

ORDINANCE NO. 05- 679

AN ORDINANCE TO REVISE ORDINANCES OR CODE SECTIONS OR TO ENACT NEW ORDINANCES OR CODE SECTIONS OR TO REPEAL EXISTING ORDINANCES IN ORDER TO ADOPT STATUTORY CHANGES MADE BY THE LEGISLATURE WHICH ARE SPECIFIC AND MANDATORY AND BRING THE ORDINANCES OR CODE SECTIONS INTO CONFORMANCE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FRIEND, NEBRASKA:

Section 1. Section 2-203 of the Municipal Code is amended to read as follows:

BOARD OF ADJUSTMENT.

(A) The Mayor shall appoint, with the consent of the City Council, a Board of Adjustment, which shall consist of five regular members plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of three years and shall be removable for cause by the Mayor upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the city, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. Neither the Mayor nor any member of the City Council shall serve as a member of the Board of Adjustment.

(B) The members of the Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution of the City Council and conditioned upon the faithful performance of their duties. The Board shall organize at its first meeting each year after the City Council meeting when appointments are regularly made and shall elect from its membership a Chairperson and Secretary. No member of the Board of Adjustment shall serve in the capacity of both Chairperson and Secretary of the Board.

(C) The Board shall adopt rules in accordance with the provisions of this section and Neb. RS 19-901 to 19-914. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. It shall be the duty of the Secretary to keep complete and accurate minutes of

the Board's proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall be responsible for making such reports and performing such other duties as the Mayor and City Council may designate.

(Neb. RS 19-908)

(D) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(Neb. RS 19-909)

(E) The Board shall have only the following powers:

(1) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception;

(2) To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and

(3) When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

(F) No such variance shall be authorized by the Board unless it finds that:

(1) The strict application of the zoning regulation would produce undue hardship;

(2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(3) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and

(4) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(G) In exercising the powers granted in this section, the Board may, in conformity with Neb. RS 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation. (Neb. RS 19-910)

(H) Appeals from a decision by the Board may be taken as provided in Neb. RS 19-912.

Section 2. Section 1-515 of the Municipal Code is amended to read as follows:

VIDEOCONFERENCING.

(A) A meeting of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by means of videoconferencing if:

- (1) Reasonable advance publicized notice is given;
- (2) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;
- (3) At least one copy of all documents being considered is available to the public at each site of the videoconference;
- (4) At least one member of the governing body or advisory committee is present at each site of the videoconference; and
- (5) No more than one-half of the governing body's or advisory committee's meetings in a calendar year are held by videoconference.

(B) Videoconferencing or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(Neb. RS 84-1411)

(C) For the purpose of this section, the following definition applies.

VIDEOCONFERENCING. Conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

(Neb. RS 84-1409)

Section 3. Section 1-516 of the Municipal Code is amended to read as follows:

TELECONFERENCING.

(A) A meeting of the governing body of an entity formed under the Interlocal Cooperation Act or the Joint Public Agency Act or of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act may be held by telephone conference call if:

(1) The territory represented by the member public agencies of the entity or pool covers more than one county;

(2) Reasonable advance publicized notice is given which identifies each telephone conference location at which a member of the entity's or pool's governing body will be present;

(3) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the entity or pool or at a place which will accommodate the anticipated audience;

(4) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(5) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(6) At least one member of the governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice;

(7) The telephone conference call lasts no more than one hour; and

(8) No more than one-half of the entity's or pool's meetings in a calendar year are held by telephone conference call.

(B) Nothing in this section shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act. (Neb. RS 84-1411)

Section 4. Section 1-504 of the Municipal Code is amended to read as follows:

CLOSED SESSIONS.

(A) (1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct; or

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

(2) Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(B) The vote to hold a closed session shall be taken in open session. The vote of each member on the question of holding a closed session, the reason for the closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the minutes as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action means a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order,

or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under division (A)(1)(a) of this section.

(C) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (1) the protection of the public interest or (2) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(D) Nothing in this section shall be construed to require that any meeting be closed to the public.

(Neb. RS 84-1410)

Section 5. Section 1-517 of the Municipal Code is enacted to read as follows:

PROHIBITED ACTS; EXEMPT EVENTS.

