

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 27.63 of the Lincoln Municipal Code by
2 amending Section 27.63.130 to clarify that the section applies only to outdoor recreational facilities,
3 to provide that the Planning Commission may establish parking requirements for such outdoor
4 recreational facilities based on a determination of the parking needs and operation of the proposed
5 uses, and providing that, as part of the special permit for an outdoor recreational facility, the
6 Planning Commission may, subject to applicable locational requirements of Section 27.63.680,
7 permit the sale of alcoholic beverages for consumption on the premises as an accessory use;
8 amending Section 27.63.680 to allow the sale of alcoholic beverages for consumption on the
9 premises as an accessory use to an outdoor recreational facility as part of a separate special permit
10 for the outdoor recreational facility under Section 27.63.130; and repealing Sections 27.63.130 and
11 27.63.680 of the Lincoln Municipal Code as hitherto existing.

12 Section 1. That Section 27.63.130 of the Lincoln Municipal Code be amended to
13 read as follows:

14 **27.63.130 Recreational Facilities, Outdoor.**

15 Outdoor ~~Recreational~~ facilities may be allowed by special permit in the AG, AGR, R-1, R-2,
16 R-3, R-4, R-5, R-6, R-7, R-8, O-1, O-3, B-1, B-2, and B-3 zoning districts, in conformance with the
17 following conditions:

18 (a) The application for such special permit shall provide the following information:

- 19 (1) A statement describing all proposed accessory uses and accessory buildings
20 to be included as part of the outdoor recreational facility.

1 (2) A site plan showing the location, height, and use of all structures on the
2 parcel.

3 (b) Yard requirements in excess of those required in the district may be imposed. In the
4 AG district, the City Council may decrease the yard requirements with consideration given to both
5 the outdoor recreational facilities and the adjacent environment.

6 (c) ~~Parking shall be in conformance with Chapter 27.67; additional~~ The Planning
7 Commission may establish the parking requirements may be imposed based on a determination of
8 the parking needs and operation of the proposed uses; no parking shall be permitted in any required
9 yard. The application shall include the applicant's estimate of parking needed for the proposed
10 facility.

11 (d) Outdoor lighting of the outdoor recreational facility may be permitted in conformance
12 with the Design Standards for Outdoor Lighting.

13 (e) All buildings, including accessory buildings, shall be located so that they will not
14 adversely affect any existing or reasonably anticipated future uses in the surrounding area.

15 (f) The Planning Commission may authorize temporary structures which exceed the
16 maximum height requirements of the district in which they are located upon a finding by the
17 Planning Commission that there is sufficient justification for such an adjustment and that there will
18 be no significant adverse affect on existing or reasonably anticipated future uses in the surrounding
19 area.

20 (g) As part of the special permit for an outdoor recreational facility ~~for a golf course or~~
21 ~~country club~~, the Planning Commission may permit the sale of alcoholic beverages for consumption
22 on the premises as an accessory use to the ~~golf course or country club~~ outdoor recreational facility,

1 provided the applicable locational requirements of Section 27.63.680 have been met or waived by
2 the City Council.

3 Section 2. That Section 27.63.680 of the Lincoln Municipal Code be amended to
4 read as follows:

5 **27.63.680 Sale of Alcoholic Beverages for Consumption On the Premises.**

6 (a) The sale of alcoholic beverages for consumption on the premises may be allowed in
7 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
8 in the O-3 district upon the approval of a special permit subject to the requirements of the respective
9 districts, all applicable ordinances, and the following conditions:

10 (1) Parking shall be in conformance with Chapter 27.67.

11 (2) The sale of alcoholic beverages for consumption off the premises shall not
12 be permitted without issuance of a separate special permit under Section
13 27.63.685 of this code.

14 (3) The designated area specified in a license issued under the Nebraska Liquor
15 Control Act of any building approved for such activity must be located no
16 closer than (i) 100 feet from the property line of a premises used in whole or
17 in part for a first-floor residential use, day care facility, park, church, or state
18 mental health institution, or (ii) 100 feet from a residential district (except
19 where such use is accessory to a golf course, country club, farm winery, or
20 market garden).

21 (4) Any lighting on the property shall be designed and erected in accordance
22 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 (b) In addition, a special permit may be granted to allow alcoholic beverages to be sold
21 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
22 I-3 districts subject to the requirements of the respective districts, all applicable ordinances, and the
23 following conditions:

- 1 (1) The Permittee as the holder of any liquor license issued on the premises
2 pursuant to a special permit for the sale of alcoholic beverages for
3 consumption on the premises of a restaurant shall agree in writing to
4 voluntarily surrender and consent to the cancelling of the liquor license in the
5 event the special permit is revoked by the City. If the Permittee is not the
6 holder of the liquor license, the Permittee shall require such holder to agree
7 in writing to voluntarily surrender and consent to the cancelling of the liquor
8 license in the event the special permit is revoked by the City. In addition, the
9 City shall request that the Nebraska Liquor Control Commission issue the
10 liquor license contingent upon the premises having such special permit.
- 11 (2) The restaurant shall be located at least 25 feet away from a residential
12 zoning district.
- 13 (3) Gross sales from the sale of alcoholic beverages shall not exceed forty
14 percent (40%) of the gross sales of food and beverages. Upon request of the
15 City, the license holder/ operator shall provide sales receipts for the past six
16 (6) months for the purpose of demonstrating that no more than 40% of the
17 restaurant's gross sales are derived from the sale of alcohol
- 18 (4) The restaurant shall serve full-course meals as defined by *Neb. Rev. Stat.*
19 § 53-123.04(c)(3) during the hours of operation.
- 20 (5) Hours of operation must not commence prior to 8:00 a.m. and shall end no
21 later than 11:00 p.m.
- 22 (6) Hours of outdoor operation must not commence prior to 8:00 a.m. and shall
23 end no later than 10:00 p.m.

- 1 (7) The restaurant shall not have any gaming devices or self-serve vending.
2 Gaming devices include pool tables, dart boards, keno. Self-serve vending
3 includes candy machines and drink machines that use electricity.
- 4 (8) No drive-through windows shall be allowed.
- 5 (9) The sale of alcoholic beverages for consumption off the premises shall not
6 be permitted without issuance of a separate special permit under Section
7 27.63.685 of this code.

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

13 (c) Alcoholic beverages may also be sold for consumption on the premises as an
14 accessory use to ~~a golf course or country club~~ an outdoor recreational facility as part of a separate
15 special permit under Section 27.63.130 approving the ~~golf course or country club~~ outdoor
16 recreational facility in any district where outdoor recreational facilities are allowed as a permitted
17 use, permitted conditional use, or permitted special use.

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

- 20 (1) Revocation or cancellation of the liquor license for the specially permitted
21 premises;
- 22 (2) Repeated violations related to the operation of the permittee's business; or

1 (3) Repeated or continuing failure to take reasonable steps to prevent unreason-
2 able disturbances and anti-social behavior on the premises related to the
3 operation of the permittee's business including, but not limited to, violence
4 on site, drunkenness, vandalism, solicitation, or litter.

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

7 Section 3. That Sections 27.63.130 and 27.63.680 of the Lincoln Municipal Code
8 as hitherto existing be and the same are hereby repealed.

9 Section 4. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall
10 be posted on the official bulletin board of the City, located on the wall across from the City Clerk's
11 office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of passage
12 and such posting to be given by publication one time in the official newspaper by the City Clerk.
13 This ordinance shall take effect and be in force from and after its passage and publication as herein
14 and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2014:

Mayor