

# MCCOOK CITY COUNCIL

## REGULAR MEETING

**Monday, January 6, 2025**  
**5:30 PM - City Council Chambers**

Roll Call.

Excuse Absences.

Open Meetings Act Announcement.

Invocation - McCook Ministerial Association - Jeff Donelan, McCook Evangelical Free Church.

Pledge of Allegiance.

Call to Order.

Items.

1. Announcements & Recognitions.

2. Public Hearings.

A. Conduct a public hearing on the application of Eagles Fraternal Order 2769; dba "Fraternal Order of Eagles #2769", for a Class "C" - (Beer, Wine, Distilled Spirits, On and Off Sale) license under the Nebraska Liquor Control Commission, to be located at 805 East "B" Street, McCook, Nebraska; replacing existing License #I-003700.

1. Adjourn the Public Hearing.

B. Recommend approval to the Nebraska Liquor Control Commission the application of Eagles Fraternal Order 2769; dba "Fraternal Order of Eagles #2769", for a Class "C" - (Beer, Wine, Distilled Spirits, On and Off Sale) license under the Nebraska Liquor Control Commission, to be located at 805 East "B" Street, McCook, Nebraska; replacing existing License #I-003700.

3. Consent Agenda.

*\*The Consent Agenda is approved on one motion. Any item listed on the Consent Agenda may, by the request of any single Council member or public in attendance, be considered as a separate item under the Regular Agenda.*

A. Approve the minutes of the December 16, 2024 regular City Council meeting and the December 23, 2024 special City Council meeting.

B. Adopt Resolution No. 2025-01 authorizing the City of McCook to join with Nebraska Public Power District (NPPD) as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area.

C. Reject the lease between the City of McCook and Cleo Spencer d/b/a Red Willow Aviation.

- D. Approve an easement from the City of McCook in favor of Charlie and Trina McPherson, allowing for the McPherson's to maintain an access easement for property owned by the City and identified as Parcel ID #000953100.
4. Regular Agenda.
- A. Discuss a potential McCook Economic Development Corporation workforce housing development project on property owned by the City of McCook, said parcel identified as Parcel ID #000894200, at the intersection of East "C" Street and East 11th Street.
  - B. Update regarding the sports complex project.
  - C. Ordinance No. 2024-3092 amending the City of McCook Code of Ordinances Chapter 52, entitled "Water" in Title V "Departments", repealing Section 52.28 - Unsafe Connection; Backflow Hazard and adding Subchapter "Cross Connection Control"; Chapter 50, entitled "Municipal Utilities" in Title V "Departments", Section 50.01 Delinquent Bill charges; and Chapter 38, entitled "Fee Schedule" in Title III "Administration", Appendix C: Delinquent Bill Charges
    - 1. Chairperson asks Clerk to read Ordinance by title.
    - 2. Consider approval of Ordinance No. 2024-3092 upon its second of three readings.
  - D. Council Comments.
  - E. An Executive Session may be held upon a majority vote of the Council for the protection of public interest for a strategy session with respect to pending litigation - property located at 1111 East "H" Street, Cindy and Ron Sabin.
    - 1. Nebraska Open Meetings Act statement, if the motion to close passes.
    - 2. Close Executive Session.

Adjournment.

**CITY MANAGER'S REPORT  
JANUARY 6, 2025 CITY COUNCIL MEETING**

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**ITEM:** 2.

**RECOMMENDATION:**

ITEM A Conduct a public hearing on the application of Eagles Fraternal Order 2769; dba "Fraternal Order of Eagles #2769", for a Class "C" - (Beer, Wine, Distilled Spirits, On and Off Sale) license under the Nebraska Liquor Control Commission, to be located at 805 East "B" Street, McCook, Nebraska; replacing existing License #I-003700.

ITEM B Recommend approval to the Nebraska Liquor Control Commission the application of Eagles Fraternal Order 2769; dba "Fraternal Order of Eagles #2769", for a Class "C" - (Beer, Wine, Distilled Spirits, On and Off Sale) under the Nebraska Liquor Control Commission, to be located at 805 East "B" Street, McCook, Nebraska; replacing existing License #I-003700.

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**BACKGROUND:**

Upon notice from the Liquor Control Commission, the City has 45 days to conduct a hearing concerning the requested license. The Council may choose not to make a recommendation of approval or denial to the Commission.

Per §53-133, the Liquor Control Commission shall set for hearing any application wherein:

- 1) There is a recommendation of denial from the local governing body.
- 2) A citizens protest; or
- 3) Statutory problems that the Commission discovers.

The Eagles Club already have an existing Class I (on sale only) license, they are applying for a Class "C" license which allows for on and off sale. Mr. Lofton's wife is a non-participating spouse of the liquor license holder, as indicated on the "Spousal Affidavit of Non-Participation Inset" attached.

**FISCAL  
IMPACT:** None.

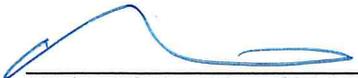
**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk-Treasurer

December 30, 2024

  
\_\_\_\_\_  
Tera Koetter, Assistant City Manager

December 30, 2024

  
\_\_\_\_\_  
Nathan Schneider, City Manager

December 30, 2024

## NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that Eagles Fraternal Order 2769; dba "Fraternal Order of Eagles #2769", has filed an application for Class "C" License - (Beer, Wine, Distilled Spirits, On and Off Sale), under the Nebraska Liquor Control Commission, to be located at 805 East "B" Street, McCook, Nebraska. Replacing existing License #I-003700.

All persons desiring to give evidence before the McCook City Council in support of or protest against the issuance of such license may do so at the time of this hearing to be held Monday, January 6, 2025 at 5:30 P.M., C.S.T.; in the City Council Chambers, 505 West "C" Street, McCook, Nebraska.

-s- Lea Ann Doak  
City Clerk

Publish: December 27, 2024.

**EXHIBIT #2**

**PAGE(S) - 1**



# Nebraska Liquor Control

301 Centennial Mall  
South - 1st Floor PO  
Box 95046 Lincoln  
NE 68508

## Application Copy

File Number: 61968

LICENSE TYPE Class C Beer, Wine Spirits On and Off Sale	APPLICATION DATE RECEIVED 2024-11-21
SECONDARY LICENSE(S) None selected	
LICENSEE EAGLES FRAT ORDER 2769	LICENSEE TYPE Corporation
MARITAL STATUS Single	
MANAGED BY AGENT No	
PREMISES TYPE Restaurant with Bar	PREMISES NAME Fraternal Order of Eagles #2769
OPERATOR Gary Lofton	CORPORATE LIMIT DESIGNATION Inside
LEASE OR OWN Own	
PHYSICAL ADDRESS 805 East B Street, McCook, NE. 69001	
MAILING ADDRESS	
CONTACT NAME Gary Lofton	PREFERRED CONTACT METHOD Email
	<b>EXHIBIT #3</b>

CONTACT PHONE

(308) 325-2219

ALTERNATE PHONE

(308) 340-4331

FAX

EMAIL

jrthuskerfan@yahoo.com

PREMISES MANAGER

Gary Lofton

PREMISES MANAGER EMAIL

jrthuskerfan@yahoo.com

QUESTIONS

### **Class C Beer, Wine Spirits On an**

1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY §53-125(5)

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge?

Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party is applying, please list charges by each individual's name. Exclude minor traffic violations such as speeding. Include Driving Under the Influence, Driving Under Suspension & other similar charges. Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

No

2. What are the building dimensions: Enter length and width in feet separated by a comma (i.e. L20, W15) \*Not square feet\*  
A simple sketch of the area to be licensed will be required to be uploaded in the Documents section.. Include the length x width, direction of NORTH and number of floors of the building.

First Floor 53 foot X 110 Foot

Outdoor Area 63 foot X 72 foot

3. Is there an outdoor area?

\*Must have permanent fencing securing the outdoor area. Please contact the local governing body for other requirements regarding fencing.

Yes

63 foot x 72 foot

4. Will a basement be used for alcoholic storage or sale?

No

5. How many floors of the building? (excluding basement) Please indicate which floors will be included in the liquor license.

1 floor

6. Is premises to be licensed within 150 feet of a church, school, hospital, home for indigent persons or for veterans, their wives, and children?

No

7. Is premises to be licensed within 300 feet of a college campus or university?

No

8. Are you acquiring any alcohol prior to obtaining this liquor license?

No

9. What date do you intend to open for business?

Open Now

10 What are the anticipated hours of operation?

16:00 to 1:00

11 Are you borrowing any money from any source, including family or friends, to establish and/or operate the business?

No

12 Will any person or entity, other than the applicant, be entitled to a share of the profits of this business?

No

13 Is anyone listed on this application a law enforcement officer?

No

14 List the primary bank and/or financial institution to be utilized by the business.

a) List the individual(s) who are authorized to write checks and/or withdrawals on accounts at this institution.

McCook National Bank

15 Do you have prior experience or training in selling, serving or managing alcohol sales?

No

16 Are all individuals named in this application over 21 years of age?

Yes

17 Do you intend to sell cocktails to go as allowed under Neb Rev. Statute 53-123.04(4)?

No

18 Do you intend to allow drive through services (curb side pick up) allowed under Neb Rev. Statute 53-178.01(2)

No

19 List all past and present liquor licenses held in Nebraska or any other state by any person named in this application. List the license holder name, location of license, and license number. Also list reason for termination of license(s) previously held.

None

20 Has the premises location been previously licensed within the last 2 years?

Yes

21 Are you applying for a Temporary Operating Permit?

No

22 What is the premises manager's name?

Gary Lofton

23 What is the manager's address?

38648 Road 705, McCook, NE. 69001

24 What is the manager's phone number?

308-325-2219

25 What county is the manager registered to vote in?

The manager must be a resident of the state of Nebraska. If the manager is not registered to vote they can complete their voter registration here - <https://www.nebraska.gov/apps-sos-voter-registration/>

Red Willow

26 What is the manager's email address? An email will be sent to them to obtain their personal information.

gary.lofton@nebraska.gov

27 Is the manager married?

Yes

Patty Lofton

neversummer@icloud.com

#### DOCUMENTS

TYPE	FILE NAME	DESCRIPTION
Affidavit of non-participation	Spousal Affidavit.pdf	
Corporation/LLC Structure	Corporate Structure.pdf	
Explanation of Convictions/Guilty Pleas	Explanation of Convictions.pdf	
Privacy Act Statement	Revised Privacy Act.pdf	
Business Plan	Business Plan.pdf	
Premises Description & Diagram	Diagram.pdf	
Lease / Deed / Purchase Agreement	Deed.pdf	

APPLICANT

Gary Lofton

DECLARATION

I (We) the applicant(s) agree and consent

By checking the box next to "I (We) the applicant(s) agree and consent", the applicant(s) hereby consent(s) to an investigation of background and release present and future records of every kind and description including, but not limited to, police records, tax records, bank or lending institution records, and corporate records. I consent to the release of any documents supporting any declarations made in this application and agree to provide any documents supporting these declarations to the Nebraska Liquor Control Commission (NLCC) or the Nebraska State Patrol (NSP) immediately upon demand. I agree to provide any record needed in furtherance of any investigation related to this application immediately upon demand to the NLCC or the NSP. I waive any right or cause of action that I may have against the NLCC, the NSP, or any other individual or entity disclosing or releasing any investigatory or supporting records related to this application or the review of this application.

