

Chapter 5.21

ENTERTAINMENT DISTRICTS

Sections:

- 5.21.010 Declared Legislative Intent.**
- 5.21.020 Definitions.**
- 5.21.030 Entertainment District; Designation and Entertainment District Permit.**
- 5.21.040 Common Area; Design Requirements.**
- 5.21.050 Entertainment District Designation and Entertainment District Permit; Application.**
- 5.21.060 Entertainment District Designation and Entertainment District Permit; Additional Terms.**
- 5.21.070 Entertainment District Designation and Permit; Modifications.**
- 5.21.080 Entertainment District Designation and Permit; Renewals.**
- 5.21.090 Entertainment District Designation and Permit; Complaints.**
- 5.21.100 Severability and Savings Clause.**

5.21.010 Declared Legislative Intent.

It is hereby declared to be the intent and purpose of the City Council in adopting and administering the provisions of this chapter:

(a) To encourage economic growth areas near entertainment venues by providing exciting, vibrant, and diverse restaurants, retail, and lodging that will support and compliment the entertainment venue;

(b) To provide for the regulation of areas designated as Entertainment District(s) and commons area(s) contained within the Entertainment District(s); and

(c) To protect the health, safety, and/or welfare of the public in the Entertainment District(s). (Ord. 19874 §5; May 6, 2013).

5.21.020 Definitions.

Commons area shall have the same meaning as set forth in Section 5.04.020 of this Code.

Entertainment District shall mean an area of real property designated and permitted by City Council pursuant to this Chapter whereby the Nebraska Liquor Control Commission may issue annual entertainment district licenses pursuant to the Nebraska Liquor Control Act to allow retail licensees, craft brewery licensees, and/or microdistillery licensees to share in the use of one or more commons areas.

Entertainment District Review Committee shall mean a committee consisting of a representative of the Mayor's Office, City Clerk's Office, Urban Development Department, Police Department, Health Department, Planning Department, Public Works and Utilities Department, and the Bureau of Fire Prevention.

Entertainment venue shall mean a structure or premises open to the public to view or participate in live arts or theatrical performances, concerts, or other live entertainment events such as sporting events, and with a minimum indoor viewing area occupancy of 750 persons. An

entertainment venue shall not be a residence, hotel or other lodging facility, facility predominantly used for private events, school, a movie theater, or other similar facility or business where live entertainment is not the primary focus. A structure or premises shall not be deemed an entertainment venue if it has not been open to the public for live entertainment events for a period of two years prior to the date of the application, or if it will not be open to the public for live entertainment events within ninety days from the date of City Council approval of an Entertainment District designation.

Internal Liquor Committee shall mean a committee created pursuant to Resolution A-75247.

Promotional Association shall mean an association legally formed pursuant to the laws of the State of Nebraska which is organized for the purpose of applying for and maintaining an Entertainment District designation and permit. Membership shall consist of at least all property owners owning real property contained within the boundaries of the Entertainment District. The promotional association must have authority to manage and control common areas where liquor licenses may be issued and any events that occur within the common area, or events requiring a Special Event Permit or Special Designated Liquor License. (Ord. 19874 §6; May 6, 2013).

5.21.030 Entertainment District; Designation and Entertainment District Permit.

(a) After a public hearing, the City Council shall have the discretion to designate an area of real property as an Entertainment District and authorize by resolution for the City Clerk to issue an Entertainment District Permit to the common property owner or promotional association where the area of real property:

(1) Includes an entertainment venue or the proposed boundary line of the Entertainment District is within 500 feet of an entertainment venue's primary entrance as determined by the City of Lincoln;

(2) Includes not less than 20,000 square feet of leasable space intended for retail, entertainment, shopping, restaurants, art galleries, and outdoor dining uses. Such leasable space does not need to be contiguous, but the calculation of the 20,000 square feet of leasable space shall not include the square footage of any entertainment venue, common hallways and bathrooms, parking garage or lot, storage areas, residential or lodging facilities, or outdoor space not used for outdoor dining;

(3) Includes one or more common areas; and

(4) Is under the same common ownership, or has been placed under the control of a promotional association;

(5) Is zoned B-4 Lincoln Center Business District.

