

ORDINANCE NO. 1808

CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 1808

AN ORDINANCE AMENDING CHAPTER THREE (3) OF THE LEXINGTON CITY CODE BY ADDING NEW SECTIONS TO THE CODE; TO PROVIDE ALCOHOLIC LIQUOR LICENSING STANDARDS AND CRITERIA IN ACCORDANCE WITH THE NEBRASKA LIQUOR CONTROL ACT, REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.

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

Section 1. That Chapter Three (3) of the Lexington City Code is hereby amended by adding a new section, which reads as follows:

Section 3-18. Liquor Application; Retail Licensing Standards.

The City Council adopts the following licensing standards and criteria for consideration by the Liquor Control Commission of any applicant for a retail alcoholic liquor license, for the upgrading of a license to sell alcoholic liquor, or for the expansion or change in location of the premises, in accordance with the Nebraska Liquor Control Act, Neb. Rev. Stat. §53-132(3)(a) and Section 7 of Legislative Bill 911, Eighty Ninth Legislature, Second Session, 1986:

1. The adequacy of existing law enforcement resources and services in the area.
2. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems, and the proximity and availability of on-street and off-street parking.
3. Zoning restrictions.
4. Sanitation or sanitary conditions on or about the proposed licensed premises.
5. The existing population, and projected growth, both city-wide and within the area to be served.
6. The existing liquor licenses, the class of such license, and the distance and times of travel to such licenses.

7. The nature and needs of the neighborhood or community where the proposed premises are located as well as its projected growth.
8. Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.
9. Whether the applicant can insure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. Rev. Stat. §53-102 of the Nebraska Liquor Control Act.
10. Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic beverages, which must be displayed, kept, and sold from an area which is secured to the greatest extent possible.
11. Whether the applicant is fit, willing, and able to properly provide the service proposed in conformance with all provisions, requirements, needs, and regulations provided for in the Nebraska Liquor Control Act.
12. Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions, requirements, rules, and regulations provided for in the Nebraska Liquor Control Act.
13. The background information of the applicants established by information contained in the public records of the Nebraska Liquor Control Commission.
14. Past compliance with state laws and liquor regulations and municipal ordinances and regulations.
15. If the application is for an on-sale license, whether it is adjunct to a legitimate food service operation as evidenced by percent of gross income allocated to food and liquor, and the type and extent of kitchen facilities.
16. Whether the application will provide an improvement to the neighborhood, a betterment to the municipality, or a true increase in service to the public at large.
17. Proximity of and impact on schools, hospitals, libraries, and public institutions.
18. Whether the type of entertainment to be offered, if any, will be appropriate and nondisruptive to the neighborhood where the premises are located and to the community at large.
19. Whether the application is for a business, and the sole purpose for which is the sale or dispensing of liquor, or when the sale or dispensing of liquor is a substantial integral part of the business, and not just incidental thereto.

20. Applications for Class "B", "C", and "D" licenses (as defined by Section 53-124, R.S.S.) must be for premises which are separate and distinct from any other business activity. Premises shall be deemed separate and distinct only when located in a building which is not adjacent to any other building, or when located within the same building, they shall be so separate by walls (floor to ceiling), that access cannot be had directly from the area of alcoholic liquor sales to any other business activity by means of doors or other openings; provided, nothing herein shall prevent the construction or maintenance of doors that are used by employees; further, any nonconforming premises in existence on the effective date of this ordinance may be continued for the life of the license. Such nonconforming premises may not be enlarged, extended, or restored after damage during interim. For the purposes of this section, other business activity shall mean the sale or display of any food, produce, mercantile product, item or service other than keeping or selling of alcoholic liquors at retail for consumption off the premises and the sale or display of ice, drink mix, tobacco, cups, or carbonated beverages.
21. Whether or not applicant has ever forfeited bond to appear in court to answer charges of having committed a felony, or charges of having violated any law or ordinance enacted in the interest of good morals and decency, or has been convicted of violating or forfeiting bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquors.
22. Other information and data that may reasonably be considered pertinent to the issuance of the license.

The preceding standards are not necessarily of equal value that can be computed in a mathematical formula. Rather, they are standards which can be weighed and cumulated positively and negatively. The burden of proof and persuasion shall be on the party filing the application. When applicable, the term "applicants" as used herein is synonymous with "license."

Section 2. That all other ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 3. That this ordinance shall be published in pamphlet form and take effect as provided by law.

Section 4. The City Clerk is hereby directed to file a certified copy of this ordinance with the Nebraska Liquor Control Commission.

Section 5. If any section of this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

PASSED AND APPROVED this 8th day of July, 1986.

CITY OF LEXINGTON, NEBRASKA

By Robert L. Hawks
Mayor

ATTEST:

Gene E. Malyak
City Clerk