I acknowledge that false information submitted in this application is grounds for denial of a license. Any license issued based on the information submitted in this application is subject to additional conditions, cancellation, revocation, or suspension if the information contained herein is incomplete, inaccurate, or fraudulent. I acknowledge that any changes to the information contained in this application must be reported to the NLCC. I acknowledge the review of this application will involve a criminal record check of all owners, partners, managers, officers and stockholders or members owning 25% interest in the applying entity and their spouses. Any license granted by the NLCC is subject to the provisions of the Nebraska Liquor Control Act and the Rules & Regulations of the NLCC, and that failure to comply with these provisions and rules may subject the license to suspension, cancellations, or revocation. I acknowledge that a licensee must keep complete, accurate, and separate records and that a licensee's records and books are subject to inspection by the NLCC. NLCC auditors and law enforcement officers are authorized to enter and inspect the licensed premises at any time to determine whether any provision of the Act, rule or regulation, or ordinance has been or is being

violated. I acknowledge that it is the licensee's responsibility to comply with the provisions of the Nebraska Liquor Control Act and the Commission's rules and regulations.

If I am an individual applicant, I will supervise in person the management and operation of the business and operate the business authorized by the license for myself and not as an agency for any other person or entity. If I am a corporate applicant, I will ensure that an approved manager will supervise in person the management and operation of the business. If I am a partnership applicant, I will ensure one partner supervises the management and operation of the business.

I will operate the licensed business in compliance with all applicable laws, rules and regulations, and ordinances and to cooperate fully with any authorized agent of the NLCC.

I declare under penalty of perjury that I have read the contents of this application and, to the best of my knowledge, believe all statements made in this application are true, correct, and complete.

**Applicant Notification and Record Challenge:** An applicant's fingerprints will be used to check the criminal history records of the FBI. The applicant may complete or challenge the accuracy of the information contained in the FBI Identification Record. The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in 28 CFR 16.34.

**Fraternal Order of Eagles #2769**

805 East B Street, McCook, NE. 69001

November 19, 2024

**The Company:** The Fraternal Order of Eagles or McCook Eagles Club #2769 is a non-profit organization.

**The Ownership:** The Company is structured as a corporation.

**The Management:** The Company is managed by the club manager, Gary Lofton.

We have a bar area in the building as well as a kitchen area. The kitchen area is usually closed by 20:00 or 21:00. The bar area closes at various hours but is never open past 1:00. The Eagles Club employs a kitchen/bar supervisor, and she supervises all bar/kitchen staff.

The McCook Eagles Club has several officers and trustees that assist in a voluntary role.

**Goals and Objectives:** The motto of the McCook Eagles Club is "People helping people". We hold several fundraisers within our organization and the funds raised goes to people in our community that have needs, etc.

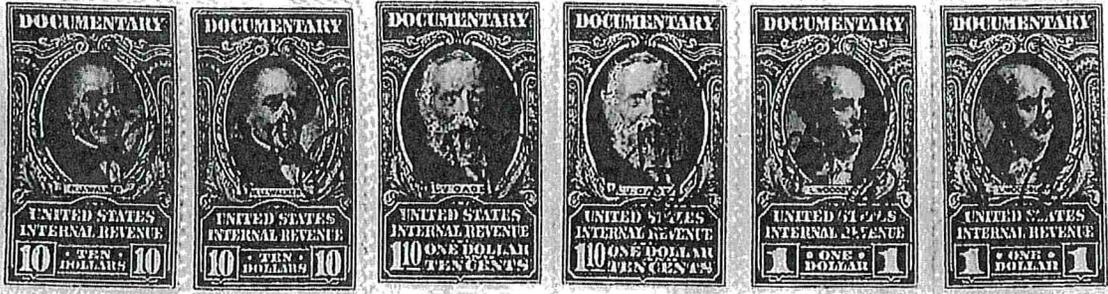
# WARRANTY DEED

Richard D. Schneider and Joan L. Schneider , herein called the grantor whether one or more,  
 in consideration of TWENTY TWO THOUSAND AND NO/100\*\*\* (\$22,000.00)-----DOLLARS  
 received from grantee, does grant, bargain, sell, convey and confirm unto Fraternal Order of  
 Eagles #2769, McCook, Nebraska

herein called the grantee whether one or more, the following described real property in

.....Red Willow..... County, Nebraska:

The West Twenty-five (25) feet of Lot Two (2), and East Sixty (60) feet of Lot  
 Three (3), Block Sixteen (16), Tenth Addition to the City of McCook, Nebraska,



To have and to hold the above described premises together with all tenements, hereditaments  
 and appurtenances thereto belonging unto the grantee and to grantee's heirs and assigns forever.

And the grantor does hereby covenant with the grantee and with grantee's heirs and assigns  
 that grantor is lawfully seised of said premises; that they are free from encumbrance but subject to  
 sewer easement through the East 60 feet of Lot 2 above retained by C. T. Jewell and  
 Helen I. Jewell

that grantor has good right and lawful authority to convey the same; and that grantor warrants and will  
 defend the title to said premises against the lawful claims of all persons whomsoever.

Dated August 1, 19 67

*Richard D. Schneider*  
 \_\_\_\_\_  
*Joan L. Schneider*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

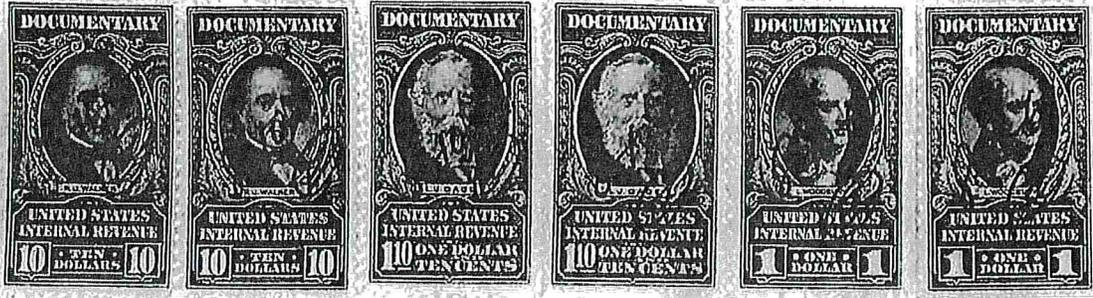
IN CONSIDERATION OF TWENTY TWO THOUSAND AND NO/100\*\*\*(\$22,000.00)-----DOLLARS

received from grantee, does grant, bargain, sell, convey and confirm unto Fraternal Order of Eagles #2769, McCook, Nebraska

herein called the grantee whether one or more, the following described real property in

.....Red Willow..... County, Nebraska:

The West Twenty-five (25) feet of Lot Two (2), and East Sixty (60) feet of Lot Three (3), Block Sixteen (16), Tenth Addition to the City of McCook, Nebraska,



To have and to hold the above described premises together with all tenements, hereditaments and appurtenances thereto belonging unto the grantee and to grantee's heirs and assigns forever.

And the grantor does hereby covenant with the grantee and with grantee's heirs and assigns that grantor is lawfully seised of said premises; that they are free from encumbrance but subject to sewer easement through the East 60 feet of Lot 2 above retained by C. T. Jewell and Helen I. Jewell

that grantor has good right and lawful authority to convey the same; and that grantor warrants and will defend the title to said premises against the lawful claims of all persons whomsoever.

Dated August 1, 19 67

*Richard D. Schneider*

*Joan L. Schneider*



STATE OF NEBRASKA, County of Red Willow.....:

Before me, a notary public qualified for said county, personally came

Richard D. Schneider and Joan L. Schneider, husband and wife,

known to me to be the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

Witness my hand and notarial seal..... 19 67

STATE OF \_\_\_\_\_, County of \_\_\_\_\_:

Before me, a notary public qualified for said county, personally came

known to me to be the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

Witness my hand and notarial seal on \_\_\_\_\_, 19.....

..... Notary Public

My commission expires \_\_\_\_\_, 19.....

STATE OF \_\_\_\_\_, County of \_\_\_\_\_:

Before me, a notary public qualified for said county, personally came

known to me to be the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

Witness my hand and notarial seal on \_\_\_\_\_, 19.....

..... Notary Public

My commission expires \_\_\_\_\_, 19.....

WARRANTY DEED

Form 2.1

— to —

STATE OF NEBRASKA,

County of .....Red Willow.....:

Filed for record

August 10, 1967, at

2:30 P. M., and recorded in Deed Record

92, page 308

Freda Olson, County Clerk or Register of Deeds.

Deputy

HAVE THIS DEED RECORDED

Felton & Wolf Co., Lincoln, Nebr.

McCord National Bank

WARRANTY DEED

GENE T. DOYLE and ROSE E. DOYLE, husband and wife, GRANTOR, in consideration of Ten Dollar (\$10.00) and other valuable consideration, receipt of which is hereby acknowledged, conveys to THE FRATERNAL ORDER OF EAGLES, AERIE #2769, the following-described real estate in Red Willow County, Nebraska:

Lot Two (2) Except the West Twenty-Five (25) feet thereof, Block Sixteen (16), Tenth Addition to McCook, Red Willow County, Nebraska.

GRANTOR covenants with the GRANTEE that GRANTOR:

- (1) Is lawfully seised of such real estate and that it is free from encumbrances subject to easements, reservations, covenants and restrictions of record.
(2) Has legal power and lawful authority to convey the same.
(3) Warrants and will defend the title to the real estate against the lawful claims of all persons.

Executed: August 16, 1996.

NEBRASKA DOCUMENTARY STAMP TAX
Date August 28, 1996
\$ 105.00 By [signature]

