The owner or operator shall then be required to show cause why the said permit should not be revoked. Any owner or operator allowed an appearance under the provisions herein shall have the right to be represented by counsel.



#### SECTION 5-606: UNIT SPACES

Each trailer home shall be located on a site not less than 1,000 square feet. No trailer home shall be parked closer than five feet to the lot lines of the trailer court without the permission of the City Council; provided, nothing herein shall be construed to allow any trailer to be parked or located in such a manner as to obstruct the traffic on or the use of any public way or public property, and in the event that the lot line is adjacent to the public ways and property, the trailer shall be parked not less than ten feet therefrom. Each unit space shall abut a driveway of not less than 20 feet in width and shall have unobstructed access to a public street or alley. There shall be an open space of at least ten feet between the ends of the trailers located thereon, and there shall be on each trailer space an additional parking space for one vehicle for each unit in said court.

#### SECTION 5-607: DRAINAGE

Every trailer court shall be located on a well-drained area and the premises of such shall be properly graded so as to prevent the accumulation of stagnant water thereon.

#### SECTION 5-608: PLUMBING FACILITIES

The owner or operator of a trailer court shall make available connections with the sewer system for the trailer homes thereon unless other arrangements are agreed to in writing by the City Council.

#### SECTION 5-609: WASTE DISPOSAL

For garbage and refuse collection, tight receptacles of the type permitted for use within the City shall be provided for each unit space within the trailer court.

#### SECTION 5-610: ELECTRICAL SUPPLY

Each unit space within the trailer court shall be provided with an electrical service outlet installed and maintained in accordance with the current issue of the National Electrical Code.

#### SECTION 5-611: UNLAWFUL PARKING

It shall hereafter be unlawful for any person to place, allow to be placed, or occupy for any purpose a trailer home within the City or two miles beyond the corporate limits unless the same shall be located within the boundaries of a duly established trailer court. Modular homes shall not be subject to this prohibition if they have their towing tongue and axles removed and are placed on a permanent concrete or concrete block foundation.

#### SECTION 5-612: CONVERSION

It shall be unlawful for any person to remove the wheels or transporting device from any trailer or to otherwise affix the said trailer to the ground without first obtaining a written permit from the City Council; provided, the trailer so converted shall be subject to all rules and regulations prescribed herein for other habitable dwellings. Applications for such permits shall be made through the city clerk.

#### SECTION 5-613: COURTS LIMITED

There shall be a limit of three trailer home courts which shall be licensed within the City or within two miles beyond the corporate limits.

#### SECTION 5-614: LIABILITY

The owner of the property upon which any trailer or trailer court is located shall be primarily liable for any violations of the provisions of this article and shall also be primarily liable for the cost of any and all utility services provided by the City to the owner or occupant of a trailer located thereon.

#### SECTION 5-615: INSPECTIONS

It shall be the duty of the owner, manager, or occupants of any public trailer court to allow any city officials to enter upon the premises for the purpose of inspection at any reasonable time.

#### SECTION 5-616: COMPLIANCE WITH NUISANCE ORDINANCES

It shall be the duty of the licensee to assure that the Trailer Park licensed by the City Council is, at all times, compliant with the nuisance ordinances of the City of Plattsmouth, Nebraska.

## ARTICLE VII - RAILROAD COMPANIES

### SECTION 5-701: DRAINAGE

Any railroad company doing business within the City shall construct and keep in repair ditches, drains and culverts along and under its railroad tracks at all places within the City where the same may be necessary for the escape of water and the proper draining of the areas on either side of the tracks. When any such drainage, ditch or culvert may be necessary, the City Council may, by resolution, call upon the proper company to construct or repair the ditch, drain or culvert and to put the same in a proper condition for the escape of water. A copy of such resolution shall be served upon the local agent of the company. The provisions of the resolution shall be carried out within 14 days, and failure thereof for each 24-hour period thereafter shall constitute a separate and distinct offense.

### SECTION 5-702: SAFE CROSSINGS

It shall be the duty of every railroad company doing business in or traveling through the City to keep in a suitable and safe condition the crossings and right-of-way in the City. If any such crossing shall at any time fall into disrepair and become unsafe or inconvenient for public travel, the City Council may, by resolution, call upon the said company to make whatever repairs that they may deem necessary to correct the dangerous condition. Notice of the said resolution shall be served upon the local agent of the said company. In the event that the railroad shall fail or neglect to repair and correct the said condition as aforesaid within 48 hours, neglect for each 24 hours thereafter shall be deemed and is hereby made a separate and distinct offense against the provisions herein. (Ref. Neb. Rev. Stat. §16-212)

### SECTION 5-703: SPEED

It shall be unlawful for any railroad company, its employees, agents or servants to operate a railroad engine, locomotive or other vehicle on its tracks within or through the City at a speed in excess of 45 miles per hour.

