

RESOLUTION NO. A-_____

1 WHEREAS, Elizabeth Wanamaker on behalf of Hansen Werner Inc. dba The
 2 Cookie Company ("The Cookie Company") has submitted an application for a Sidewalk
 3 Cafe Permit to use a portion of the public right-of-way of N. 12th Street adjacent to The
 4 Cookie Company at 138 N. 12th Street as a sidewalk cafe; and

5 WHEREAS, the applicant is willing to comply with all of the provisions of
 6 Chapter 14.50 of the Lincoln Municipal Code pertaining to such use; and

7 WHEREAS, the application has been reviewed by the Planning Department,
 8 the Public Works and Utilities Department, and the Urban Design Committee, each of
 9 which has submitted a report in conformance with § 14.50.050 of the Lincoln Municipal
 10 Code.

11 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
 12 Lincoln, Nebraska:

13 That the application of The Cookie Company hereinafter referred to as
 14 "Permittee", to operate a sidewalk cafe in a portion of the public right-of-way of N. 12th
 15 Street adjacent to The Cookie Company at 138 N. 12th Street is hereby approved
 16 conditioned upon such use conforming to the application which is attached hereto as
 17 Exhibit "A", the site plan which is attached hereto as Exhibit "B", the provisions of Chapter
 18 14.50 of the Lincoln Municipal Code and the following express terms, conditions, and
 19 requirements:

20 1. This permit authorizes a "Grillwalker"/sidewalk café within the permit
 21 area as shown on the site plan.

22 2. Permittee shall maintain a clear, unobstructed passageway entirely
 23 across the frontage of the property occupied by the Permittee parallel to the line of the
 24 street and generally in the line of pedestrian traffic as shown on the site plan.

1 3. The space to be occupied by this use shall only be used for the activity
2 or activities specified on the permit and in accordance with all applicable regulations.

3 4. Such use is temporary and the Permittee by the granting of this permit,
4 acquire no right, title, or interest in the space permitted to be used.

5 5. The City Council may require such space to be vacated, restored to
6 its prior condition upon demand, and its use discontinued, with no recourse against the City
7 for any loss or damage occasioned thereby. If any such space is not vacated and restored
8 to its prior condition and such use not discontinued by the time specified, the City may
9 remove from such space any property left thereon at the risk and expense of the Permittee
10 and restore such space to its prior condition at the expense of the Permittee.

11 6. The Permittee shall promptly remove any litter deposited on or in the
12 vicinity of the space used by the Permittee resulting from the activity or activities conducted
13 by the Permittee.

14 7. The Permittee shall at all times conduct its use of the space in an
15 orderly fashion and in such a manner as to protect the public health and safety.

16 8. Such space shall be used for business purposes by Permittee only
17 between the hours of 11:30 a.m. to 2:00 p.m. Monday through Friday, and 11:30 p.m.
18 Friday through 1:30 a.m. Saturday and 11:30 p.m. Saturday through 1:30 a.m. Sunday.

19 9. The Permittee shall comply with all health and sanitation regulations.

20 10. The permit issued pursuant to this section is a personal privilege and
21 may not be transferred or alienated voluntarily or involuntarily.

22 11. Where exigent circumstances exist and a police officer or other
23 authorized officer or employee of the City gives notice to Permittee to temporarily move
24 from a location, Permittee shall comply with the notice. Exigent circumstances shall
25 include, but not be limited to, unusually heavy pedestrian vehicular traffic, existence of any
26 obstructions in the public space at or near such location, an accident, fire, or other

1 emergency situation at or near such location, or parade, demonstration, or other such
2 event or occurrence at or near such location.

3 12. Permittee shall not sound or permit the sounding of any signal from
4 any stationery bell, chime, siren, whistle, or device for non-emergency purposes or use or
5 operate any loud speaker, public address system, radio, sound amplifier, or similar device
6 which may be heard beyond 50 feet from its source.

7 13. No advertising shall be permitted on or in the sidewalk cafe except to
8 identify the product or vendor and shall in all respects comply with the provisions of Titles
9 22 and 27 of the Lincoln Municipal Code regulating signage.

10 14. Any umbrella, canopy, or similar device within the permit area shall be
11 no more than 6½ feet above ground level.

12 15. The sidewalk cafe shall be located only in the exact location described
13 in the approved application, and the approved furnishings may not be modified or
14 substituted.

15 16. The Permittee shall at all times maintain public liability insurance in the
16 form of a commercial or comprehensive general liability policy, or an acceptable substitute
17 policy form as permitted by the City Attorney, with a minimum combined single limit of
18 \$500,000 aggregate for any one occurrence, and shall at all times keep on file with the City
19 Clerk a current certificate of insurance signed by a qualified agent of an insurance
20 company licensed to do business in the State of Nebraska evidencing the existence of
21 valid and effective policies of insurance naming the City as an additional insured for the
22 coverage required above, the limits of each policy, the policy number, the name of the
23 insurer, the effective date and expiration date of each policy, the deductibles or self-
24 insurance retainers of each policy, and a copy of an endorsement placed on each policy
25 requiring 30 days notice by mail to the City Clerk before the insurer may cancel the policy
26 for any reason, and upon request of the City Clerk or the City Attorney, a copy of any

1 endorsements placed on such policies or the declarations page of such policies. Any
2 termination or elapse of such insurance shall automatically revoke this permit.

3 17. This permit shall expire on the 31st day of May following its issuance,
4 but renewal of the permit may be made for one-year periods by application to the City Clerk
5 and payment of the annual permit fee as set forth in Chapter 14.50 and the payment of the
6 rental for the use or occupation of the space computed as follows: \$.25 per annum for
7 each square foot of the permit area (55.25 square feet) for an annual rental of \$13.81;
8 provided, however, said rental may be increased for future years by action of the City
9 Council.

10 18. That within thirty (30) days from the adoption of this resolution, and
11 before commencing any construction under the provisions hereof, the above-named
12 applicant shall execute the letter of acceptance attached hereto and marked as Exhibit "C".
13 Failure to do so will be considered a rejection hereof and all privileges and authorities
14 hereunder granted shall thereupon ipso facto terminate.

Introduced by:

Approved as to Form and Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Approved this ___ day of _____, 2002:

Mayor