[Signature] Gene T. Doyle
[Signature] Rose E. Doyle

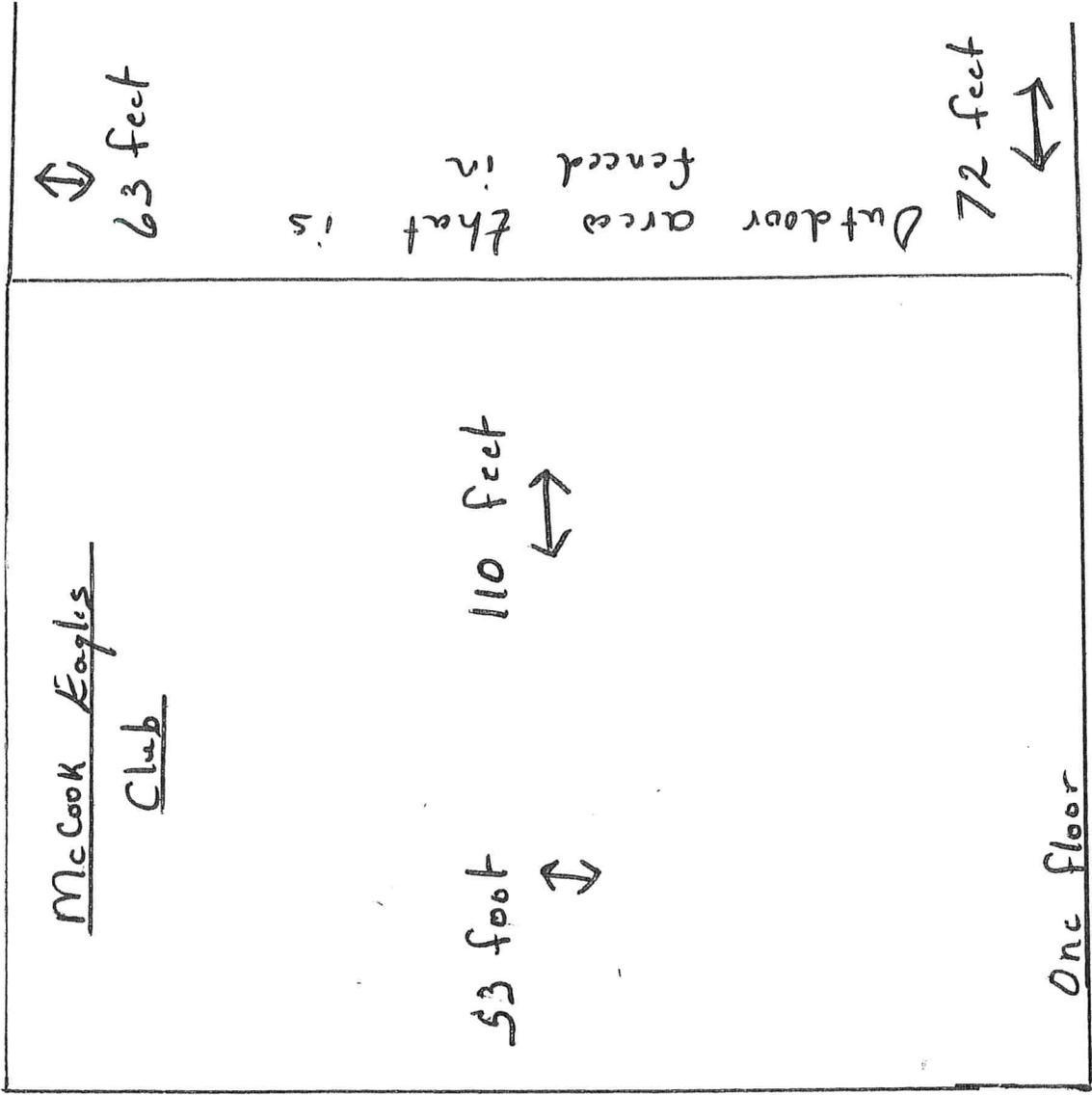
STATE OF NEBRASKA )
) SS.
COUNTY OF RED WILLOW )

Be it remembered this 16 day of August, 1996, before me the undersigned, a Notary Public in and for the County and State aforesaid personally came Gene T. Doyle and Rose E. Doyle husband and wife, who are personally known to me to be the same persons who executed the within deed in writing and such persons duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.

[Signature]

N



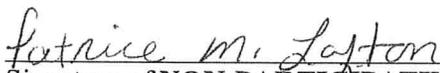
East B Street  
McCook, NE.

# SPOUSAL AFFIDAVIT OF NON-PARTICIPATION INSERT

NEBRASKA LIQUOR CONTROL COMMISSION  
301 CENTENNIAL MALL SOUTH  
PO BOX 95046  
LINCOLN, NE 68509-5046  
PHONE: (402) 471-2571  
FAX: (402) 471-2814  
Website: www.lcc.nebraska.gov

 I acknowledge that I am the non-participating spouse of a liquor license holder. My signature below confirms that I will not have any interest, directly or indirectly in the operation of the business (§53-125(13)) of the Liquor Control Act. I will not tend bar, make sales, serve patrons, stock shelves, write checks, sign invoices, represent myself as the owner or **in any way participate in the day to day operations of this business in any capacity**. The penalty guideline for violation of this affidavit is cancellation of the liquor license.

 I acknowledge that I am the applicant of the non-participating spouse. I understand that my spouse and I are responsible for compliance with the conditions set out above. If, it is determined that my spouse has violated (§53-125(13)) the commission may cancel or revoke the liquor license.

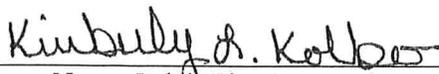
  
Signature of **NON-PARTICIPATING SPOUSE**

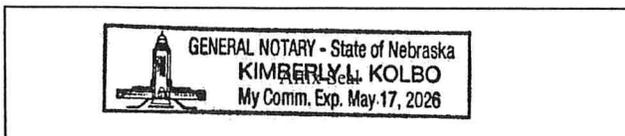
Patrice M. Lofton  
Print Name

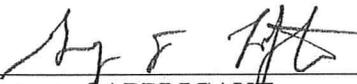
State of Nebraska, County of Red Willow

The foregoing instrument was acknowledged before me  
this 15th day of November 2024 (date)

by Patrice Lofton  
Name of person acknowledged  
(Individual signing document)

  
Notary Public Signature



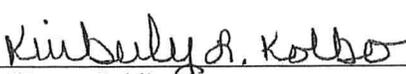
  
Signature of **APPLICANT**

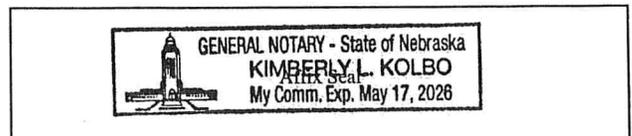
Gary D. Lofton  
Print Name

State of Nebraska, County of Red Willow

The foregoing instrument was acknowledged before me  
this 15th day of November 2024 (date)

by Gary Lofton  
Name of person acknowledged  
(Individual signing document)

  
Notary Public Signature



**RESTRICTED: This information not to be released to other than authorized personnel**

**LIQUOR APPLICATION REPORT**

**POLICE DEPARTMENT REPORT**

DATE REQUESTED: December 17, 2024

DUE DATE: December 30, 2024

APPLICANT: Eagles Fraternal Order #2769

DBA: Eagles Fraternal Order #2769

APPLICANT' ADDRESS: 38632 Road 705 McCook, Red Willow County, NE 69001

PHONE NUMBER (HOME): (308) 340-4331

BUSINESS: (308) 345-6216

PROPOSED LICENSE ADDRESS: 805 East B Street McCook, Red Willow County, NE. 69001

TYPE OF LICENSE: Class "C" License - (Beer, wine, and distilled spirits, on and off-sale).

Current License: Class "I" License - (Beer, wine and distilled spirits, On-sale only).

TYPE OF INVESTIGATION:

- |  |  |
|--|--|
| <input type="checkbox"/> Purchase of Business          | <input type="checkbox"/> New (Change of Current License) |
| <input type="checkbox"/> Upgrade of Existing License   | <input type="checkbox"/> Transfer of Location            |
| <input type="checkbox"/> Expansion of Present Business | <input type="checkbox"/> Manager                         |
| <input type="checkbox"/> Renewal – Long Form           |  |

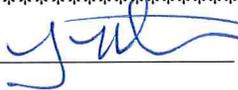
TYPE OF BUSINESS:

- |  |   |
|--|---|
| <input type="checkbox"/> Hotel/Motel               | <input checked="" type="checkbox"/> Restaurant/Food Service |
| <input type="checkbox"/> Liquor/On/Off-Sale        | <input type="checkbox"/> Liquor/On-Sale Only                |
| <input type="checkbox"/> Liquor/Off-Sale Only      | <input type="checkbox"/> Entertainment/Bottle Club          |
| <input type="checkbox"/> Other – Convenience Store |   |

TYPE OF OWNERSHIP:  Corporation  Partnership  Individual

Limited Liability Company (LLC)

\*\*\*\*\*

Investigation Completed by: Det. Gerry Hunter  Date: December 27, 2024

**EXHIBIT #4**

**PAGE(S) - 6**

PREMISE:

1. Type of Neighborhood: ( ) Commercial; (X) Industrial; ( ) Residential.

2. Condition: **Good**

a) Traffic: **Normal side street traffic, east/westbound traffic on West B Street (Highway 6/34).**

b) Parking: **Off-Street parking lot.**

3. Designation of Adjacent Street (Local, Collector, Minor or Major Arterial, Highway):

4. Street Width and Profile: **60 feet, 4 traffic lanes (east and west) and turning lane.**

5. Speed Limit: **35 mph**

6. Average Daily Traffic Count: **7,105 (2017)**

7. Accident Report at Adjacent Intersections: **None**

8. Analysis of Traffic Effects: **No negative effects.**

9. Ready for Operation: (X) Yes ( ) No

If no, estimated date: **N/A**

10. Type of Food Service: ( ) Microwave ( ) Grill (X) Kitchen

11. Number of Employees: Full Time: **0** Part Time: **6**

12. Does premise comply with legal distance from churches, schools, etc.?

(X) Yes ( ) No

If No, specify: **N/A**

13. The Business has been inspected within the last three (3) months by the City's Building Inspector. (X) Yes ( ) No (If yes, attach report)

14. The Business has been inspected within the last three (3) months by the City's Fire Department. (X) Yes ( ) No (If yes, attach report)

15. Estimated Seating Capacity: **304**

16. Estimated Number of Customers per Day: **24**

17. Hours of Operation: **4:00 p.m. – 1:00 a.m.**

FINANCING:

18. Purchase Price:

19. Property/Equipment Value:

20. Previous Year's Gross Receipts:

21. Amount Financed: Source:

Collateral: Co-Signers:

22. Lease Agreement:

23. Estimated Annual Payroll:

24. Estimated Gross Income: %Food: %Liquor:

MISCELLANEOUS:

25. Number of Licenses and Types within competitive distance: **East Casey's – 810 East B Street, Hi- Times Liquor – 502 East B Street, The Bottle Shop – 309 East B Street.**

26. Is another person responsible for Daily Operation? (X) Yes ( ) No

If yes, who? **Liz Lovitt – Club Operations Manager**

(complete investigation of manager form)

PERSONAL HISTORY:

27. Applicant's name: **Gary D. Lofton**

28. Date of Birth: **01/14/1953**

29. Sex: **Male**

30. Home address: **38648 Rd. 705 McCook, Red Willow County, Nebraska 69001**

31. Citizen of the United States? (X) Yes ( ) No

If Naturalized, Certificate Number: **N/A**

Place: **N/A**

32. Proper Residence has been Established? (X) Yes ( ) No

If no, explain: N/A

33. Criminal History – Has applicant been arrested and/or pled guilty to any

( ) misdemeanor? ( ) felony? (If felony, attach detailed description.)

34. Has applicant been cited for and/or been found in violation of the Liquor Laws of the State of Nebraska or other State in which previously licensed?

( ) Yes ( ) No (If yes, attach detailed description)

35. Has applicant had a beneficial interest in another liquor license? (X) Yes ( ) No

If yes, Name, City, Address, Type of License: **Eagles Fraternal Order #2769**

**805 East B Street McCook, Red Willow County, Nebraska 69001**

**Class I License**

36. Records Check Made (civil history): ( ) Yes ( ) No (Attach Records)

37. Investigation made of character/reputation of applicant, report details of investigation:

38. Number of Hours that will be spent by applicant at license premises each week? **10 hours**

39. Number of hours that will be spent by applicant working in occupation other than licensed premises each week? **40 hours**

41. Applicant will oversee in person the management of licensed premises? (X) Yes ( ) No

**NOTE – there is also a Board of Trustees**

42. Another person will be responsible for the management of the licensed premises?

( ) Yes ( ) No (If yes, attach investigative report for manager)

PERSONAL HISTORY – SPOUSE:

43. Spouses Name:

44. Date of Birth:

45. Sex:

46. Home Address:

47. Citizen of the United States? ( ) Yes ( ) No

If no, explain:

48. Proper residence has been established? ( ) Yes ( ) No

If no, explain:

49. Criminal History – Has spouse been arrested and/or pled guilty to any ( ) misdemeanor?  
( ) felony? (If felony, attach detailed description.)