(A) No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing this article or the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or electronic communication shall be used for the purpose of circumventing the requirements of this article or the act.

(B) This article does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(Neb. RS 84-1410)

Section 6. Section 1-701 of the Municipal Code is amended to read as follows:

ELECTIONS; GENERALLY.

(A) All municipal issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if municipal offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All municipal elections involving the election of officers shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election.

(Neb. RS 32-556)

(B) When the municipality holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by the municipality shall be held as provided in the Election Act unless otherwise provided by the charter, code, or bylaws of the municipality.

(Neb. RS 32-404)

Section 7. Section 1-702 of the Municipal Code is amended to read as follows:

ELECTION OF OFFICERS; CERTIFICATIONS REQUIRED.

No later than January 5 of each even-numbered year, the City Council shall certify to the Election Commissioner or the County Clerk, on forms prescribed by such official, the name of

the city, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(Neb. RS 32-404)

Section 8. Section 1-711 of the Municipal Code, entitled **CERTIFICATE OF NOMINATION OR ELECTION**, is repealed.

Section 9. Section 3-908 of the Municipal Code is amended to read as follows:

LIBRARY BOARD; ANNUAL REPORT.

The Library Board shall, on or before the second Monday in February in each year, make a report to the City Council of the condition of its trust on the last day of the prior fiscal year. The report shall show all money received and credited or expended; the number of materials held, including books, video and audio materials, software programs, and materials in other formats; the number of periodical subscriptions on record, including newspapers; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the Library Board may deem of general interest or as the City Council may require. The report shall be verified by affidavit of the President and Secretary of the Library Board.

(Neb. RS 51-213)

Section 10. Section 8-111 of the Municipal Code is amended to read as follows:

PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) Except as provided in division (B) of this section, the municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(B) Division (A) of this section shall not apply to the following activities:

(1) Any public works project with contemplated expenditures for the completed project that do not exceed \$86,000;

(2) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(3) Performance by the municipality of professional services for itself if the municipality appoints a municipal engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;

(4) The practice of any other certified trade or legally recognized profession;

(5) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the municipality that is not subject to a permit from the Department of Natural Resources;

(6) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land use regulations and their customary duties in

utility and public works construction, operation, and maintenance;

(7) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(8) The construction of water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply; and

(9) Any other activities described in Neb. RS 81-3449 to 81-3453.
(Neb. RS 81-3423, 81-3445, 81-3449, and 81-3453)

Section 11. Section 8-202 of the Municipal Code is amended to read as follows:

SIDEWALKS; REPAIR.

(A) The Governing Body may, by resolution, order the repair of a sidewalk on any lot or piece of ground within the municipality and may assess the expense thereof on the property in front of which such repairs are made, after having given notice of its intention to do so:

(1) By publication in one issue of a legal newspaper of general circulation in the municipality; and

(2) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such repair.

(Neb. RS 17-522)

(B) The notice shall:

(1) State that the Governing Body has ordered repair of the sidewalk;

(2) Contain the municipality's estimate of the cost of the repair;

(3) Notify the property owner that he or she may, within 10 days after the date of publication of the notice, notify the municipality that he or she will repair the sidewalk within 30 days after such date of publication;

(4) Notify the property owner that if he or she fails to so notify the municipality within the 10 days or, having so notified the municipality, fails to repair the sidewalk within the 30 days, the municipality will cause the sidewalk to be repaired and the expense thereof to be assessed against the property.

(C) (1) Before the municipality imposes any special assessments for sidewalk repair, a copy of the notice that is required to be published shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published.

(Neb. RS 13-310)

(2) The Municipal Clerk shall mail the notice by certified mail with return receipt requested.

(Neb. RS 13-312)

(3) For purposes of this division, nonresident property owner means any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property.

(Neb. RS 13-314)

(D) All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the Governing Body.

(E) Assessments made under this section shall be made and assessed in the manner provided in Neb. RS 17-524.

Section 12. Original Section 8-202 of the Municipal Code, entitled **SIDEWALKS; MAINTENANCE**, is repealed.

