

RESOLUTION NO. 2011-28

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KEARNEY, NEBRASKA ESTABLISHING A CITY COUNCIL POLICY FOR MAKING RECOMMENDATIONS WITH REFERENCE TO LIQUOR LICENSES ISSUED BY THE NEBRASKA LIQUOR CONTROL COMMISSION FOR LIQUOR RETAILERS IN THE CITY OF KEARNEY.

WHEREAS, local governing bodies across the State of Nebraska have very limited authority to deal with the issuance of liquor licenses within their city limits; and

WHEREAS, municipalities only have the ability to provide a recommendation to the Nebraska Liquor Control Commission with reference to the issuance of new liquor licenses and the renewal of an existing liquor license; and

WHEREAS, a municipality does have authority to deny special designated licenses should there be a basis to find that the issuance of such a license is not appropriate; and

WHEREAS, the City Council believes that there is an underage drinking problem in the City of Kearney and the Kearney City Council desires to impress upon all liquor license holders and liquor retailers the importance of not serving alcohol to minors or serving alcohol to obviously intoxicated persons and otherwise to comply with state law relative to the sale of alcoholic beverages; and

WHEREAS, the City Council wishes to establish guidelines to be used in evaluating the issuance of new liquor licenses, the renewal of existing licenses and the issuance of special designated licenses in the City of Kearney in an effort to provide consistency to the City's recommendations and the evaluation of these matters by City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska:

1. For all applications for new liquor licenses/new manager, the City Council policy will be that such a business will be required to complete the Liquor License Training Compliance form that indicates they have completed training which is specifically certified and approved by the Nebraska Liquor Commission or approved by the Kearney Police Department and that confirmation of such training or, for new license holders, an intent to provide training to employees will also be indicated on the Liquor License Training Compliance form. The license holder must provide certification of this training to the City Clerk when submitting the Liquor License Training Compliance form

or, in the case of a new license, within 60 days of the opening of the business. Without the completed Liquor License Training Compliance form and a copy of the certificate of training, the City Council will recommend that the license not be issued or renewed. Certification of servers/managers shall be valid for a maximum of three years. Recertification shall consist of the same elements of any other program approved by the Nebraska Liquor Commission or approved by the Kearney Police Department.

2. With reference to an automatic renewal of a presently existing liquor license, the City Clerk will notify the license holders that they must provide a copy of their Certification prior to the automatic renewal of the liquor license. Class C liquor licenses are renewed annually commencing November 1 with written protests to the issuance of automatic renewal of license being filed by any resident of the City of Kearney on or before August 10. Certification must be provided to the City Clerk no later than September 1. Non-Class C liquor licenses are renewed annually commencing May 1 with written protests to the issuance of automatic renewal of license being filed by any resident of the City of Kearney on or before February 10. Certification must be provided to the City Clerk no later than March 1. If Certification is not provided to the City Clerk, it shall be the policy of the City Council to require that license holder to appear before the Council at a public hearing to review the status of the license and its renewal.

3. With reference to the application for a new license/new manager or an automatic renewal of an existing license, the City Council policy will be that if such license holder has been charged and convicted of two or more charges of the sale of alcohol to a visibly intoxicated person or the sale of alcohol to a minor within the renewal period (one year) and/or has been charged and convicted of three or more similar violations in the prior five years, City Council will not recommend approval of said liquor license to the Nebraska Liquor Control Commission. The City Council does hereby find that having such a number of violations of state law with reference to the sale of alcoholic beverages to be evidence of the fact that such a license holder has failed to comply with Nebraska law as it relates to the handling of alcoholic beverages and that it would not be appropriate for such an individual and/or business to continue to hold a liquor license due to such failures to comply with state law. If a license holder is up for automatic renewal of its license and there have been two or more law violations as outlined above, it shall be the policy of the City Council to require that license holder

to appear before the Council at a public hearing to review the status of the license and its renewal.

4. With reference to special designated licenses, if the license holder that is making application for such a special designated license has had two or more violations of the law including the sale of alcohol to a visibly intoxicated person and/or the sale of alcohol to a minor within one calendar year (calendar year shall be defined as from January 1 to December 31 of a given year) of the last issuance of its underlying liquor license or three or more such violations within the last five years, it shall be the policy of the City Council to deny such application and to not grant that license holder the ability to have a special designated license for the event requested.

5. If the license holder has been cited for the above-referenced violations of state liquor law but has not had an opportunity to be heard either in a court of law or before the Nebraska Liquor Control Commission, City Council policy will be that such citations cannot be considered until there has been a final determination as to the citations which have been issued.

6. This shall be a nonbinding resolution and the City Council may evaluate each license application on a case-by-case basis and take into consideration such circumstances or factors as it might deem appropriate with reference to each individual application or applicant. The intent of this Resolution is to establish an overall policy as to when the City Council will consider not recommending the issuance or renewal of a liquor license to the Nebraska Liquor Control Commission and what factors it deems appropriate to consider in denying an application for a special designated license.

PASSED AND APPROVED THIS 22ND DAY OF MARCH, 2011.

ATTEST:


MICHAELLE E. TREMBLY
CITY CLERK




STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

KEARNEY CITY COUNCIL LIQUOR LICENSE GUIDELINES		
VIOLATIONS	TWO VIOLATIONS WITHIN ONE YEAR (RENEWAL PERIOD)	THREE OR MORE VIOLATIONS WITHIN FIVE YEARS
Sale to a Minor; Minor Consume/Possess	<p><i>Recommend license denial.</i></p> <p><i>License not automatically renewed; must schedule hearing and appear before Council to present changes made to prevent future violations.</i></p> <p><i>Special Designated License Applications will be denied.</i></p>	<p><i>Recommend license denial.</i></p> <p><i>License not automatically renewed; must schedule hearing and appear before Council to present changes made to prevent future violations.</i></p> <p><i>Special Designated License Applications will be denied.</i></p>
Sale to visibly intoxicated person	<p><i>Recommend license denial.</i></p> <p><i>License not automatically renewed; must schedule hearing and appear before Council to present changes made to prevent future violations.</i></p> <p><i>Special Designated License Applications will be denied.</i></p>	<p><i>Recommend license denial.</i></p> <p><i>License not automatically renewed; must schedule hearing and appear before Council to present changes made to prevent future violations.</i></p> <p><i>Special Designated License Applications will be denied.</i></p>
Open Containers After Hours & Sales After Hours	<p><i>Recommend license denial</i></p> <p><i>License not automatically renewed; must schedule hearing and appear before Council to present changes made to prevent future violations</i></p> <p><i>Special Designated License Applications will be denied.</i></p>	<p><i>Recommend license denial</i></p> <p><i>License not automatically renewed; must schedule hearing and appear before Council to present changes made to prevent future violations</i></p> <p><i>Special Designated License Applications will be denied.</i></p>

License holders must also supply information on training as is indicated in Resolution No. 2011-28.