(b) The City Council may impose additional Entertainment District Permit requirements or restrictions on the property or operation of businesses in the Entertainment District to include, but not limited to, boundaries, barriers, access, design, types of business and uses, hours of operation, and types of events.

(c) The City Clerk is authorized to issue an Entertainment District Permit upon satisfaction of the following:

(1) The City Council, by resolution, has designated the area of real property as an Entertainment District and has granted the City Clerk the authority to issue an Entertainment District Permit;

(2) The City Clerk has received payment of the Entertainment District application fee and the Entertainment District Permit fee; and

(3) The applicant has provided satisfactory documentation to the City Clerk that all requirements or restrictions imposed by City Council, Chapter 5.04, or this chapter have been met.

(d) The City Council may amend, suspend, revoke, or may elect not to approve an any subsequent renewal application for an Entertainment District designation and issuance of an Entertainment District Permit, if the City Council determines that:

(1) The Entertainment District and/or commons area(s):

(i) Does not or has not meet the requirements or restrictions under this chapter, Chapter 5.04, or the terms and conditions of the Entertainment District Permit previously issued by the City Clerk;

(ii) Is or has been a threat to the health, safety, and/or welfare of the public; and/or

(iii) Is or has been a common nuisance; or

(2) Information in the application is found to be false, misleading, and/or fraudulent.

(e) The City Council may grant the City Clerk authority to extend the City Council's Entertainment District designation for up to two (2) additional periods of two (2) years and to issue a new Entertainment District Permit without requiring a renewal application to be submitted to and approved by the City Council, as provided in this chapter. However, the permittee must appear before the City Council once every six (6) years.

(f) The City Council's designation of an area of real property as an Entertainment District shall immediately terminate upon the date of expiration, suspension, or revocation of the Entertainment District Permit. (Ord. 19874 §7; May 6, 2013).

5.21.040 Common Area; Design Requirements.

(a) A commons area within an Entertainment District shall be an outdoor area not less than 4,500 square feet in size, be located on private property, and closed to vehicular traffic when used as a commons area. A commons area may be extend onto property owned by the City of Lincoln by a Sidewalk Café Permit or Special Event Permit. The size calculation shall not include any property owned by the City of Lincoln.

(b) A commons area shall have limited pedestrian accessibility by the use of a fence or other rigid barrier that is permanent or semi permanent, and is a minimum of thirty-six inches tall. Entrances and exits located on private property shall not exceed sixteen (16) feet in width, and shall be designed with the ability to reduce or close access. The number and size of entrances and exits shall be approved by the City Council, and may vary between Entertainment Districts.

(c) A commons area shall be used as a place for outdoor dining and entertainment events.

(d) The City Council may impose additional requirements or restrictions upon the commons area to include, but not be limited to, boundaries, barriers, access, design, types of businesses and uses, hours of operation, and events. (Ord. 19874 §8; May 6, 2013).

5.21.050 Entertainment District Designation and Entertainment District Permit; Application.

(a) An application for an Entertainment District designation and Entertainment District Permit shall be made and executed under oath by the common property owner of the real property or by members of a promotional association if the real property is owned by two or more persons, not under common ownership.

(b) An application for an Entertainment District designation and Entertainment District Permit shall be submitted to the City Clerk along with a nonrefundable application fee of \$500.00 and shall include:

(1) A to-scale architectural drawing showing the real property and location of all buildings, sidewalks, streets, proposed common area(s), barriers, and location and distance to the entertainment venue; and

(2) If the area of real property to be designated as an Entertainment District is not separated from neighboring property by a public or private street, a copy of a written notice to the neighboring property owner(s) of the application for designation of an Entertainment District and evidence of receipt of such notice by the neighboring property owners. At a minimum the notice shall provide the applicant's contact information and a to-scale drawing of the proposed Entertainment District showing location of buildings and any proposed commons area(s).

(3) Any other information required by the City of Lincoln on forms provided by the City Clerk.

