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.