Section 13. Section 10-110 of the Municipal Code is amended to read as follows:

ALCOHOLIC BEVERAGES; LICENSES; MUNICIPAL POWERS AND DUTIES.

(A) The Governing Body is authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail or craft brewery licensees carried on within the corporate limits of the municipality.

(Neb. RS 53-134.03)

(B) During the period of 45 days after the date of receiving from the Nebraska Liquor Control Commission notice and a copy of an application for a new license to sell alcoholic liquor at retail or a craft brewery license, the Governing Body may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

(Neb. RS 53-131)

(C) The Governing Body, with respect to licenses within the corporate limits of the municipality, has the following powers, functions, and duties with respect to retail and craft brewery licenses:

(1) To cancel or revoke for cause retail or craft brewery licenses to sell or dispense alcoholic liquor issued to persons for premises within its jurisdiction, subject to the right of appeal to the Nebraska Liquor Control Commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation adopted by the Governing Body has been or is being violated and at such time examine the premises of such licensee in connection with such determination;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the Act, any rule or regulation adopted and promulgated pursuant to the Act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the Act;

(4) To receive retail license fees and craft brewery license fees as provided in Neb. RS 53-124 and pay the same, after the license has been delivered to the applicant, to the Municipal Treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee or craft brewery licensee upon whom notice of cancellation or revocation has been served as provided in the Act, to examine or cause to be examined the books and records of any applicant or licensee, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the Governing Body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 10-126 (Citizen Complaints), it determines that the licensee has violated any of the provisions of the Nebraska Liquor Control Act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the Commission within 30 days after the date of the order by filing a notice of appeal with the Commission. The

Commission shall handle the appeal in the manner provided for hearing on an application in Neb. RS 53-133;

(7) Upon receipt from the Commission of the notice and copy of application as provided in Neb. RS 53-131, to fix a time and place for a hearing at which the Governing Body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the municipality, one time not less than 7 and not more than 14 days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the Governing Body in support of or in protest against the issuance of such license may do so at the time of the hearing. The hearing shall be held not more than 45 days after the date of receipt of the notice from the Commission, and after such hearing the Governing Body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The Municipal Clerk shall mail to the Commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the Commission. If the Commission refuses to issue such a license, the cost of publication of notice shall be paid by the Commission from the security for costs.

(Neb. RS 53-134)

(D) (1) When the Nebraska Liquor Control Commission mails or delivers to the Municipal Clerk a retail or craft brewery license issued or renewed by the commission, the Clerk shall deliver the license to the licensee upon receipt from the licensee of proof of payment of:

- (a) The license fee if by the terms of Neb. RS 53-124(5) the fee is payable to the Municipal Treasurer;
- (b) Any fee for publication of notice of hearing before the Governing Body upon the application for the license;
- (c) The fee for publication of notice of renewal, if applicable, as provided in Neb. RS 53-135.01; and
- (d) Occupation taxes, if any, imposed by the municipality.

(2) Notwithstanding any ordinance or charter power to the contrary, the municipality shall not impose an occupation tax on the business of any person, firm, or corporation licensed under the Nebraska Liquor Control Act and doing business within the corporate limits of the municipality in any sum which exceeds two times the amount of the license fee required to be paid under the Act to obtain such license.

(Neb. RS 53-132)

Section 14. Section 10-111 of the Municipal Code is amended to read as follows:

ALCOHOLIC BEVERAGES; LICENSED PREMISES; INSPECTION.

The Governing Body shall cause frequent inspection to be made on the premises of all retail licensees. If it is found that any such licensee is violating any provision of this article, the Nebraska Liquor Control Act, or the rules and regulations of the Nebraska Liquor Control Commission or is failing to observe in good faith the purposes of this article or the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

(Neb. RS 53-116.01)

Section 15. Section 10-113 of the Municipal Code is amended to read as follows:

ALCOHOLIC BEVERAGES; LICENSE RENEWAL; MUNICIPAL POWERS AND DUTIES.