(c) Upon receipt of the completed application and application fee, the City Clerk shall forward the application to the Entertainment District Review Committee and, where appropriate, to the Urban Design Committee or the Internal Liquor Committee. The committee(s) shall provide the City Clerk with a written recommendation of approval, approval with conditions, or denial within sixty (60) days of receipt of the completed application and application fee by the City Clerk. Upon receipt of the committee recommendation(s), the City Clerk shall schedule the application on the City Council agenda. The City Clerk shall forward the application and committee recommendation(s) to the City Council for approval or denial of designation, and authority to issue an Entertainment District Permit.

(d) An Entertainment District designation and Entertainment District Permit shall not become effective until an Entertainment District Permit Fee of \$2,500.00 has been paid to the City Clerk. The permit fee shall not be refundable. The applicant shall have ninety (90) days from the date of the City Council's approval to make such payment, or the application shall be deemed withdrawn by applicant. (Ord. 19874 §9; May 6, 2013).

5.21.060 Entertainment District Designation and Entertainment District Permit; Additional Terms.

(a) The permittee shall have a continuous duty to provide written notification to the City Clerk of any change in ownership of the property within the Entertainment District or legal status of the promotional association at least thirty (30) days prior to the effective date of the change.

(b) The permittee shall have a continuous duty to provide written notification to the City Clerk of the name of the manager required by this chapter within thirty (30) days of employment by the permittee.

(c) An Entertainment District designation and Entertainment District Permit shall be valid for a period two (2) years from the date of issuance of the Entertainment District Permit by the City Clerk except as follows:

(1) If all the property within the Entertainment District is under common ownership and one or more parcels of the property is sold, the designation and permit shall expire six (6) months following the date of such sale;

(2) If a promotional association is the permittee and the promotional association is dissolved, the designation and permit shall expire immediately; or

(3) If the Entertainment District Permit is revoked for cause by City Council, the designation and permit shall expire immediately.

(d) The City of Lincoln may conduct investigations, reviews, and/or hearings relating to the Entertainment District designation and/or Entertainment District Permit.

(e) A permittee who fails to renew the Entertainment District Permit before the expiration date shall be considered to be operating without a valid designation and permit. Alcoholic liquor shall be unlawful in an area previously designated as a commons area unless proper licenses and/or permits are obtained. Failure to prohibit alcohol liquor in the area previously designated as a commons area will result in immediate closure of the area by the City of Lincoln, or other appropriate enforcement action determined by the City of Lincoln.

(f) At all times, the property contained within the boundaries of the Entertainment District shall be in compliance with federal, state, and local laws including, but not limited to, zoning, fire prevention, building, plumbing, and electrical.

(g) It shall be unlawful for the permittee and/or the owner of the property contained within the boundaries of the Entertainment District to violate any of the conditions and restrictions contained in this chapter or Chapter 5.04, and/or the Entertainment District Permit. (Ord. 19874 §10; May 6, 2013).

5.21.070 Entertainment District Designation and Permit; Modifications.

(a) Prior to commencing any exterior building or commons area modifications, additions, or demolition, the permittee shall make application under oath for approval of the changes on forms provided by the City Clerk and shall include:

(1) A to-scale architectural drawing reflecting any proposed changes to, but not be limited, the buildings, sidewalks, streets, common area(s), barriers.

(2) A copy of written notice(s) provided by the permittee to neighboring property owner(s) unless the Entertainment District is separated from neighboring property owner(s) by a public or private street. The permittee shall provide written notice along with the permittee and/or manager's contact information and a to scale drawing of showing proposed changes. Evidence of receipt of the notice by the neighboring property owner(s) shall be included with the application.

(b) The City Clerk shall forward the application to the Entertainment District Review Committee and, where appropriate, to the Urban Design Committee or the Internal Liquor Committee. The committee(s) shall provide the City Clerk with a recommendation of approval, approval with conditions, or denial within sixty (60) days of receipt of the complete application and application fee by the City Clerk. The City Clerk is granted authority to issue an amended Entertainment District Permit to reflect the permittee's changes and, if applicable, committee conditions, except where:

(1) The permittee is requesting to increase the size or location of the commons area, entrances/exits of a commons area, or to increase the boundaries of the Entertainment District;

(2) The committee(s) recommend denial; and/or

(3) A neighboring property owner objects to the permittee's proposed changes, in which event the City Clerk shall schedule the application on the City Council agenda and forward the application to the City Council for approval or denial, and authority to issue an amended Entertainment District Permit. (Ord. 19874 §11; May 6, 2013).