50. Has spouse been cited for and/or been found in violation of the Liquor Laws of the State  
of Nebraska or other State in which previously licensed?  
( ) Yes ( ) No (If yes, attach detailed description.)

51. Has spouse had a beneficial interest in another liquor license? ( ) Yes ( ) No

If yes, Name, City, Address, Type of License:

52. Records check made (civil history). ( ) Yes ( ) No (attach records)

53. Investigation made of character/reputation of spouse, report details of investigation:

54. Number of Hours that will be spent by spouse at licensed premises each week?

55. Number of Hours that will be spent by spouse working in occupation other than license  
premises each week?

56. Spouse will oversee in person the management of the licensed premises?

( ) Yes ( ) No

57. Another person will be responsible for the management of the licensed premises?

( ) Yes ( ) No (If yes, attach investigative report for manager.)

PERSONAL HISTORY – MANAGER:

58. Manager's Name: **Elizabeth Lovitt**

59. Date of Birth: **01/27/1979**

60. Sex: **Female**

61. Home Address: **605 West 3<sup>rd</sup> Street McCook, Red Willow County, Nebraska 69001**

62. Citizen of the United States? (X) Yes ( ) No

If Naturalized, Certificate Number: **N/A**

Place: **N/A**

63. Proper residence has been established?  Yes  No

If no, explain: N/A

64. Criminal History – Has manager been arrested and/or pled guilty to any

misdemeanor?  felony? (If felony, attach detailed description.)

65. Has manager been cited for and/or found in violation of the Liquor Laws of the State of Nebraska or other State in which previously licensed?

Yes  No

66. Has manager had a beneficial interest in another liquor license?  Yes  No

If yes, Name, City, Address, Type of License: N/A

67. Records check made (civil history).  Yes  No (attach records)

68. Investigation made of character/reputation of manager, report details of investigation:

69. Number of Hours that will be spent by manager at licensed premises each week: **20-40 hours**

70. Number of Hours that will be spent by manager working in occupation other than licensed premises each week? **40 hours**

**CITY MANAGER'S REPORT  
JANUARY 6, 2025 CITY COUNCIL MEETING**

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**ITEM:**        3.A.

Approve the minutes of the December 16, 2024 regular City Council meeting and the December 23, 2024 special City Council meeting.

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**BACKGROUND:**

Receive and approve the minutes.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

December 31, 2024

McCook City Council  
December 16, 2024  
5:30 P.M. Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:30 o'clock P.M. in the City Council Chambers.

Present: Mayor Taylor, Councilmembers Calvin, Weedon, Rambali.

Absent: Councilmember Muehlenkamp, City Attorney Mustion.

Motion to excuse the absence of Councilmember Muehlenkamp. This motion, made by Calvin and seconded by Weedon, passed.

Muehlenkamp: ABSENT, Taylor: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

City Officials present: City Manager Schneider, City Clerk Doak, Assistant City Manager Koetter, Utilities Director Fawver, Fire Chief Harpham, Police Chief Hodgson, and Public Works Director Potthoff.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on December 12, 2024, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgement of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Taylor announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review. Invocation was provided by Jeremy LaBrie, Memorial Methodist Church. Following the Pledge of Allegiance to the flag of the United States of America, Mayor Taylor called the meeting to order.

**1. Announcements & Recognitions.**

A thank you note was read from Sarah Schneider, McCook Chamber of Commerce Director, thanking the City of McCook, staff, and employees for all that they did to make Noel Norris, the Christmas Light Parade, the activities in Norris Park and the City of McCook/McCook Economic Development Mixer successful.

**2. Consent Agenda.**

Motion to approve the consent agenda. This motion, made by Weedon and seconded by Rambali, passed.

Muehlenkamp: ABSENT, Taylor: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

- 2.A. Approve the minutes of the December 2, 2024 regular City Council meeting.
- 2.B. Approve the automatic renewal of all current retail liquor licenses in the City of McCook for the year 2025 and instruct the City Clerk to publish individual notice of the right of automatic renewal of each license.
- 2.C. Receive and file the claims for the month of November 2024, published December 10, 2024.
- 2.D. Receive and file the confirmation of an emergency purchase of two used 2020 Freightliner Semi Tractors from Tag Truck Center for the Transfer Station, at a cost of \$52,000.00 each.
- 2.E. Reject bids received for the Injection Well Building Modifications at the Wastewater Treatment Plant.
- 2.F. Approve a contract between the City of McCook and Nebraska Department of Economic Development establishing the terms of the 2023 Rural Community Recovery Program.
- 2.G. Approve Resolution No. 2024-31 approving the rescinding of a portion of Resolution No. 2024-13 which previously declared certain properties a nuisance and which the City now intends to abate the nuisance.
- 2.H. Approve Resolution No. 2024-32 approving the rescinding of a portion of Resolution No. 2024-13 which previously declared certain properties a nuisance and which now have been abated and cleared of the nuisance as deemed by WCNDD and as declared in the Resolution.
- 2.I. Approve Resolution No. 2024-33 approving the rescinding of a portion of Resolution No. 2024-15 which previously declared certain properties a nuisance and which now have been abated and cleared of the nuisance as deemed by WCNDD and as declared in the Resolution.
- 2.J. Approve Resolution No. 2024-34 approving the rescinding of a portion of Resolution No. 2024-17 which previously declared certain properties a nuisance and which now have been abated and cleared of the nuisance as deemed by WCNDD and as declared in the Resolution.
- 2.K. Approve Resolution No. 2024-35 approving the rescinding of a portion of Resolution No. 2024-21 which previously declared certain properties a nuisance and which now have been abated and cleared of the nuisance as deemed by WCNDD and as declared in the Resolution.

**3. Regular Agenda.**

- 3.A. Presentation from Amanda Engell regarding a potential McCook Economic Development Corporation workforce housing development project on property owned by the City of McCook, said parcel identified as Parcel ID#000894200, at the intersection of East "C" Street and East 11th Street.

Amanda Engell, Director of Housing Development for the McCook Economic Development Corporation reviewed their current housing projects and their plan to continue addressing housing needs in McCook. The MEDC is interested in acquiring the land owned by the city at the intersection of East "C" Street and East 11<sup>th</sup> Street for the development of affordable workforce housing, the first family home with a price range of \$200,000 to \$225,000. This area would not need to be annexed and has the needed infrastructure.

City staff will bring back to the Council for their consideration, possible options to transfer this property the MEDC.

- 3.B. Update regarding the sports complex project.

City Manager Schneider gave an update on the sports complex project. Staff is working with Mammoth Sports Construction to finalize their contract for design of the complex. A special council meeting has been set for December 23 at noon for approval of the contract and to allocate remaining ARPA funds toward the contract. Mammoth is proposing an aggressive timeline, which is very exciting for the City. The project could move forward much faster than what was originally anticipated.

- 3.C. Ordinance No. 2024-3094 amending the City of McCook Code of Ordinances by revising Section 90.33 -Dangerous Dogs and/or Hybrid Animals Prohibited; Terms, Defined; Section 90.36 - Dangerous Dogs and/or Hybrid Animals; Confiscation, When; Costs; and Section 90.45 - Impoundment of Animals Without Immunization Tags; Disposition of Impounded Animals.

Mayor Taylor asked the Clerk to read Ordinance No. 2024-3094 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING THE CITY OF MCCOOK CODE OF ORDINANCES CHAPTER 90, ENTITLED "ANIMALS"; SECTION 90.33 - DANGEROUS DOGS AND/OR HYBRID ANIMALS PROHIBITED; SECTION 90.36 - DANGEROUS DOGS AND/OR HYBRID ANIMALS; CONFISCATION, WHEN; COSTS; AND SECTION 90.45 - IMPOUNDMENT OF ANIMALS WITHOUT IMMUNIZATION TAGS; DISPOSITION OF IMPOUNDED ANIMALS; TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CITY OF MCCOOK CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE AND PUBLICATION THEREOF.

Ordinance No. 2024-3094 has been read by title and I move to approve upon its third and final reading. This motion, made by Calvin and seconded by Taylor, passed.

Muehlenkamp: ABSENT, Taylor: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

Mayor Taylor stated for the record that Ordinance No. 2024-3094 is declared lawfully passed and adopted upon publication as required by law.

3.D. Ordinance No. 2024-3092 amending the City of McCook Code of Ordinances Chapter 52, entitled "Water" in Title V "Departments", repealing Section 52.28 - Unsafe Connection; Backflow Hazard and adding Subchapter "Cross Connection Control"; Chapter 50, entitled "Municipal Utilities" in Title V "Departments", Section 50.01 Delinquent Bill charges; and Chapter 38, entitled "Fee Schedule" in Title III "Administration", Appendix C: Delinquent Bill Charges

Mayor Taylor asked the Clerk to read Ordinance No. 2024-3092 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING THE CITY OF MCCOOK CODE OF ORDINANCES CHAPTER 52, ENTITLED "WATER" IN TITLE V "DEPARTMENTS", BY REPEALING SECTION 52.28 - UNSAFE CONNECTION; BACKFLOW HAZARD AND ADDING SUBCHAPTER "CROSS CONNECTION CONTROL"; CHAPTER 50, ENTITLED "MUNICIPAL UTILITIES" IN TITLE V "DEPARTMENTS", SECTION 50.01 DELINQUENT BILL CHARGES; CHAPTER 38, ENTITLED "FEE SCHEDULE" IN TITLE III "ADMINISTRATION", APPENDIX C: DELINQUENT BILL CHARGES; TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CITY OF MCCOOK CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE EFFECTIVE DATE AND PUBLICATION THEREOF.

Ordinance No. 2024-3092 has been introduced, read by title, and I move to approve upon its first of three readings. This motion, made by Weedon and seconded by Rambali, passed.

Muehlenkamp: ABSENT, Taylor: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

3.E. Council Comments.

Mayor Taylor wished all a very Merry Christmas.

### **Adjournment.**

There being no further business to come before the Council, Mayor Taylor declared the meeting adjourned at 5:59 P.M.

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Linda Taylor, Ex-officio Mayor  
and Council President

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer

McCook City Council  
December 23, 2024  
12:00 P.M. Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, special, and public session at 12:00 o'clock P.M. in the City Council Chambers.

Present: Mayor Taylor, Councilmembers Weedin, Muehlenkamp.

Absent: Councilmembers Calvin, Rambali, City Attorney Mustion.

City Officials present: City Manager Schneider, City Clerk Doak, Assistant City Manager Koetter,, and Public Works Director Potthoff.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on December 19, 2024, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgement of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Taylor announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review. Following the Pledge of Allegiance to the flag of the United States of America, Mayor Taylor called the meeting to order.

1. Approve an agreement between the City of McCook and Mammoth Sports Construction for professional engineering services related to the creation, development and execution of design, development, and pre-construction services for a new sports complex with a portion of said engineering costs to be paid for using the City of McCook's remaining ARPA funds.

City Manager Schneider reviewed the process to date and highlights of the agreement. A definite time line will be determined once design is finalized.

