

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 27.63 of the Lincoln Municipal Code relating to
2 Special Permits by amending Section 27.63.685 to create an exception for grocery stores which
3 reduces the required separation distance between the premises licensed to sell off-sale alcohol
4 and first floor residential use, day care facilities, parks, churches, state mental health facilities,
5 and residential zoning districts from 100 feet to 25 feet in zoning districts B-1, B-3, H-1, H-2, H-
6 3, H-4, I-1, and I-3, and repealing Section 27.63.685 as hitherto existing.

7 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8 Section 1. That Section 27.63.685 of the Lincoln Municipal Code be amended to read as
9 follows:

10 **27.63.685 Sale of Alcoholic Beverages for Consumption Off the Premises.**

11 | (a) Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3,
12 | H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A special
13 | permit for such use may be granted subject to the requirements of the respective districts, all
14 | applicable ordinances, and the following conditions:

15 | (1a) Parking shall be in conformance with Chapter 27.67 of the Lincoln Municipal
16 | Code.

17 | (2b) The sale of alcoholic beverages for consumption on the premises shall not be
18 | permitted without issuance of a permit under Section 27.63.680 of this code.

19 | (3e) The licensed premises of any building approved for such activity must be
20 | located no closer than (i) 100 feet from the property line of a premises used in
21 | whole or in part for a first-floor residential use, day care facility, park, place of

1 religious assembly, or state mental health institution, or (ii) 100 feet from a
2 residential district.

3 | (4d) Any lighting on the property shall be designed and erected in accordance with
4 | all applicable lighting regulations and requirements.

5 | (5e) Vehicle stacking for a drive-through window used as any part of the permitted
6 | business operation shall not be located in any required building setback from a
7 | residential district.

8 | (6f) The use shall not have any amplified outside sound or noise source, including
9 | bells, buzzers, pagers, microphones, or speakers within 150 feet of any
10 | residential district. This shall not apply to sound sources audible only to the
11 | individual to whom they are directed, such as personal pagers, beepers, or
12 | telephones.

13 | (7g) No access door to the business, including loading or unloading doors, shall
14 | face any residential district if such doors are within 150 feet of the residential
15 | district. This shall not apply to emergency exit doors required by building or
16 | safety codes. No door facing a residential district shall be kept open during the
17 | operation of the establishment.

18 | (8h) Vehicular ingress and egress to and from the property shall be designed to
19 | avoid, to the fullest extent possible, disruption of any residential district.
20 | Particular attention shall be given to avoiding designs that encourage use of
21 | residential streets for access to the site instead of major streets.

22 | (9i) All other regulatory requirements for liquor sale shall apply, including
23 | licensing by the state.

1 (b) In addition, a special permit may be granted to allow alcoholic beverages to be
2 sold for consumption off the premises of a grocery store in the B-1, B-3, H-1, H-2, H-3, H-4, I-1,
3 and I-3 zoning districts subject to the requirements of the respective districts, all applicable
4 ordinances, and the following conditions:

5 (1) The Permittee, as the holder of any liquor license issued on the premises
6 pursuant to a special permit for the sale of alcoholic beverages for
7 consumption off the premises of a grocery store, shall agree in writing to
8 voluntarily surrender and consent to the cancelling of the liquor license in
9 the event the special permit is revoked by the City. If the Permittee is not
10 the holder of the liquor license, the Permittee shall require such holder to
11 agree in writing to voluntarily surrender and consent to the cancelling of
12 the liquor license in the event the special permit is revoked by the City. In
13 addition, the City shall request that the Nebraska Liquor Control
14 Commission issue the liquor license contingent upon the premises having
15 such special permit.

16 (2) The licensed premises of any building approved for such activity must be
17 no closer than:

18 (i) 25 feet, a public alley, or a public street from the property line of a
19 premises used in whole or in part for a first-floor residential use,
20 day care facility, park, place of religious assembly, or state mental
21 institution or from a residential district, and

22 (ii) the nearest public entrance shall be located at least 100 feet away
23 from the property line of a premises used in whole or in part for a

1 first floor residential use, day care facility, park, place of religious
2 assembly, or state mental institution or from a residential district.

3 (3) The applicant must provide a copy of its Nebraska Department of
4 Agriculture Food Establishment Permit upon application for the special
5 permit.

6 (4) No drive-through windows shall be allowed.

7 (5) The sale of alcoholic beverages for consumption on the premises shall not
8 be permitted without issuance of a separate special permit under Section
9 27.63.680 of this code.

10 (c) For the purposes of this section, grocery store shall mean a licensed food
11 establishment that:

12 (1) displays and sells fresh and packaged foods and may include a bakery,
13 delicatessen, or prescription pharmacy;

14 (2) maintains at all times a complete assortment of saleable food products for
15 off-site consumption;

16 (3) derives at least 65% of its gross income from the retail sale of food items;
17 and

18 (4) maintains that it is open to the public.

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

21 (1) Revocation or cancellation of the liquor license for the specially permitted
22 premises; or

23 (2) Repeated violations related to the operation of the permittee's business.

1 Notwithstanding the above, no special permit or amendment thereto shall be required for
2 interior expansions of existing licensed liquor premises or for a farm winery.

3 Section 2. That Section 27.63.685 of the Lincoln Municipal Code as hitherto existing
4 be and the same is hereby repealed.

5 Section 3. This ordinance shall be published, within fifteen days after the passage
6 hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted
7 on the official bulletin board of the City, located on the wall across from the City Clerk's office
8 at 555 S. 10th Street, in lieu and in place of the foregoing newspaper publication with notice of
9 passage and such posting to be given by publication one time in the official newspaper by the
10 City Clerk. This ordinance shall take effect and be in force from and after its passage and
11 publication or after its posting and notice of such posting given by publication as herein and in
12 the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2018:

Mayor