5.21.080 Entertainment District Designation and Permit; Renewals.

(a) No earlier than six (6) months and no later than sixty (60) days prior to the expiration of the designation and the Entertainment District Permit, the permittee may apply for a renewal of the Entertainment District designation and issuance of a new permit. Any renewal application received outside of these time requirements will either be returned to the permittee or treated as a new application.

(b) A renewal application for the Entertainment District designation and issuance of a new Entertainment District Permit shall be made under oath on a form provided by the City Clerk and in the same manner prescribed for the original application. A renewal application and application fee of \$500.00 shall be submitted to the City Clerk. The application fee is not refundable. The renewal application shall also include:

(1) A detailed summary of the complaints received by the manager required by this chapter. Unless otherwise specified by the City of Lincoln, the summary shall be for at least a two (2) year period prior to the date of the renewal application;

(2) A list of events held in the commons area over the past two (2) years;

(3) If the area of real property to be designated as an Entertainment District is not separated from neighboring property by a public or private street, a copy of a written notice to the neighboring property owner(s) of the application for designation of an Entertainment District and evidence of receipt of such notice by the neighboring property owners. At a minimum the notice shall provide the applicant's contact information and a to-scale drawing of the proposed Entertainment District showing location of buildings and any proposed commons area(s).

(c) The City Clerk shall forward the application to the Entertainment District Review Committee and to the Internal Liquor Committee. The committees shall review the negative and positive effect on police and community resources including, but not limited to, protective custody services and admissions, calls for service, and criminal offenses such as noise disturbances, public urination, and assaults. Additionally, the committees may also consider additional information provided by the permittee, such as changes in revenue, new business ventures, and new entertainment opportunities. The committees shall provide the City Clerk with recommendations of approval, approval with conditions, or denials within sixty (60) days of the receipt of the complete renewal application and application fee by the City Clerk. If previously authorized by the City Council and the committees recommend approval without any conditions, the City Clerk may extend the City Council's Entertainment District designation for a period of two (2) years and issue a new Entertainment District Permit. Otherwise, the City Clerk shall schedule the application on the City Council agenda. The City Clerk shall forward the committee recommendation(s) and the application to the City Council for approval or denial of designation, and authority to issue a new Entertainment District Permit.

(d) A permit fee of \$2,500.00 for the new Entertainment District Permit shall be paid within fifteen (15) business days following the City Clerk's or City Council approval, or the renewal application shall be deemed withdrawn by the permittee. The permit fee shall not be refundable. The effective date of the renewal designation and the new Entertainment District Permit shall be the date following the expiration of the previous designation and permit. (Ord. 19874 §12; May 6, 2013).

5.21.090 Entertainment District Designation and Permit: Complaints.

The permittee shall appoint a manager to address all complaints regarding commons areas, events and/or operation of the Entertainment District. The name and telephone number of the manager shall be posted in entryways of buildings and other structures and in all commons areas within the Entertainment District. The manager shall make reasonable efforts to address each complaint. The manager shall keep a log of all complaints and follow up remarks occurring during the term of the Entertainment District Permit and shall maintain such records for a period of one (1) year following the expiration of the Entertainment District Permit, unless renewed. If the Entertainment District Permit is renewed, the permittee shall maintain such records for a period of five (5) years. The log shall be made available upon request by City Council, law enforcement, or staff of the City of Lincoln. (Ord. 19874 §13; May 6, 2013).

5.21.100 Severability and Savings Clause.

(a) Each section and each subdivision of a section of this chapter is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the passage of this ordinance is concerned and invalidity of any section or subdivision of a section of this chapter shall not invalidate any other section or subdivision of a section thereof.

(b) This chapter shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any ordinance or part of any ordinance hereby repealed; and this chapter shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any ordinance or part of any ordinance hereby repealed. (Ord. 19874 §14; May 6, 2013).