

ORDINANCE NO. _____

1 AN ORDINANCE amending subsections (a) and (b) of Section 27.63.680 of the
2 Lincoln Municipal Code, Sale of Alcoholic Beverages for Consumption On the Premises, to define
3 restaurant under subsection (a), and to add the sale of alcoholic beverages for consumption on the
4 premises of a restaurant as a special permitted use in the O-3 district under subsection (b); and
5 repealing Section 27.63.680 of the Lincoln Municipal Code as hitherto existing.

6 Section 1. That Section 27.63.680 of the Lincoln Municipal Code be amended to
7 read as follows:

8 **27.63.680 Sale of Alcoholic Beverages for Consumption On the Premises.**

9 (a) The sale of alcoholic beverages for consumption on the premises may be allowed in
10 the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 zoning districts and on the premises of a restaurant
11 in the O-3 district upon the approval of a special permit subject to the requirements of the respective
12 districts, all applicable ordinances, and the following conditions:

- 13 (1) Parking shall be in conformance with Chapter 27.67.
- 14 (2) The sale of alcoholic beverages for consumption off the premises shall not
15 be permitted without issuance of a separate special permit under Section
16 27.63.685 of this code.
- 17 (3) The designated area specified in a license issued under the Nebraska Liquor
18 Control Act of any building approved for such activity must be located no
19 closer than (i) 100 feet from the property line of a premises used in whole or
20 in part for a first-floor residential use, day care facility, park, church, or state
21 mental health institution, or (ii) 100 feet from a residential district (except
22 where such use is accessory to a golf course, country club, farm winery, or
23 market garden).
- 24 (4) Any lighting on the property shall be designed and erected in accordance
25 with all applicable lighting regulations and requirements.

- 1 (5) Vehicle stacking for a drive-through window used as any part of the
2 permitted business operation shall not be located in any required building
3 setback from a residential district.
- 4 (6) The use shall not have any amplified outside sound or noise source, including
5 bells, buzzers, pagers, microphones, or speakers within 150 feet of any
6 residential district. This shall not apply to sound sources audible only to the
7 individual to whom they are directed, such as personal pagers, beepers, or
8 telephones.
- 9 (7) No access door to the business, including loading or unloading doors, shall
10 face any residential district if such doors are within 150 feet of the residential
11 district. This shall not apply to emergency exit doors required by building
12 or safety codes. No door facing a residential district shall be kept open
13 during the operation of the establishment.
- 14 (8) Vehicular ingress and egress to and from the property shall be designed to
15 avoid, to the fullest extent possible, disruption of any residential district.
16 Particular attention shall be given to avoiding designs that encourage use of
17 residential streets for access to the site instead of major streets.
- 18 (9) All other regulatory requirements for liquor sale shall apply, including
19 licensing by the state.

20 For the purposes of this subsection (a), restaurant shall mean any place (i) which is kept,
21 used, maintained, advertised, and held out to the public as a place where meals are served and where
22 meals are actually and regularly served; (ii) which has no sleeping area; and (iii) which has adequate
23 and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of
24 employees to prepare, cook, and serve suitable food for its guests.

25 (b) In addition, a special permit may be granted to allow alcoholic beverages to be sold
26 for consumption on the premises of a restaurant in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, **and**
27 I-3, and O-3 districts subject to the requirements of the respective districts, all applicable
28 ordinances, and the following conditions:

- 29 (1) The Permittee as the holder of any liquor license issued on the premises
30 pursuant to a special permit for the sale of alcoholic beverages for
31 consumption on the premises of a restaurant shall agree in writing to
32 voluntarily surrender and consent to the cancelling of the liquor license in the

1 event the special permit is revoked by the City. If the Permittee is not the
2 holder of the liquor license, the Permittee shall require such holder to agree
3 in writing to voluntarily surrender and consent to the cancelling of the liquor
4 license in the event the special permit is revoked by the City. In addition, the
5 City shall request that the Nebraska Liquor Control Commission issue the
6 liquor license contingent upon the premises having such special permit.

- 7 (2) The restaurant shall be located at least 25 feet away from a residential
8 zoning district.
- 9 (3) Gross sales from the sale of alcoholic beverages shall not exceed forty
10 percent (40%) of the gross sales of food and beverages. Upon request of the
11 City, the license holder/ operator shall provide sales receipts for the past six
12 (6) months for the purpose of demonstrating that no more than 40% of the
13 restaurant's gross sales are derived from the sale of alcohol
- 14 (4) The restaurant shall serve full-course meals as defined by *Neb. Rev. Stat.*
15 § 53-123.04(c)(3) during the hours of operation.
- 16 (5) Hours of operation must not commence prior to 8:00 a.m. and shall end no
17 later than 11:00 p.m.
- 18 (6) Hours of outdoor operation must not commence prior to 8:00 a.m. and shall
19 end no later than 10:00 p.m.
- 20 (7) The restaurant shall not have any gaming devices or self-serve vending.
21 Gaming devices include pool tables, dart boards, keno. Self-serve vending
22 includes candy machines and drink machines that use electricity.
- 23 (8) No drive-through windows shall be allowed.
- 24 (9) The sale of alcoholic beverages for consumption off the premises shall not
25 be permitted without issuance of a separate special permit under Section
26 27.63.685 of this code.

27 For the purposes of this subsection (b), restaurant shall mean any place (i) which is kept,
28 used, maintained, advertised, and held out to the public as a place where meals are served and where
29 meals are actually and regularly served; (ii) which has no sleeping area; and (iii) which has adequate
30 and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of
31 employees to prepare, cook, and serve suitable food for its guests.

32 (c) Alcoholic beverages may also be sold for consumption on the premises as an
33 accessory use to a golf course or country club as part of a separate special permit under Section
34 27.63.130 approving the golf course or country club in any district where recreational facilities are
35 allowed as a permitted use, permitted conditional use, or permitted special use.

36 (d) The City Council may consider any of the following as cause to revoke the special
37 permit approved under these regulations:

- 1 (1) Revocation or cancellation of the liquor license for the specially permitted
- 2 premises;
- 3 (2) Repeated violations related to the operation of the permittee's business; or
- 4 (3) Repeated or continuing failure to take reasonable steps to prevent unreason-
- 5 able disturbances and anti-social behavior on the premises related to the
- 6 operation of the permittee's business including, but not limited to, violence
- 7 on site, drunkenness, vandalism, solicitation, or litter.

8 Notwithstanding the above, no special permit or amendment thereto shall be required for
9 interior expansions of existing licensed liquor premises.

10 Section 2. That Section 27.63.680 of the Lincoln Municipal Code as hitherto existing
11 be and the same is hereby repealed.

12 Section 3. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
13 be posted on the official bulletin board of the City, located on the wall across from the City Clerk's
14 office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of passage
15 and such posting to be given by publication one time in the official newspaper by the City Clerk.
16 This ordinance shall take effect and be in force from and after its passage and publication as herein
17 and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2014: _____ Mayor
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