### SECTION 5-704: OBSTRUCTING TRAFFIC

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

### SECTION 5-705: OBSTRUCTING VIEW AT CROSSING PROHIBITED

It shall be unlawful for any railroad company to obstruct or obscure the traveling public's view by storing or parking any railroad car on a railroad track within 25

feet of the crossing of any such railroad track and a public road within the corporate limits of the City; provided, however, in no instance shall any person who is authorized to control the movement of such railroad car within such distance be prevented from reasonably conducting his/her business. (Ref. Neb. Rev. Stat. §16-212)

## ARTICLE VIII - SALVAGE YARDS

### SECTION 5-801: DEFINITIONS

"Junk" as used in this article shall include scrap metals; scrap materials, whether liquids, solids, or gases; branches of trees; and dismantled or wrecked automobiles, tractors and machinery or parts thereof.

"Junk collector" shall be construed to mean any person going from place to place or house to house collecting or buying iron, copper, brass and zinc scraps, rags, bottles or old paper, and selling the same to a junk dealer.

"Junk dealer" is hereby defined as meaning and including any person engaged in the business of buying, selling, receiving, collecting or dealing in metals of any kind and in any form including scrap iron, bottles, rags and used tires; the dismantling or taking apart of automobiles, other than for repair, or the wrecking of automobiles; the storage of automobiles unfit for operation; the storage of automobile bodies and parts thereof; the storage of automobiles or parts thereof kept for salvage; the storage of scraps from automobiles; and/or the storage of iron, metals or junk.

"Junk yard" is hereby defined as meaning and shall include any place in the City where or from which any person shall conduct, engage in and/or carry on the business of junk dealer as herein defined.

### SECTION 5-802: REGULATION

It shall be unlawful for any person to own, operate or hold open for public use any junk yard as herein defined without first obtaining a license to do so from the City. Application for a license to own, operate or hold open for public use any junk yard shall be made in writing to the city administrator and shall require such information and documents, or copies thereof, that the city administrator deems necessary to determine whether to grant or reject the said application. Upon approval of the application, the city clerk shall issue the license upon the payment of a fee set by resolution of the City Council. The licensee shall then be subject to the city zoning ordinance and any occupation taxes, bond requirements and other rules and regulations which the City Council may determine to be beneficial to the City. Any such bond shall be set by resolution of the City Council and will be conditioned upon the faithful observance of the provisions of this Code. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the said junk yard.

### SECTION 5-803: OWNER'S RESPONSIBILITY

The owner of the premise upon which a junk yard is located shall be equally responsible with the operator, director or employee thereof to see that the

provisions of this Code will not be violated. In the event the provisions of this Code are violated, he/she shall be equally liable with the operator, director or employee for the said violation of the provisions herein.

#### SECTION 5-804: INSPECTIONS; NOTICE OF HEALTH HAZARD

The city police or health official shall have the power and authority to inspect and examine the premise on which a junk yard is located; provided that the said inspection is at a reasonable time. Upon a finding that the owner, operator, director or employee has allowed a health or safety hazard to develop, the health official or city police shall give written notice to the owner to remove the said health hazard within 30 days.

#### SECTION 5-805: NUISANCE

Any junk yard that becomes a danger to the public health or is not operated in the manner herein provided shall be deemed to be a public nuisance after the 30 days grace period as provided in Section 5-804. The city police or health official shall then request the city attorney to prosecute the owner, operator, director or employee of the said junk yard for violation of the provisions of this article.

#### SECTION 5-806: RECORDS

Any person who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles at the time the same are received and the name, residence, and description of the person doing the selling. The said book, as well as the articles purchased, shall, at all reasonable times, be subject to the inspection of the city police or city administrator.

#### SECTION 5-807: RODENTS

Any person who owns, operates, directs or is employed at a junkyard shall make a diligent and continuous effort to exterminate all rats, mice and other harmful rodents frequenting the said junk yard.

#### SECTION 5-808: ADDITIONAL JUNKYARDS PROHIBITED

There shall be no additional junk yards licensed within the City or within the two-mile zoning jurisdiction of the City.