(A) A retail license issued by the Nebraska Liquor Control Commission and outstanding may be automatically renewed by the commission in the absence of a written request by the Governing Body to require the licensee to submit an application for renewal. Any licensed retail premises located in an area which is annexed to the municipality shall file a formal application for a license, and while such application is pending, the licensee may continue all license privileges until the original license expires or is canceled or revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the commission for not more than one year.

(Neb. RS 53-135)

(B) The Municipal Clerk shall cause to be published in a legal newspaper in or of general circulation in the municipality, one time between January 10 and January 30 of each year, individual notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the municipality, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year. If written protests to the issuance of automatic renewal of a license are filed in the office of the Municipal Clerk by three or more residents of the municipality on or before February 10, or August 10 for Class C licenses, the Governing Body shall hold a hearing to determine whether continuation of the license should be allowed. Upon the conclusion of any hearing required by this section, the Governing Body may request a licensee to submit an application as provided in Neb. RS 53-135.

(Neb. RS 53-135.01)

Section 16. Section 10-114 of the Municipal Code is amended to read as follows:

ALCOHOLIC BEVERAGES; CATERING LICENSES.

(A) The holder of a license to sell alcoholic liquor at retail issued under Neb. RS 53-124(5) or a craft brewery license may obtain an annual catering license by filing an application and license fee with the Nebraska Liquor Control Commission.

(B) Upon receipt from the commission of the notice and a copy of the application as provided in Neb. RS 53-124.12, the Governing Body shall process the application in the same manner as provided in section 10-110 (Alcoholic Beverages; Licenses; Municipal Powers and Duties).

(C) The Governing Body, with respect to catering licensees within its corporate limits, may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the District Court.

(D) The Governing Body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the Governing Body. The tax may not exceed double the license fee for a catering license.

(Neb. RS 53-124.12)

Section 17. Section 10-117 of the Municipal Code is hereby amended in its entirety to read as follows:

ALCOHOLIC BEVERAGES; RETAIL ESTABLISHMENTS; HOURS OF SALE.

(1) For the purpose of this section:

(A) On sale shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment; and

(B) Off sale shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

(2) It shall be unlawful for any licensed person or his or her agent to sell any alcoholic beverages within the Municipality except during the following hours:

HOURS OF SALE

Alcoholic Liquors (including beer and wine)			
Secular Days			
1:00 A.M.		Off Sale	6:00 A.M. to
1:00 A.M.		On Sale	6:00 A.M. to
Sundays			
11:00 P.M.		Off Sale	12:00 Noon to
11:00 P.M.		On Sale	12:00 Noon to

Such limitations shall not apply after twelve o'clock (12:00) Noon on Sunday to a licensee which is a nonprofit corporation holding a Class C or I license.

(3) No person shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed in this section for stopping the sale of alcoholic beverages on the premises.

(4) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. 53-179 RS Neb.)

Section 18. Section 10-126 of the Municipal Code is amended to read as follows:

ALCOHOLIC BEVERAGES; CITIZEN COMPLAINTS.

Any five residents of the municipality shall have the right to file a complaint with the Governing Body stating that any retail licensee subject to the jurisdiction of the Governing Body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the Governing Body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the Governing Body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within 10 days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the Governing Body within 30 days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the Nebraska Liquor Control Commission as provided in Neb. RS 53-1,115.
(Neb. RS 53-134.04)

Section 19. Section 6-305 of the Municipal Code is amended to read as follows:

GENERAL OFFENSES; WEEDS, LITTER, STAGNANT WATER.

(A) Lots or pieces of ground within the city shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city shall keep the lot or piece of ground and the adjoining streets and alleys free of any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any growth of 12 inches or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense.

(F) (1) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner.

(2) If unpaid for two months after such work is done, the city may either:

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

(G) For purposes of this section:

(1) **LITTER** includes, but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation;

(d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(2) **WEEDS** includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(Neb. RS 17-563)

Section 20. Any other ordinance or section passed and approved prior to passage, approval, and publication in pamphlet form or posting of this ordinance and in conflict with its provisions is repealed.

Section 21. This ordinance shall take effect and be in full force from and after its passage, approval, and publication in pamphlet form as required by law.

Passed and approved this 3rd day of March, 2005.



Roger C. Hoover
Mayor

Debbie Filmer
Clerk