Motion to approve an agreement between the City of McCook and Mammoth Sports Construction for professional engineering services related to the creation, development and execution of design, development, and pre-construction services for a new sports complex with a portion of said engineering costs to be paid for using the City of McCook's remaining ARPA funds. This motion, made by Weedin and seconded by Muehlenkamp, passed.

Calvin: ABSENT, Rambali: ABSENT, Taylor: YEA, Weedin: YEA, Muehlenkamp: YEA  
YEA: 3, NAY: 0, ABSENT: 2

**Adjournment.**

There being no further business to come before the Council, Mayor Taylor declared the meeting adjourned at 12:06 P.M.

---

Linda Taylor, Ex-officio Mayor  
and Council President

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer

**CITY MANAGER'S REPORT  
JANUARY 6, 2025 MCCOOK CITY COUNCIL MEETING**

**ITEM NO. 3.B.** Adopt Resolution No. 2025-01 authorizing the City of McCook to join with Nebraska Public Power District (NPPD) as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area.

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**BACKGROUND:**

On October 21, 2024, the McCook City Council passed and approved Ordinance No. 2024-3093 extending to include within the corporate limits of the City the contiguous and adjacent tract of land described as a tract of land located in the Northwest Quarter (NW1/4) of Section Nineteen (19), Township Three (3) North, Range Twenty-nine (29), West of the 6<sup>th</sup> P.M.

The Nebraska Public Power District will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of McCook, to include the above described property into the corporate boundaries of the City of McCook, Nebraska. Because the City owns the electric distribution system and NPPD leased and operates it for the City, it would be in the best interests of the City of McCook to join with NPPD as a co-applicant to the Nebraska Power Review Board.

**APPROVALS:**

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

December 30, 2024

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

December 30, 2024

  
\_\_\_\_\_  
Tera Koetter, Assistant City Manager

December 30, 2024

## RESOLUTION NO. 2025-01

**WHEREAS**, on October 21, 2024 the McCook City Council passed and approved Ordinance No. 2024-3093 extending to include within the corporate limits of the City the contiguous and adjacent tract of land described as a tract of land located in the Northwest Quarter (NW1/4) of Section Nineteen (19), Township Three (3) North, Range Twenty-nine (29), West of the 6<sup>th</sup> P.M., more particularly described as follows: REFERRING to the north quarter corner of said Section 19 as the true point of beginning; thence S0°12'E, 2,028.0 feet to a point; thence N85°45'W, 658.0 feet to a point; thence S0°13'W, 202.5 feet to a point; thence N85°47'W, 268.9 feet to a point; thence N01°45'E, 7.9 feet to a point; thence N85°45'W, 152.2 feet to a point; thence S29°17'W, 474.8 feet to a point; thence N85°37'W, 793.8 feet to a point; thence N0°21'E, 1,009.6 feet to a point; thence N89°36'W, 370.0 feet to a point; thence N0°24'E, 1,696.8 feet to a point; thence S84°59'E, 2,457.1 feet to the point of beginning, containing 127.8 acres, more or less, all in Red Willow County, Nebraska; and

**WHEREAS**, the Nebraska Public Power District (NPPD) will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of McCook, to include the above described property into the corporate boundaries of the City of McCook, Nebraska; and

**WHEREAS**, the City of McCook has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement with NPPD approved on July 11, 1989, pursuant to which NPPD operates and maintains the electric distribution system owned by the City of McCook; and

**WHEREAS**, it is determined by the City Council that it would be desirable and in the best interests of the City of McCook to join with NPPD as a co-applicant to the Nebraska Power Review Board.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of McCook, Nebraska, that the City of McCook, Nebraska, be authorized to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the above described property into the corporate boundaries of the City of McCook, Nebraska in said retail service area.

**BE IT FURTHER RESOLVED** that the Mayor be and is hereby authorized to execute on behalf of the City of McCook a joint application with NPPD to the Nebraska Power Review Board and to cooperate with NPPD in the prosecution of its application.

**BE IT FURTHER RESOLVED** that such joint application shall be prosecuted at the sole cost and expense of NPPD.

**PASSED AND APPROVED THIS 6<sup>TH</sup> DAY OF JANUARY, 2025.**

---

Linda Taylor, Ex-Officio Mayor  
and President of the Council

ATTEST:

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Lea Ann Doak, City Clerk

**CITY MANAGER'S REPORT  
JANUARY 6, 2025 MCCOOK CITY COUNCIL MEETING**

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**ITEM: 3.C**-Reject the lease between the City of McCook and Cleo Spencer d/b/a Red Willow Aviation.

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**BACKGROUND:**

As discussed at prior McCook City Council meetings, Red Willow Aviation has filed a Chapter 7 bankruptcy petition. Upon advice of our bankruptcy attorney, Brandon Tomjack of Baird Holm, the City should reject the land lease between the City of McCook and Cleo Spencer d/b/a Red Willow Aviation. By rejecting the lease, the City of McCook will be relieved of its obligations under the lease, providing more flexibility as long-term FBO determinations are made by the City.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

December 31, 2024

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

December 31, 2024

  
\_\_\_\_\_  
Kyle Potthoff, Public Works Director

December 31, 2024

**CITY MANAGER'S REPORT  
AUGUST 1, 2022 CITY COUNCIL MEETING**

---

ITEM: 2.D.

**RECOMMENDATION:**

**APPROVE THE AMENDED FIXED BASE OPERATOR LEASE AGREEMENT WITH CLEO SPENCER, D/B/A RED WILLOW AVIATION AND SPRAYING INCORPORATED AND AUTHORIZE THE MAYOR TO SIGN.**

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**BACKGROUND:**

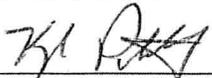
On November 1, 2022, Cleo Spencer became the new owner of Red Willow Aviation. Long time owner Griff Malleck has retired from the operation.

On February 7, 2022 the McCook City Council approved an agreement with Mr. Spencer to provide Fixed Base Operations at McCook Ben Nelson Regional Airport. Since this approval, it has been determined that some of the area being leased was not included in the legal description that was made part of the agreement. This language has been added to this proposed lease amendment. Language referencing the construction of a large hangar has been removed as that has already taken place. Cleo has reviewed the contract and approves as written. The rest of the language and terms of the this amended FBO agreement remain identical to the previous lease.

**FISCAL**

**IMPACT:** None.

**APPROVALS:**

  
\_\_\_\_\_  
Kyle Potthoff, Public Works Director

July 28, 2022

  
\_\_\_\_\_  
Nate Schneider, City Manager

July 28, 2022

## FIXED BASE OPERATOR LEASE AGREEMENT

THIS AGREEMENT is made and entered into this 1<sup>st</sup> day of August, 2022, to be effective as of November 1, 2021, by and between Cleo Spencer, d/b/a Red Willow Aviation and Spraying, Inc., hereinafter referred to as the "Lessee", and the City of McCook, Nebraska, hereinafter referred to as the "City".

THIS AGREEMENT is entered into for the purpose of leasing a site to the Lessee for the operation of a Fixed Base Operator business including the location of buildings and the provision of services contingent therewith. Also, this agreement is entered into for the purpose of establishing the compensation to be paid to the City for such lease, the manner and conditions under which the site may be used, and the responsibilities and authority of the parties involved.

NOW THEREFORE IT IS AGREED BY AND BETWEEN THE LESSEE AND THE CITY AS FOLLOWS:

SECTION 1. The City hereby leases to the Lessee the described sites on the McCook Ben Nelson Regional Airport for the purposes as hereinafter set out, said sites hereinafter referred to as the "Premises" as shown on Exhibit "A" attached to this agreement.

SECTION 2. LEASE PAYMENT. The Lessee shall pay to the City the amount of \$3,530.00 per year for the period beginning June 1, 2022 through May 31, 2023 as rent in compensation to the City for the Lessee's right to use the above-described tract as herein specified. Thereafter the annual rental amount shall increase three percent (3%) each year during the term of the lease as follows:

<u>Rental Period</u>	<u>Rental</u>
June 1, 2022 through May 31, 2023	\$3,530.00
June 1, 2023 through May 31, 2024	\$3,635.00
June 1, 2024 through May 31, 2025	\$3,744.00
June 1, 2025 through May 31, 2026	\$3,856.00
June 1, 2026 through May 31, 2027	\$3,972.00
June 1, 2027 through May 31, 2028	\$4,091.00
June 1, 2028 through May 31, 2029	\$4,214.00
June 1, 2029 through May 31, 2030	\$4,340.00
June 1, 2030 through May 31, 2031	\$4,470.00
June 1, 2031 through May 31, 2032	\$4,604.00
June 1, 2032 through May 31, 2033	\$4,742.00
June 1, 2033 through May 31, 2034	\$4,884.00
June 1, 2034 through May 31, 2035	\$5,031.00
June 1, 2035 through May 31, 2036	\$5,182.00
June 1, 2036 through May 31, 2037	\$5,337.00
June 1, 2037 through May 31, 2038	\$5,497.00
June 1, 2038 through May 31, 2039	\$5,662.00
June 1, 2039 through May 31, 2040	\$5,832.00
June 1, 2040 through May 31, 2041	\$6,007.00
June 1, 2041 through May 31, 2042	\$6,187.00
June 1, 2042 through May 31, 2043	\$6,373.00
June 1, 2043 through May 31, 2044	\$6,564.00
June 1, 2044 through May 31, 2045	\$6,761.00
June 1, 2045 through May 31, 2046	\$6,964.00
June 1, 2046 through May 31, 2047	\$7,173.00
June 1, 2047 through May 31, 2048	\$7,388.00
June 1, 2048 through May 31, 2049	\$7,610.00
June 1, 2049 through May 31, 2050	\$7,838.00

The lease payment will be due annually in advance with the first payment being made on June 1, 2022 and each subsequent payment being due on June 1 of each subsequent year thereafter that this lease shall remain in effect. Time is of the essence of this Agreement. Any failure to make payment when due shall constitute default.

SECTION 3. TERM. This lease shall be for a term commencing on November 1, 2021 and terminating May 31, 2050. Prior to the expiration of this lease, the parties may agree to extend this lease under such terms and conditions as may be mutually agreed upon by the parties.

SECTION 4. LESSEE'S COMMITMENT TO OFFER FIXED BASE OPERATOR SERVICES. This agreement and lease is issued to the Lessee based upon the Lessee's representation and commitment that the Lessee will offer to the public at the McCook Ben Nelson Regional Airport a full range of aeronautical services including the following:

Aircraft sales; air frame and power plant repair; aircraft rental; flight training; aircraft fuel and oil dispensing service; and aircraft storage service. Lessee must also offer charter service and/or aerial application service.

The Lessee may provide at its option additional services including but not limited to the following:

Glider instruction; air ambulance; instrument repair; and aerial advertising.

SECTION 5. COVENANTS OF THE CITY. The City covenants with the Lessee as follows:

- a) the Lessee shall have the right to the non-exclusive use of the City's landing field, runways, and other facilities subject to all reasonable rules and regulations of the City and subject to Federal Air Regulations;
- b) the Lessee shall have the non-exclusive right and privilege to sell gas and oil products at said leased premises.