## ARTICLE IX - LOTTERY

### SECTION 5-901: PARTICIPATION; RESTRICTIONS

1. No person under 19 years of age shall play or participate in any way in the lottery established and conducted by the City.
2. No owner or officer of a lottery operator with whom the City contracts to conduct its lottery shall play any lottery conducted by the City. No owner or officer of an authorized sales outlet location for the City shall play any lottery conducted by the City. No employee or agent of the City, lottery operator, or authorized sales outlet location shall play the lottery of the City for which he/she performs work during such time as he/she is actually working at such lottery or while on duty.
3. Nothing shall prohibit any member of the City Council, a city official, or the immediate family of such member or official from playing the lottery conducted by the City; provided that such person is 19 years of age or older.
4. For purposes of this section, immediate family shall mean (a) a person who is related to the member or official by blood, marriage, or adoption and resides in the same household, or (b) a person who is claimed by the member or official, or spouse of the member or official as a dependent for federal income tax purposes. (Ref. Neb. Rev. Stat. §9-646)

### SECTION 5-902 LOTTERY; SALES OUTLET LOCATIONS; APPROVAL REQUIRED; QUALIFICATION STANDARDS

1. The lottery operator with whom the Plattsmouth 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 approval of the sales outlet location by the City Council. The City Council shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards prescribed in division Section 2 below.
2. Any individual, sole proprietorship, partnership, limited liability company, or corporation which seeks to have its location approved as an authorized sales outlet location shall:
  - (a) Obtain a retail liquor license for consumption on the premises pursuant to Chapter 53, article 1, of the Nebraska Revised Statutes;
  - (b) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing

false reports with a governmental agency at any level;

(c) Not have been convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in section 2 (b) above within the 10 years preceding the filing of the application;

(d) Not have had a gaming license revoked or canceled under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(e) 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 person seeking to have its location approved as an authorized sales outlet location is a partnership, limited liability company, or corporation, the qualification standards shall apply to every partner of such partnership, every member of such limited liability company, every officer of such corporation and every stockholder owning more than 10% of the stock of such corporation.

4. The City shall notify the Department of Revenue of all approved lottery locations within 30 days of approval. (Ref. *Neb. Rev. Stat.* § 9-642.01)



## ARTICLE X - TOBACCO AND TOBACCO PRODUCTS SALES

### SECTION 5-1001 DEFINITIONS

"Business" means any sole proprietorship, joint venture, corporation or other business entity, including retail establishments where goods or services are sold.

"Minor" means any person under 18 years of age.

"Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or other legal entity.

"Self-service merchandising" means any open display of tobacco or tobacco products and point-of-sale tobacco-related promotional products to which customers have access without the assistance or intervention of an employee.

"Tobacco product" means any tobacco cigarette or cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other means of ingestion.

"Tobacco retailer" means any person or entity operating a store, stand, booth, concession or other place which sells tobacco or tobacco products to customers for consumption or use, whether utilized primarily for the sale of tobacco or tobacco products or in which the sale of tobacco or tobacco products is incidental.

"Tobacco vending machine" means any electronic or mechanical device utilizing the insertion of money, whether coin or paper currency, or other things of value, which dispenses or releases tobacco or tobacco products.

"Vendor-assisted access" means access to tobacco or tobacco products only with the assistance of a store employee so that customers do not have direct access to take possession without assistance from a store employee.

### SECTION 5-1002: PROHIBITED ACTS; EXCEPTION

1. No person may (a) sell, permit to be sold, or offer for sale tobacco or tobacco products by means other than vendor-assisted access, or (b) display tobacco or tobacco products in a manner allowing customers access to tobacco or tobacco products without vendor assistance.
2. No person subject to this ordinance shall sell, offer to sell or permit to be sold any tobacco or tobacco product to an individual without requesting and examining identification establishing the purchaser's age as 18 years or greater.

3. This ordinance shall not apply to tobacco vending machine regulated by Nebraska state law, tobacco retail stores or to any business, retailer or establishment which is licensed by the Nebraska Liquor Control Commission for a dispensing license and required to be posted preventing any minors from access to the premises, nor shall this ordinance apply to other forms of sale or distribution which is specifically allowed by federal or state law. This exception shall not apply to the sale of tobacco or tobacco products by vending machine or other similar distribution method which is not regulated by the Nebraska Liquor Control Commission or by other state or federal laws.

#### SECTION 5-1003: DUTIES

Any person selling or tobacco products shall:

1. Post plainly visible signs at points of purchase or display of tobacco or tobacco products stating that the sale of tobacco or tobacco products to persons under the age of 18 is prohibited and that photo identification is required for purchase.
2. Request identification from any person buying tobacco or tobacco products which shows the purchaser is of legal age unless the seller has a reasonable basis for determining that the buyer is of legal age to purchase tobacco or tobacco products.
3. Except as otherwise provided in this article, vendors of tobacco or tobacco products shall eliminate self-service merchandising.

## ARTICLE XI - PENAL PROVISION

### SECTION 5-1101: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.

## ARTICLE XII – SIDEWALK CAFÉ

### SECTION 5-1201 OPERATION OF SIDEWALK CAFÉ WITHOUT PERMIT PROHIBITED

It shall be unlawful for any person or entity to own or operate a sidewalk café on the public sidewalks of the City of Plattsmouth, Nebraska, without first having obtained written permit therefore from the city clerk. Temporary sidewalk and street vendors subject to Chapter V, Article II, are exempt from this section.

### SECTION 5-1202 DEFINITIONS

*Abutting property owners or occupants.* Any owner or occupant of property, which abuts the subject sidewalk café site excluding public right-of-way, and any other person who has requested in writing to be provided such notice.

*Alcoholic beverages.* Any beverage derived from a process of distillation and or fermentation.

*Adjacent sidewalk area.* That portion of the public sidewalk between the curb line and the property line demarcated by extending the side building line of the premises until they intersect with the curb.

*Food.* Any raw, cooked or processed edible substance or ingredient, used or intended for use in whole or in part for human consumption, and shall include nonalcoholic beverages allowed to be sold in accordance with this article, but this definition shall not include alcoholic beverages.

*Operation of a sidewalk café.* Serving food or alcoholic beverages from a business establishment to patrons seated at tables located within the permitted sidewalk area adjacent to said business.

*Sidewalk Café.* A permitted fenced area located in the adjacent sidewalk area intended for the operation of a sidewalk café.

*Temporary Sidewalk or Street Vendors.* Non-resident sales vendors serving food for a short period of time and outside of a permitted sidewalk café.

### SECTION 5-1203 PERMIT FEE: DISPOSITION OF FUNDS

1. The city clerk shall at the time a person or entity makes application to operate a sidewalk café in Plattsmouth, charge and collect a fee of one-hundred dollars (\$100.00). All such fees collected shall be credited to the general fund of the city, to be used to defray the costs and expense of administering this Chapter and thereafter for general purposes.

### SECTION 5-1204 APPLICATION REQUIREMENTS

1. The application to obtain a permit to operate a sidewalk café shall be made at city hall on a form provided by the city clerk and shall contain:

a. A completed application, signed by the operator of the establishment and if different from the owner of property, then the property owner also shall sign the application.

b. A diagram of the sidewalk area to be used including the dimensions thereof, and a description of the tables and materials to be used.

c. A certificate of insurance showing the applicant has acquired public liability, food products liability and property damage insurance in the sum of not less than five hundred thousand dollars (\$500,000.00) combined single limit, which insurance may not be cancelled prior to the expiration of the permit without providing thirty (30) days written notice to the city. The City of Plattsmouth, Nebraska, shall be named a secondary insured party on such policy.

d. By signing the application, the applicant shall agree to indemnify the City of Plattsmouth, its elected officials, and employees, for any claims for damages to property, or injury to persons, which may occur in connection with any activity carried on under the terms of the permit, pursuant to the indemnity provision contained within the application form.

## SECTION 5-1205 REVIEW OF APPLICATIONS

1. The building inspector and zoning administrator shall review all applications for compliance with the following criteria and shall recommend approval or denial to the city council, which shall then approve or deny each application.

a. The operation of a sidewalk café is limited to structures which abut a public sidewalk, and which are located in the Central Business District (downtown business).

b. Sidewalk Café locations shall be limited to one of the following per permitted use (see Figure 1 attached for illustrative descriptions of locations A, B, C, D, and E):

(1) Sidewalk café allowed on decorative brick banding six feet wide, leaving full eight feet width for sidewalk.

(2) Sidewalk café allowed on decorative brick banding, plus spillover onto sidewalk giving a larger eight foot width for café use. Sidewalk through way shall always be at least six feet.

(3) Sidewalk café location allowed in the six feet closest to the building. There shall be a minimum of six feet remaining for pedestrian through way. Cafes in this area shall be located so as to assure a minimum of six feet remains for pedestrian through way around street light poles, edge of planter boxes, benches, and other permanent fixtures and appurtenances.

(4) Sidewalk café location allowed on decorative brick banding six feet wide plus two feet closest to the building may be used for private establishment use to locate small table, chairs, dining material storage, etc.

(5) Sidewalk café location of three feet closest to the building for small table or chairs.

c. The type of barrier, construction materials and style, and all items placed in the designated sidewalk area shall be subject to approval in the application process.

d. The sidewalk café shall be located at least five (5) feet from driveways and alleys, and at least ten (10) feet from intersections.

e. Following approval, the sidewalk café boundaries shall be marked on the sidewalk, by city employees, to identify the area designated.