SECTION 6. COVENANTS OF THE LESSEE. The Lessee covenants with the City:

- a) to furnish good, prompt and efficient service adequate to meet all demands for its service at the airport;
- b) to furnish said service on a fair, equal and nondiscriminatory basis to all users thereof;
- c) to charge fair, reasonable and nondiscriminatory prices for each unit of sale or service; provided that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers;
- d) to fully comply with the regulations and minimum standards as amended by the City from time to time when such standards or regulations have been approved by the Federal Aviation Administration;
- e) in the use of the premises or in the exercise of the rights granted hereunder, the Lessee will not, on the grounds of race, color or national origin, discriminate or permit discrimination against any person or group of persons in a manner prohibited by Part 15 of the Office of the Secretary of Transportation. (The City reserves the

right to take such actions as the United States Government may direct to enforce this covenant.);

- f) to exercise reasonable care to prevent the operation of airplanes on the McCook Ben Nelson Regional Airport by unauthorized persons;
- g) to keep said premises and the equipment installed thereon in a neat, safe and sanitary condition and in good order and repair, and shall so manage and operate so as not to endanger the lives or property of others;
- h) the Lessee shall neither sell nor assign this Lease or sublet any of the premises nor grant any interest, privilege or license whatsoever in connection with this lease without first obtaining permission from the City in writing which shall not unreasonably be withheld. The City shall not grant permission to assign this lease unless: (a) at the time of such assign, sublet or other conveyance this Lease is in full force and effect; (b) Lessor is given notice of the Lessee's intention to assign or sublease the lease and its proposed effective date at least thirty (30) days prior to the proposed effective date; (c) such proposed assignment or sublease is in writing; (d) such assignment includes the unexpired balance of the lease term; (e) every assignee or Sublessee assumes this Lease, and (f) the Lessee provides sufficient written information to the City establishing the creditworthiness of the proposed Sublessee or Assignee.
- i) the Lessee shall exercise due diligence at all times in the protection of the premises against damage or destruction by fire or other casualty.
- j) the Lessee shall contract for in its own name and shall pay for all utility services rendered or furnished to the Premises, including heat, air conditioning, water, gas, electricity, sewer rental and sewage treatment facilities and the like, together with all taxes levied or charged on such utilities.
- k) the Lessee, in addition to the annual rent charged by City to Lessee, shall pay all real estate taxes and special assessments levied upon the premises, upon the Lessee, or upon the buildings and improvements thereon which are assessed during the lease term. Taxes and special assessments shall be deemed payable immediately prior to the date they would become delinquent. Lessee shall be required to pay real estate taxes and special assessments which are based upon the periods of time included within the terms of this Lease and any renewals thereof even though not payable to the taxing authority until after the term of this Lease. Lessee shall pay said taxes directly to the taxing authority.

SECTION 7. RESERVATIONS OF THE CITY. The City reserves the following:

- a) The City reserves the right to repair and maintain the landing area of the airport and all publicly owned facilities of the airport together with the right to direct and control all activities of the Lessee in this regard.
- b) the City reserves the right to operate, maintain the airport and further develop and improve the landing area, ramp, taxiways, and all publicly owned air navigational facilities of the airport as it sees fit, regardless of the desires of use of the Lessee and without interference or hindrance;
- c) the City reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction together with the right to prevent the Lessee from erecting or permitting to be erected any building or other structure on the airport which in the opinion of the City would limit the usefulness of the airport or constitute a hazard to aircraft;

- d) the City reserves the right during time of war or national emergency to enter into an agreement with the United States Government for military or naval use, a part or all of the landing area, publicly owned air navigational facilities, and/or other areas or facilities of the airport, including the leased premises. If any such agreement is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the agreement with the government shall be suspended;
- e) the City reserves a free and unrestricted right of flight for passage of aircraft and the air space above the surface of the premises herein leased, together with the right to cause in such airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operation on or about the McCook Ben Nelson Regional Airport for use and benefit of the public;
- f) the City reserves to itself and to the officers, agents, and employees of the military forces of the United States, the right to enter upon said premises during normal business hours for the purpose of its protection and inventory and what otherwise would seem unnecessary for protection of the interest of the City and the United States Government and the Lessee shall have no claim of any character or account thereof against the United States, the City, or any officer, agent, or employee of either.

#### SECTION 8. GENERAL CONDITIONS.

- a) the City shall not be responsible to the Lessee for any damages or claims on account of damages to the Lessee or its property, persons or employees arising from the manner of storage of any aircraft, fire in hangar, conditions of the flying field or flying facilities, failure of the lighting or navigational facilities or for the use made of the airport by any other person;
- b) the Lessee is and shall be an independent contractor responsible to all parties for all of its acts or omissions and the City shall in no way be responsible therefore;
- c) the City shall not be liable to the Lessee for any injury or damages resulting from any defect in the condition of the premises or for any damage that may result from a negligent action of any tenant or other Lessee of the City or from the use of said airport by any other person in any manner whatsoever;
- d) the Lessee has inspected and knows the conditions of the leased premises and it is understood that the same is hereby leased without any representation or warranty by the City whatsoever and without obligation on the part of the City to make any alterations, repairs or additions thereto;
- e) the Lessee shall not construct any permanent structures on said premises and shall not construct any temporary structure or advertising thereon without the prior written consent of the City;
- f) any property of the City's which is damaged or destroyed by the Lessee incidental to the Lessee's use and occupation of the premises, ordinary wear and tear accepted, shall be promptly repaired or replaced by the Lessee to the satisfaction of the City or in lieu of such repair or replacement, the Lessee shall if so required by the City, pay to the City or to the City's assignee an amount sufficient to compensate for the loss sustained by the City by reason of damages to or destruction of property belonging to the City;

- g) this lease is made subject to all the reservations and provisions of Section 581 of the Atomic Energy Act of 1946 (60STAT.761) and is further subject to all existing and future oil, gas and mineral leases upon said property;
- h) nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958;
- l) this agreement shall be subordinate to the provisions of any existing or future agreement between the City and the United States of America relative to the maintenance, operation or development of the airport;
- j) the Lessee shall be responsible for the removal of the snow from the premises as hereinabove described in such fashion as may be deemed necessary in order to utilize the premises as intended.

SECTION 9. DEFAULT. The occurrence of the following events shall constitute a default by Lessee under this Agreement: (i) Lessee fails to timely pay rent due and Lessee fails to cure the delinquency within thirty (30) days following written notice of such delinquency from City; or (ii) Lessee violates any requirement under this Agreement and fails to cure the same within thirty (30) days following written notice of such violation from City.

Upon any default by Lessee under this Agreement, City may (at any time) pursue any or all remedies available to the City, including, but not limited to, the following: (i) terminate Lessee's rights under this Agreement upon delivering a written notice of termination; and (ii) re-enter and take possession of the Premises by any lawful means (with or without terminating this Agreement). Lessee shall pay all costs and damages arising out of Lessee's default, including, but not limited to, the cost of recovering possession of the Premises, and attorneys' fees and costs. Notwithstanding any termination or re-entry, Lessee shall remain liable to pay the rent and additional rent required under this Agreement for the remaining term of this Agreement, and Lessee shall pay City on demand for any deficiency in the same. No action by City or City's Associates shall be construed as an election by City to terminate this Agreement or accept any surrender of the Premises unless City provided Lessee with written notice expressly stating that City has terminated this Agreement or accepted a surrender of the Premises. Following a default by Lessee under this Agreement, City shall exercise commercially reasonable, good faith efforts to mitigate its damages as required by applicable Nebraska law.

If Lessee fails to pay when due any amount required to be paid by Lessee under this agreement, such unpaid amount shall bear interest at the rate of eighteen percent (18%) from the due date of such amount to the date of payment in full, with interest. In addition, City may also charge a sum of five percent (5%) of such unpaid amount as a service fee, which the parties agree is a reasonable estimate of and liquidated damages for City's additional costs for billing and collection arising from Lessee's failure to make payment in a timely manner. All amounts due under this agreement are and shall be deemed to be rent or additional rent, and shall be paid without abatement, deduction, offset, prior notice, or demand (unless expressly provided by the terms of this Agreement). City's acceptant of any past due amount (or its associated interest or service fee) shall not constitute a waiver of any default under this Agreement.

SECTION 10. TERMINATION. On or before the date of the expiration of this lease or termination thereof, the Lessee shall at his own cost vacate the leased premises, remove property of the Lessee therefrom and restore the leased property to as good of order and condition as that existing upon the premises at the date of commencement of this lease, less ordinary wear and tear.

SECTION 11. RIGHT OF FIRST REFUSAL. The City shall have a first right of refusal for purchase of the shop-type airplane hangar buildings and other structures or buildings which may from time to time be authorized and constructed by Lessee on the premises. The purchase price of such structures shall be determined by a process of appraisal whereby the City will appoint a registered appraiser and the Lessee shall likewise appoint a registered appraiser. The two registered appraisers so appointed and retained shall select a third registered appraiser. The purchase price of the building shall be the average of the three appraisal amounts computed by each appointed and retained appraiser as hereinbefore set forth. The City shall have thirty (30) days from the date that the appraisal is certified and delivered to the City and the Lessee to extend an offer to the Lessee for the amount in the appraisal. Upon receipt of such offer, the Lessee is bound to accept it and transfer the property to the City for such amount. If the City chooses not to purchase any or all of the property owned by the Lessee on the site, the Lessee may proceed to dispose of the property or have it removed from the premises as may be deemed appropriate. All such disposition shall be concluded within sixty (60) days after the termination of the lease after which the City shall have the right to clear the premises of the Lessee's property.

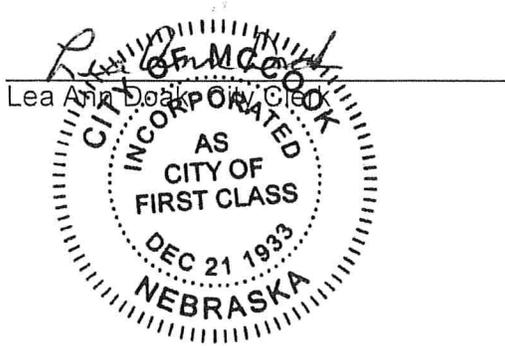
SECTION 12. HOLD HARMLESS. The Lessee hereby agrees to indemnify and hold the City and its employees and officers harmless from and against any and all liability for losses caused by the Lessee's acts, in connection with the use or occupancy of the demised premises and the business operated therefrom.

SECTION 13. EFFECT OF AGREEMENT. This agreement shall bind and the benefits therefrom shall enure to the respective parties thereto, their representatives, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this agreement this 1<sup>st</sup> day of August, 2022.

ATTEST:

CITY OF MCCOOK, NEBRASKA



  
Michael D. Gonzales, Mayor

Cleo Spencer,  
d/b/a Red Willow Aviation and Spraying, Inc.  
Date of execution: \_\_\_\_\_



**CITY MANAGER'S REPORT  
JANUARY 6, 2025 MCCOOK CITY COUNCIL MEETING**

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**ITEM: 3.D.** Approve an easement from the City of McCook in favor of Charlie and Trina McPherson, allowing for the McPherson's to maintain an access easement for property owned by the City and identified as Parcel ID #000953100.

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**BACKGROUND:**

In December of 2024, the City Council received a request from Charlie and Trina McPherson for the grant of an easement by the City to the McPherson's. The easement request would impact a City owned parcel identified as Parcel ID #000953100. The grant of an easement is necessary to access property owned by the McPherson's directly to the east of the City owned parcel. Staff has reviewed the parcel and no City owned infrastructure would be impacted by the grant of an easement. Mr. McPherson has agreed to maintain the City lot free of charge during the term of the easement. Mr. McPherson would extend a driveway on the parcel and would maintain the driveway during the term of the easement. Mr. McPherson would be responsible for the costs associated with the access easement, including any corresponding curb cuts.

**APPROVALS:**



Lea Ann Doak, City Clerk

December 31, 2024



Nathan A. Schneider, City Manager

December 31, 2024

NJM will end easement when finished - probably on Friday.

Will attach & notify when receive from Nate

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## Easement Agreement

Please Return Filed  
Document To  
Nathaniel J. Mustion, Atty.  
101 W. C St.  
McCook, NE 69001  
(308) 345-1600

**THIS AGREEMENT**, made and entered into this \_\_\_ day of January, 2025, by and between the **City of McCook, Nebraska**, a municipal corporation, hereinafter referred to as the "Grantor," and **Southern Oasis Ventures, LLC**, a Nebraska limited liability company, hereinafter referred to as the "Grantee."

### RECITALS:

WHEREAS, the Grantor is the owner of certain real property described as 0-3-29 CENTURY II ADDITION MCCOOK BLK 3, LOT 8, located in McCook, Nebraska (the "Subservient Real Estate"); and

WHEREAS, the Grantee is the owner of certain real property described as Misc McCook 28-3-29 Pt SE/4NW 3.61+/- Acres, Red Willow County, Nebraska (the "Dominant Real Estate"), which requires ingress and egress access across the Subservient Real Estate for reasonable and convenient use of the Dominant Real Estate; and

WHEREAS, the Grantor desires to grant and the Grantee desires to obtain a perpetual, non-exclusive easement over the Subservient Real Estate under the terms set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **Grant of Easement:** The Grantor grants, conveys, and warrants to the Grantee, its successors and assigns, a perpetual, non-exclusive easement for ingress and egress purposes over, across, and through the Subservient Real Estate.
2. **Purpose and Use of Easement:** The Easement is granted for the sole purpose of providing ingress and egress to the Dominant Real Estate. The Grantee is permitted to use the Easement Area for constructing and maintaining a rocked driveway, subject to the following conditions:
  - 2.1 No Tree Removal: No existing trees within the Easement Area shall be removed or cut down during construction or maintenance.
  - 2.2 Curb Cutout: If a curb cutout is required for access, it shall be constructed at the Grantee's sole expense, with the location and dimensions approved by the City of McCook.
3. **Maintenance Obligations of Grantee:** The Grantee shall be solely responsible for all maintenance and upkeep of the Easement Area, including but not limited to:
  - 3.1 Keeping the Easement Area mowed.
  - 3.2 Spraying noxious weeds.
  - 3.3 Maintaining the rocked driveway in a safe and passable condition.
4. **Damage and Liability:** The Grantee shall be responsible for repairing any damage to the Subservient Real Estate caused by the Grantee's use or maintenance of the Easement Area, restoring it to its prior condition at the Grantee's expense. Further, the Grantee agrees to indemnify and hold harmless the Grantor from any claims, damages, or liabilities arising out of the Grantee's use or maintenance of the Easement Area, except to the extent caused by the negligence or willful misconduct of the Grantor.

5. **Abandonment and Reversion:** This Easement shall terminate and revert to the Grantor if the Grantee ceases to use the Easement for its intended purpose for a continuous period of two (2) years.
6. **Binding Effect and Covenants:** This Easement Agreement shall run with the land, binding upon and inuring to the benefit of the successors and assigns of the Grantor and Grantee.
7. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.
8. **Entire Agreement and Modification:** This Agreement constitutes the entire agreement between the parties regarding the subject matter herein and supersedes all prior understandings or agreements. It may not be modified except in writing signed by both parties.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

Grantor: City Of McCook, Nebraska

GRANTEE: Southern Oasis Ventures, LLC

\_\_\_\_\_  
Mayor Linda Taylor

\_\_\_\_\_  
Owner Charlie McPherson

Attest: \_\_\_\_\_  
City Clerk

State Of Nebraska            )  
  : ss  
County Of Red Willow        )

The foregoing instrument was acknowledged before me on January \_\_, 2025 by Charlie McPherson, owner of Southern Oasis Ventures, LLC.

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

**CITY MANAGER'S REPORT  
JANUARY 6, 2024 MCCOOK CITY COUNCIL MEETING**

**4.A.**

ITEM NO. Discuss a potential McCook Economic Development Corporation workforce housing development project on property owned by the City of McCook, said parcel identified as Parcel ID #000894200, at the intersection of East C Street and East 11<sup>th</sup> Street.

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**BACKGROUND:**

Amanda Engell presented a potential housing project at the December 16, 2024 McCook City Council meeting, with the focus of said presentation developing new workforce housing in eastern McCook. MEDC inquired about the possibility of acquiring land located at the intersection of East C Street and East 11<sup>th</sup> Street, said parcel identified as Parcel ID #000894200. The City of McCook owns the property. The property was donated to the City of McCook in 2009, with said donation specifying that the property be used for City purposes. As highlighted in the 2022 McCook Housing Study, the City of McCook suffers from a lack of housing, including affordable workforce housing. The City of McCook and MEDC have worked hand-in-hand to develop new housing opportunities for McCook's residents, with one of the primary focuses being the development of affordable workforce housing options for McCook's residents. Increased housing opportunities directly benefits the City of McCook and its citizens.

Staff would like to discuss this matter with the City Council to determine if there is a way to transfer said property to the MEDC in order to provide a location for a new workforce housing development.

**APPROVALS:**



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Nathan A. Schneider, City Manager

December 31, 2024



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Lea Ann Doak, City Clerk

December 31, 2024

**CITY MANAGER'S REPORT  
JANUARY 6, 2024 MCCOOK CITY COUNCIL MEETING**

**ITEM NO. 4.B** Update regarding the sports complex project.

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**BACKGROUND:**

Staff would like to keep this item as a place keeper on the McCook City Council agendas while we work through the planning and construction process for the ballpark.

**APPROVALS:**



Nathan A. Schneider, City Manager

December 31, 2024



Lea Ann Doak, City Clerk

December 31, 2024

**CITY MANAGER'S REPORT**  
**JANUARY 6, 2025 CITY COUNCIL MEETING**

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**ITEM: 4.C.**

**RECOMMENDATION:**

Introduce and approve on its second reading Ordinance No. 2024-3092 amending the City of McCook Code of Ordinances Chapter 52, entitled "Water" in Title V "Departments", repealing Section 52.28 – Unsafe Connection; Backflow Hazard and adding Subchapter "Cross Connection Control"; Chapter 50, entitled "Municipal Utilities" in Title V "Departments", Section 50.01 Delinquent Bill Charges; Chapter 38, entitled "Fee Schedule" in Title III "Administration", Appendix C: Delinquent Bill Charges

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**BACKGROUND:**

Ordinance 2024-3092 is the Water Departments guide to backflow control and cross connections the City of McCook's public water system. The current Ordinance (52.28) is insufficient and does not offer the information needed for a proper Backflow and Cross Connection program. The new Ordinance will give the Water Department more leverage in controlling Backflow devices and testing them to assure the devices are working properly. The new Ordinance will also give the Water Department authority to discontinue the water service if the ordinance is not followed properly when it comes to testing and corresponding with the City Water Department.

In addition, amend Chapter 38 Fee Schedule Appendix C: Delinquent bill charges and Chapter 50 Municipal Utilities to read "If not paid by 4:00 pm on the 22<sup>nd</sup> of the month, a \$15.00 charge will be added. If the 22<sup>nd</sup> falls on a weekend or holiday, payment will be accepted until 4:00 pm on the next business day".

**FISCAL**

**IMPACT:** None

**APPROVALS:**

  
\_\_\_\_\_  
Pat Fawyer, Utility Director

1-06-2025  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Nate Schneider, City Manager

1-30-24  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

1/30/24  
\_\_\_\_\_  
Date

## ORDINANCE NO. 2024-3092

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING THE CITY OF MCCOOK CODE OF ORDINANCES CHAPTER 52, ENTITLED "WATER" IN TITLE V "DEPARTMENTS", BY REPEALING SECTION 52.28 - UNSAFE CONNECTION; BACKFLOW HAZARD AND ADDING SUBCHAPTER "CROSS CONNECTION CONTROL"; CHAPTER 50, ENTITLED "MUNICIPAL UTILITIES" IN TITLE V "DEPARTMENTS", SECTION 50.01 DELINQUENT BILL CHARGES; CHAPTER 38, ENTITLED "FEE SCHEDULE" IN TITLE III "ADMINISTRATION", APPENDIX C: DELINQUENT BILL CHARGES; TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CITY OF MCCOOK CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE AND PUBLICATION THEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

Section 1. That the City of McCook Code of Ordinances, Chapter 52, entitled "Water" in Title V "Departments", Section 52.28 - Unsafe Connection; Backflow Hazard, shall be and hereby is repealed.

Section 2. The City of McCook Code of Ordinances is hereby amended by adding Subchapter "Cross Connection Control" to Chapter 52, entitled "Water" in Title V "Departments" to read as follows:

### CROSS CONNECTION CONTROL

#### § 52.78 GENERAL POLICY AND PURPOSE; APPLICABILITY OF SUBCHAPTER.

(A) *Purpose.* The purpose of this subchapter is to:

(1) Protect the public potable water supply of the city water system from the possibility of contamination or pollution by isolating real or potential sources of contamination or pollutants which may backflow or cause back siphonage through the service connection into the public potable water supply system, as required by Title 179, NAC 2 "Regulations Governing Public Water Supply Systems";

(2) Promote the elimination, containment, isolation or control of existing cross connections, actual or potential, between the public or consumer's potable water systems and non-potable water systems, plumbing fixtures and industrial process systems; and

(3) Provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(B) *Applicability.* This subchapter shall apply to all premises served by the public potable water system of the city.

(C) *Policy.*

(1) This subchapter will be reasonably interpreted as the city's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

(2) The city water department shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow of contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross connections. The consumer is responsible for preventing contamination of the water system within the consumer's own premises.

(3) If, in the judgment of the Water Department or the state's Department of Health or their authorized representative, cross connection protection is required through either piping modification or installation of an approved backflow prevention device, 30 days' notice shall be given to the consumer. The failure, refusal or inability on the part of the consumer to provide requested protection with 30 days shall make the consumer subject to discontinuance of water service at the discretion of the Water Department, according to the degree of hazard, without further notice.

#### **§ 52.79 DEFINITIONS.**

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**AIR GAP SEPARATION.** The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the overflow level rim of the receptacle.

**AUXILIARY WATER SUPPLY.** Any water source or system, other than the public water supply, that may be available in the building or premises.

**BACKFLOW.** The flow, other than the intended direction of flow, of any foreign liquids, gases or substances into the distribution system of a public water supply.

**BACKFLOW PREVENTION DEVICE.** Any device, method or type of construction intended to prevent backflow into a potable water system, provided backflow preventers have been tested and approved by a reputable testing laboratory.

**CONSUMER.** The owner or person in control of any premises supplied by or in any manner connected to a public water system.

**CONTAINMENT.** Protection of the public water supply by installing a cross connection control device or air gap separation on the main service line to a facility, or as an installation within equipment handling potentially hazardous materials.