## SECTION 5-1206 CONDITIONS OF OPERATION

1. Each permit issued shall terminate December 31<sup>st</sup> of the year in which it is issued. Such permits may be renewed up to 30 days before expiration.

2. The permit shall be personal to the applicant only and is not transferable in any manner.

3. A sidewalk café permit shall only authorize food and alcoholic beverage service in the sidewalk café. Regardless of what other activity may take place inside the establishment pursuant to license or permit, such activity shall not be allowed in the sidewalk café by virtue of the sidewalk café permit.

4. The permit is specifically limited to the area approved or as modified by the city council, and will include a diagram indicating the area, including dimensions, approved for the sidewalk café.
5. A sidewalk café may be operated only between the hours of 7:00 a.m. and midnight.
6. The sidewalk and all elements placed there shall at all times be maintained in a clean and orderly condition. Only those elements approved by the City Council and specifically authorized by the permit are allowed on the public sidewalk.
7. Storage of tables and chairs will not be allowed on the public sidewalk except inside of an approved barrier. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property, except that covers and railings may be secured by means of flush-mounted anchors in an approved manner. The property owner who signs the application, regardless of whether the applicant/operator, shall be responsible for restoration of the sidewalk or public right-of-way if any damage results from the operation of a sidewalk café.
8. Trash containers shall be placed within all operating sidewalk cafes.
9. No signs shall be attached to any furniture, gates, fencing, or other structure related to the operation of a sidewalk café, except as provided below and as the same relate to the purchase and consumption of alcoholic beverages or as required by state law. Signage on umbrellas and awnings may be approved when consistent with Article Ten of the City of Plattsburgh Land Development Ordinance.
10. Tables, chairs, and other structures associated with the sidewalk café shall be kept free of litter and other debris at all times.
11. Sidewalk cafes and adjoining properties shall remain clear of litter, food scraps and soiled dishes. All areas surrounding a sidewalk café shall be policed by the permittee or the permittee's staff to ensure removal of all wrappings, litter, debris and food. Daily sanitary cleaning is required. Sidewalks shall be washed down on a daily basis, and food from the Café shall not be disposed of in City containers, nor washed into the storm sewers.
12. No activity is allowed within the limits of the sidewalk café outside of its approved operating hours as noted on the respective permit
13. The sidewalk café permit shall be visibly displayed on the premises.
14. The City of Plattsburgh has the right to repeal or amend this article and thereby terminate or modify all sidewalk café operations. No permittee shall gain any property right in the continued private commercial use of the public sidewalk.

15. No portion of the Sidewalk Café can be elevated in the style of a deck.
16. Sidewalk cafes cannot operate under scaffolding or construction canopies.
17. Sidewalk cafes shall meet all requirements of the State of Nebraska Department of Health, and if applicable those of the Nebraska Liquor Control Commission.
18. The sale and consumption of alcoholic beverages may be permitted in the designated sidewalk area so long as the following conditions are met:
  - a. The City enters into an agreement of revocable consent with the applicant to authorize the use of that portion of the sidewalk where the alcohol will be served.
  - b. A license to sell alcohol has been obtained from the Nebraska Liquor Control Commission and includes the area of the sidewalk café.
  - c. The fence shall be not less than thirty (30) inches in height nor more than forty-two (42) inches in height and easily removable from the sidewalk. Provided, however, that to the extent that the Nebraska Liquor Control Commission mandates other guidelines, the permittee shall comply with the Commission mandates.
  - d. All fences used for sidewalk cafes shall also conform to local building codes, provided that the Nebraska Liquor Control Commission mandates do not conflict therewith.
  - e. Outdoor areas serving alcoholic beverages shall be supervised by employees of the establishment. A one-foot square sign reading “no food or beverages allowed beyond railing” shall be posted at a conspicuous location within the perimeter of outdoor cafes serving alcoholic beverages.

#### SECTION 5-1207 DENIAL, REVOCATION, OR SUSPENSION OF PERMIT

1. The City Council may deny, revoke, or suspend the permit upon finding that any provision of this article or condition of approval will be or has been violated.
2. Upon denial, revocation, or suspension the city council shall give notice of such action to the applicant or permittee, in writing, stating the action, which has been taken and the reason therefore. The action shall be effective immediately, but the applicant or permittee may make written request, within ten (10) calendar days after the notice is issued, for a hearing by the city council. Upon hearing the matter, the city council shall render a final decision concerning the permit.