**CONTAMINATION.** An impairment of the quality of the water by sewage, process fluids or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.

**CROSS CONNECTION.** Any physical link between a potable water supply and any other substance, fluid or source which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

**HAZARD, DEGREE OF.** An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(1) **HAZARD, HEALTH.** Any condition, device or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

(2) **HAZARD, PLUMBING.** A plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention device.

(3) **HAZARD, POLLUTION.** An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) **HAZARD, SYSTEM.** An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

**INDUSTRIAL PROCESS SYSTEM.** Any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollution or plumbing hazard if introduced into a potable water supply.

**ISOLATION.** Protection of a facility service line by installing a cross connection control device or air gap separation on an individual fixture, appurtenance or system.

**POLLUTION.** The presence of any foreign substance (organic, inorganic or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which, does adversely and unreasonably affect the water for domestic use.

**PUBLIC POTABLE WATER SYSTEM.** Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the appropriate state or local regulatory agency.

**SERVICE CONNECTION.** The terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the term **SERVICE CONNECTION** means the downstream end of the meter.

**WATER DEPARTMENT.** The owner, operator or individual in responsible charge of a public water system.

#### **§ 52.80 CROSS CONNECTIONS PROHIBITED.**

(A) No water service connection shall be installed or maintained to any premises where actual or potential cross connections as required by the laws and regulations of the state to the public potable or consumer's water system may exist.

(B) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or consumer's water system.

(C) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices of the latest edition of the Uniform Plumbing Code as considered by the city's Water Department as necessary for the protection of health and safety.

#### **§ 52.81 SURVEY AND INVESTIGATIONS; RESPONSIBILITIES OF CONSUMER.**

(A) The consumer shall provide access to the premises at reasonable times to the city's Water Department, or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

(B) On request by the city's Water Department or its authorized representative, the consumer shall furnish information on water use practices within his or her premises.

(C) It shall be the responsibility of the water consumer to conduct periodic surveys of water use practices on his or her premises to determine whether there are actual or potential cross connections to his or her water system through which contaminants or pollutants could backflow into his or her or the public potable water system.

#### **§ 52.82 TYPE OF PROTECTION REQUIRED.**

The type of protection required by this subchapter shall depend on the degree of hazard which exists, as follows. An approved air gap separation or an approved reduced pressure principle backflow prevention device or an approved dual checkvalve assembly shall be installed where the public potable water system may be polluted with substances that could cause a health hazard.

#### **§ 52.83 PREMISES WHERE PROTECTION IS REQUIRED.**

(A) An approved backflow prevention device shall be installed in the service connection line to a consumer's water system or within any premises where actual or potential hazards to the public potable water system exist. The type and degree of protection required shall be commensurate with the degree of hazard.

(B) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though the cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

- (1) Premises having an auxiliary water supply;
- (2) Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist;
- (3) Premises where entry is restricted so that inspections for cross connections cannot be made with sufficient frequency or at sufficiently short notice to ensure that cross connections do not exist;
- (4) Premises that although not covered by this subchapter are subject to frequent modification which would change their status, or premises that have had violations of this subchapter;
- (5) Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters; and/or

(6) Premises where materials of a toxic or hazardous nature are handled such that, if siphonage or back pressure should occur, a serious health hazard may result.

(C) The following types of facilities must install or have in operation an approved air gap separation, atmospheric vacuum breaker, pressure vacuum breaker, dual check valve assembly, or reduced pressure principle backflow prevention device as required by the city's Water Department to protect the public water supply, and the equipment must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected:

- (1) Auxiliary water systems;
- (2) Beverage bottling plants and food processing plants;
- (3) Canneries, packinghouses and reduction plants;
- (4) Carwashing facilities and automobile servicing facilities;
- (5) Chemical manufacturing, processing, compounding or treatment plants;
- (6) Chemically contaminated water systems;
- (7) Dairies and cold storage plants;
- (8) Film laboratories, film development facilities and testing laboratories;
- (9) Fire protection systems;
- (10) Hazardous waste storage and disposal;
- (11) Hospitals, mortuaries, clinics, nursing and convalescent homes and medical facilities;
- (12) Sprinkler systems and hose connections injecting directly material of a toxic or hazardous nature;
- (13) Laundries and dye works and dry cleaners;
- (14) Metal manufacturing, cleaning, processing and fabricating plants;
- (15) Oil and gas production, storage or transmission properties;
- (16) Plating plants;
- (17) Printing and publishing facilities;

- (18) Research and analytical laboratories;
- (19) Sewage and storm drainage facilities pumping stations;
- (20) Zoological and horticultural gardens;
- (21) All cemetery sprinkler systems;
- (22) Pet grooming and veterinarian facilities, kennels, stockyards and feedyards;
- (23) Swimming pools;
- (24) Cooling coil service lines (refrigeration, air conditioning and the like);
- (25) All hot water and steam boiler heating systems with water recirculating;
- (26) Lawn irrigation systems. All lawn irrigation systems must have a pressure vacuum breaker or dual check valve assembly;
- (27) Hose connections. All garden hose type connections must have hose bib vacuum breakers;
- (28) Yard hydrants. The installation of new or replacement yard hydrants where water is available or accessible for drinking or culinary purposes, and which have a drip opening below the ground surface, is prohibited unless the hydrants are equipped with an approved device to prevent entrance of groundwater into chambers connected with the water supply. Yard hydrants or hose bibs which would be used by the consumer to provide water to mix pesticides, fertilizer or other chemicals for direct use or aerial application to surface areas shall be equipped with an anti-siphon vacuum breaker;
- (29) Booster pumps. No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises, unless the booster pump is equipped with a low pressure cutoff designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 pounds per square inch gauge or less. It shall be the duty of the customer to maintain the low pressure cutoff device in proper working order. The Utilities Director may require testing at any time if it is suspected that a problem exists with the device; and
- (30) Multistoried buildings greater than 3 stories. These facilities, falling into 1 or more of the categories listed in this section, will be given 6 months after passage of the ordinance from which this subchapter is derived to comply with this subchapter, except those facilities or systems which are determined by the city's Water Department to be an immediate or severe health hazard, in which case that system or facility shall be required to comply immediately with this subchapter.

**§ 52.84 APPROVED BACKFLOW PREVENTION DEVICES.**

(A) Any backflow prevention device required by this subchapter shall be of a model or construction approved by the city's Water Department.

(1) An air gap separation, to be approved, shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than 1 inch.

(2) A double checkvalve assembly or a reduced pressure principle backflow prevention device shall be approved by the city's Water Department and shall appear on the current list of approved backflow prevention devices established by the Water Department.

(B) Existing testable backflow prevention devices approved by the water purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this subchapter so long as the city's Water Department is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or requires more than minimum maintenance, or when the Water Department finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this subchapter.

**§ 52.85 INSTALLATION OF BACKFLOW PREVENTION DEVICES.**

(A) Backflow prevention devices required by this subchapter shall be installed by licensed plumber at a location and in a manner approved by the city's Water Department or according to the latest addition of the Uniform Plumbing Code, and shall be installed at the expense of the water consumer.

(B) Backflow prevention devices installed on the service line to the consumer's water system shall be located on the consumer's side of the water meter, and prior to any other connection.

(C) Backflow prevention devices shall be located so as to be readily accessible for maintenance and testing, and protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid.

(D) Backflow prevention devices for underground sprinklers that have an opening to the atmosphere shall be located at least 12 inches from the bottom of the valve above the highest ground served by the sprinkler system.

**§ 52.86 INSPECTION AND MAINTENANCE OF BACKFLOW PREVENTION DEVICES.**

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by this subchapter are installed to have inspections,

tests and overhauls made by licensed state-certified backflow tester/repair technicians in accordance with the following schedule, or more often where inspections indicate a need.

(1) Air gap separations shall be inspected at the time of installation and at least every 12 months thereafter.

(2) Double checkvalve assemblies shall be inspected and tested for tightness at the time of installation and at least every 12 months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed, and at least every 3 years.

(3) Reduced pressure principle backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every 12 months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed, and at least every 5 years.

(B) Overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by a state-certified backflow prevention device tester.

(C) Backflow prevention devices designed with testing cocks shall be inspected and tested each year, and the tests shall be performed by a state-certified backflow prevention device tester and will be at the expense of the water consumer except as stated in division (G) below.

(D) Whenever backflow prevention devices required by this subchapter are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay.

(E) The water consumer must maintain a complete record of each backflow prevention device that has test cocks, from purchase to retirement. Records of inspections, tests, repairs and overhauls performed by others shall be submitted to the city's Water Department annually.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective.

(G) Lawn irrigation backflow devices designed with testing cocks shall be inspected and tested at the time of installation and at least every 3 years thereafter. The tests shall be performed by a state-certified backflow prevention device tester and will be at the expense of the water consumer.

(H) Further regulations concerning the installation of sprinkler systems and backflow prevention devices are found in the latest edition of the Uniform Plumbing Code.

## **§ 52.079 VIOLATIONS; ABATEMENT ACTIONS.**

(A) The city's Water Department or water purveyor shall have the right to deny or discontinue, after 10 days' notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this subchapter is not installed, tested and maintained in a manner acceptable to the city's Water Department; if it is found that the backflow prevention device has been removed or bypassed; if an unprotected cross connection exists on the premises; or if the consumer fails to provide the periodic survey as requested according to § 52.081 of the subchapter.

(B) Water service to the premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this subchapter to the satisfaction of the city's Water Department.

(C) The appropriate state or local regulatory agency, City Manager Council shall be advised of inspection findings, and the violation abatement action pursued by the city's Water Department, and consulted prior to violation abatement action on items having to do with public health significance.

Section 3. That the City of McCook Code of Ordinances, Chapter 50, entitled "Municipal Utilities", in Title V "Departments", Section 50.01 Delinquent Bill Charges, shall be and hereby is amended to read as follows:

### **§ 50.01 DELINQUENT BILL CHARGES.**

All bills of the city for utility service charges shall be delinquent if not paid by 4:00 P.M., twenty-two (22) days after the date of the bill. If said date falls on a weekend or holiday, payment will be accepted until 4:00 P.M. on the next business day. All utility service charges not paid within that time shall incur an administrative handling charge as set forth in Chapter 38, Fee Schedule to reflect the additional costs incurred by the city in rebilling, sending delinquency notices, and otherwise handling the unpaid account. Payment of this handling charge will be required to avoid disconnection, and before reconnection.  
(Prior Code, § 3-1103) (Ord. 2006-2782, passed 11-6-2006)

Section 4. That the City of McCook Code of Ordinances, Chapter 38, entitled "Fee Schedule", in Title III "Administration", Appendix C: Delinquent Bill Charges, shall be and hereby is amended to read as follows:

### **APPENDIX C: DELINQUENT BILL CHARGES.**

All bills of the city for utility service charges shall be delinquent if not paid by 4:00 P.M., twenty-two (22) days after the date of the bill. If said date falls on a weekend or holiday, payment will be accepted until 4:00 P.M. on the next business day. All utility service charges not paid within that time shall incur an administrative handling charge of \$15 to reflect the additional costs incurred by the city in rebilling, sending delinquency notices, and otherwise handling the

unpaid account. Payment of this handling charge will be required to avoid disconnection, and before reconnection.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

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Linda Taylor, Ex-Officio Mayor  
and President of the Council

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer