

# ORDINANCE RECORD

REDFIELD DIRECT E2401275KV

## ORDINANCE NO. 1534

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND CHAPTER 114 OF THE LA VISTA MUNICIPAL CODE GOVERNING ALCOHOLIC LIQUORS TO ADD §§114.32 THROUGH 114.38 AUTHORIZING ENTERTAINMENT DISTRICTS, COMMONS AREAS AND ENTERTAINMENT DISTRICT LICENSES, AND SPECIFYING RELATED PROVISIONS; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR SEVERABILITY, PUBLICATION, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, as follows:

SECTION 1. AMENDMENT OF LA VISTA MUNICIPAL CODE. The La Vista Municipal Code is amended by adding §§114.32 through 114.38 titled ENTERTAINMENT DISTRICT LICENSES as follows:

“§114.32 Intent. The Mayor and City Council declare that the intent of the City Council in adopting the provisions of this subchapter include, but are not limited to:

- A. Furthering the purposes of the Redevelopment Plan “84<sup>th</sup> Street Redevelopment Area,” as amended, (“Redevelopment Plan”) and elimination and prevention of recurrence of substandard and blighted areas of the 84<sup>th</sup> Street Redevelopment Area (“Redevelopment Area”);
- B. Providing additional exciting, vibrant and diverse entertainment options within the Redevelopment Area;
- C. Attracting residents and visitors to the Redevelopment Area and use of public, recreational, entertainment and other improvements within such Area;
- D. Maximizing the impact of investment within the Redevelopment Area to achieve the purposes of the Redevelopment Plan by enhancing the appeal and utilization of such public, recreational, entertainment and other improvements within the Redevelopment Area;
- E. Generating additional City revenues to pay for improvements within the Redevelopment Area and further redevelop, eliminate and prevent recurrence of substandard and blighted areas within the Redevelopment Area;
- F. Providing for regulation of any designated Entertainment Districts within the 84<sup>th</sup> Street Redevelopment Area, and Commons Areas and Entertainment District Licensees within any such Districts; and
- G. Protecting the health, safety, welfare and public interest of the City, its residents and visitors in connection with any such Entertainment Districts.

§114.33 Definitions. For purposes of §§114.32 through 114.38, the following definitions shall apply unless Applicable Law or context clearly indicates or requires a different meaning.

- A. *Applicable Law* means applicable provisions of the La Vista Municipal Code, City Ordinances or Nebraska Statutes, or any policies, rules or regulations thereunder, as adopted or amended from time to time, including without limitation La Vista Municipal Code §§114.32 through 114.38, the Liquor Control Act and the Community Development Law, and.
- B. *Commons Area* means an area of City or private property, including without limitation any City or private right of way, within the 84<sup>th</sup> Street Redevelopment Area that is:
  - 1. Within an Entertainment District designated by the City Council;
  - 2. Shared by authorized licensees with Entertainment District Licenses;
  - 3. Abutting the licensed premises of such licensees;
  - 4. Having limited pedestrian accessibility by use of a physical barrier, either on a permanent or temporary basis; and
  - 5. Closed to vehicular traffic when used as a Commons Area.

With respect to any Commons Area that includes City property, a permit or other authorization or permission of the City Council, Mayor, City Administrator or Community Development Director allowing temporary use of City property shall be required for such City property to constitute or be used as Commons Area within an Entertainment District for the sale or consumption of alcoholic liquor pursuant

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to an Entertainment District License, and any such City property shall constitute Commons Area and be used for such purposes only during such times and subject to such terms and conditions as specified in such permit or other authorization or permission to use such City property. At all other times, such City property shall not constitute Commons Area, sale or consumption of alcoholic liquor on premises within such Commons Area pursuant to an Entertainment District License shall not be allowed, and such City property shall be used by the City, general public or by such persons and for such purposes as the City in its sole discretion determines appropriate. Further, upon expiration, suspension, revocation or termination of any such permit or other authorization or permission to use City property, use of such City property as Commons Area by any Entertainment District Licensee pursuant to §§114.32 through 114.38 automatically shall cease without any notice or other action required by the City, and without any right to or expectation of any extension or additional or further permit or other authorization or permission of any Entertainment District Licensee to use such City property. Notwithstanding the provisions of any permit or other authorization or permission of the City or §§114.32 through 114.38 to the contrary, any permit or other authorization or permission providing for City property as Commons Area shall be subject to access by the City, its officials and employees at all times, and further subject to suspension, revocation or termination at any time, with or without cause, as the City Administrator or Community Development Director in her or his sole discretion determines necessary or appropriate for City purposes, immediately upon written notice to the permit holder, in which case such City property shall return to such uses and purposes as the City Administrator or Community Development Director determines appropriate.

- C. *Community Development Law* means Neb. Rev. Stat. §§18-2101 through 18-2157.
- D. *Eligible Licensee* means a retail, craft brewery, micro distillery or manufacturer's licensee of licensed premises within, and abutting Commons Area of, a designated Entertainment District, and that may obtain an Entertainment District License for sale of alcoholic liquor for consumption on premises within such Commons Area pursuant to the Liquor Control Act and La Vista Municipal Code §§114.32 through 114.38.
- E. *Entertainment District* or *District* means one or more areas of real property within the 84<sup>th</sup> Street Redevelopment Area from time to time designated by the City Council and including Commons Area within which the sale of alcoholic liquor by Eligible Licensees for consumption on premises may be permitted pursuant to an Entertainment District License.
- F. *Entertainment District License* means a license issued pursuant to the Liquor Control Act by the Liquor Control Commission to an Eligible Licensee within an Entertainment District for consumption on premises within Commons Area of such Entertainment District that abuts the licensed premises of such Eligible Licensee. Consumption of alcoholic liquor in a Commons Area only shall occur in accordance with the provisions of §§114.32 through 114.38, including without limitation the hours specified in §114.36 below.
- G. *Entertainment District Licensee* means the holder of any Entertainment District License.
- H. *Liquor Control Act* means the Nebraska Liquor Control Act set forth in Neb. Rev. Stat. §§53-101 through 53-1,122.
- I. *Liquor Control Commission* or *Commission* means the Nebraska Liquor Control Commission.
- J. *Owner* means an entity that, directly, or indirectly through one or more affiliates, (1) owns or controls one or more parcels of real property, or (2) is under common ownership or control with one or more entities that own or control one or more parcels of real property.
- K. *Promotional Association* means an association formed pursuant Nebraska law under the circumstances described in §114.34(B), which is organized for the purpose of applying for and maintaining an Entertainment District designation and

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Commons Area permit, and membership of which shall consist of the licensed premises of all Entertainment District Licensees abutting Commons Area of such Entertainment District. The Promotional Association shall have authority to manage and control the Commons Area while used as such pursuant to any Entertainment District License.

- L. *84<sup>th</sup> Street Redevelopment Area* means the 84<sup>th</sup> Street Redevelopment Area identified in the City of La Vista Redevelopment Plan "84<sup>th</sup> Street Redevelopment Area" as approved or amended from time to time by the City.
- M. *Redevelopment Documents* mean the Redevelopment Plan "84<sup>th</sup> Street Redevelopment Area" and related Redevelopment Agreement and Subdivision Agreement, as approved or amended from time to time by the City of La Vista or La Vista Community Development Agency.

## §114.34 Entertainment Districts.

- A. **Proposed District.** The Mayor, City Council, any Eligible Licensee or Promotional Association may propose an Entertainment District within the 84<sup>th</sup> Street Redevelopment Area. Any such Eligible Licensee or Promotional Association that desires the designation of an Entertainment District shall specify the boundaries of the proposed Entertainment District and Commons Area, and satisfy any application, plan, specification, submittal or other requirements from time to time specified by the City Administrator or Community Development Director, and pay all applicable fees.
- B. **Designation.** From time to time, the City Council in its sole discretion may elect to consider or by ordinance or resolution designate any area of real property within the 84<sup>th</sup> Street Redevelopment Area as an Entertainment District, subject to any conditions it determines appropriate. The City Clerk shall be authorized to issue a Commons Area permit to an entity that is the Owner of all private property constituting the Commons Area and licensed premises of Eligible Licensees abutting such Commons Area, or to a Promotional Association if private property constituting the Commons Area and licensed premises of Entertainment District Licensees abutting such Commons Area has two or more unrelated Owners. Provided, however, if any proposed Entertainment District includes any City property as Commons Area, a permit or other authorization or permission of the City shall be required, allowing use of such City property, which requirement the City Administrator or Community Development Director may determine is satisfied by any permit or other authorization or permission in effect when the Entertainment District is designated, or subsequently granted, and in which case such permit or other authorization or permission also shall constitute the Commons Area permit for purposes of §§114.32 through 114.38.

Except as otherwise provided in §§114.32 through 114.38 to the contrary, designation of an Entertainment District shall be for such duration and subject to such terms and conditions as specified by ordinance or resolution or in any permit or other authorization or permission in connection with such designation or Commons Area. In the event of any conflict between or among the terms of any such ordinance, resolution, permit or other authorization or permission, the City Administrator in her or his sole discretion shall determine the terms that govern, control and best serve the interests of the City. The City Council may elect to review, and extend or renew, any Entertainment District designation or Commons Area permit or other authorization or permission for one or more additional periods of such duration and on such terms and conditions it determines appropriate, subject to any additional filings and requirements as specified by the City Administrator or Community Development Director, and payment of any applicable fees.

- C. **Revocation.** The City Council in its sole discretion at any time may terminate, revoke or suspend the designation of an Entertainment District or Commons Area permit if it finds that such District or Commons Area, or any part thereof, is contrary to the public health, safety, welfare or interests or has become a nuisance.
- D. **Filing Requirements.** The City Clerk on behalf of the City Council shall file with the Liquor Control Commission any designation, termination or revocation of an Entertainment District by the City Council.

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§114.35 Entertainment District License. Any Eligible Licensee of licensed premises abutting a Commons Area within a designated Entertainment District may apply to the Liquor Control Commission for an Entertainment District License authorizing the sale of alcohol for consumption on premises of such Commons Area, by filing such forms as the Commission prescribes and paying such application, permit, license or other fees as specified by ordinance or State Statutes, including without limitation Neb. Rev. Stat. §53-123.17. The Commission will notify and provide the City Clerk a copy of any application for an Entertainment District License that is filed. The application will be processed in accordance with the Liquor Control Act, including without limitation §53-132 and notice and public hearing requirements of subsection 53-134(7).

§114.36 Commons Area. In addition to any other applicable terms or conditions:

- A. Only the holder of an Entertainment District License or employees of such licensee may sell or dispense alcoholic liquor in Commons Area while it is being used as such.
- B. Consumption of alcoholic liquor on premises within Commons Area pursuant to an Entertainment District License only shall occur:
  - 1. During such hours that use of the Commons Area as such is allowed by the owner or owner's agent of such Commons Area, subject to the limitations and requirements of §§114.32 through 114.38, §114.46 or Nebraska Statutes §53-179, and
  - 2. While food service is available in such Commons Area.
- C. An Entertainment District Licensee shall serve alcoholic liquor to be consumed in the Commons Area in containers that prominently display such licensee's trade name or logo or some other mark that is unique to the licensee under the licensee's retail, craft brewery, microdistillery or manufacturer's license.
- D. Entertainment District Licensees of an Entertainment District may allow alcohol sold by such Entertainment District Licensees to enter the Commons Area or any licensed premises of any Entertainment District Licensee within such District. No Entertainment District Licensees shall allow alcoholic liquor beyond the applicable Commons Area or licensed premises of Entertainment District Licensees within the Entertainment District.
- E. The City Council, by ordinance not inconsistent with the Liquor Control Act, may regulate any designated Entertainment District.

§114.37 Additional Provisions.

- A. The Commons Area permit holder shall have primary responsibility for receiving and promptly addressing and resolving any complaints regarding such Commons Area or Entertainment District. Such Commons Area permit holder at all times shall maintain on file with the City current contact information of the manager responsible for the Commons Area and resolving any complaints within the Commons Area while it is being used as such, and shall maintain at its offices within the Entertainment District current written records of all such complaints, responses and resolutions connected with the Commons Area while used as such and for five years after such use ends, which records shall be available for inspection or audit by the City Administrator, Chief of Police or Community Development Director upon request.
- B. The City Council may impose additional rules with respect to a Commons Area permit, the Entertainment District, or the operation of businesses in the Entertainment District, including without limitation rules regarding boundaries, barriers, access, design, types of business and uses, hours of operation, and types of events.
- C. Not in limitation of any other provisions of §§114.32 through 114.38, the City Council in its sole discretion may amend, suspend, terminate, revoke, or elect not to approve any application or proposal to renew an Entertainment District designation or issuance of a Commons Area permit if the City Council

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determines that:

1. The Entertainment District or Commons Area failed or fails to satisfy any requirements of §§114.32 through 114.38, the Liquor Control Act, or any terms or conditions of an Entertainment District or Commons Area permit;
  2. The Entertainment District or Commons Area is contrary to the public health, safety, welfare or interests or has become a nuisance; or
  3. The initial or renewal application is, or includes information that is, false, misleading, or fraudulent
- D. Notification Requirements. Commons Area permit holders and Entertainment District Licensees within an Entertainment District each shall provide written notification to the City Clerk of any change in ownership, operation, management or legal status of any Owner of such Commons Area permit holder, Entertainment District Licensee, Commons Area, or licensed premises of such Entertainment District Licensee as soon as possible and in all cases not more than 30 days after learning of the change. Any such change that the Mayor or City Administrator determines is material shall require such City approval as the Mayor or City Administrator determines appropriate.
- E. An Entertainment District designation and Commons Area permit shall be for the duration specified by ordinance or resolution designating the Entertainment District, or in any permit or other authorization or permission in connection with such designation or Commons Area, except: (1) as otherwise provided in §§114.32 through 114.38, (2) if all Commons Area and licensed premises of Entertainment District Licensees within the Entertainment District directly, or indirectly through affiliated entities, are owned by the same Owner, and the ownership changes such that one or more parcels are owned by two or more Owners, such designation and permit shall expire six months following the date of such change, if elected by the City Council or City Administrator, or (3) if a Promotional Association is the Commons Area permit holder and the Promotional Association is dissolved, the designation and permit shall expire immediately, unless other arrangements are made to the satisfaction of the City Administrator or Community Development Director.
- F. Any reference in §§114.32 through 114.38 to any elected or appointed official, officer or employee of the City shall mean the referenced official, officer or employee, or any designees of such official, officer or employee.
- G. References in §§114.32 through 114.38 to provisions of State Statute or the La Vista Municipal Code shall mean such provisions as enacted, adopted or amended from time to time.
- H. Violations.
1. It shall be unlawful for any Eligible Licensee or Commons Area permit holder to violate any provisions of §§114.32 through 114.38 or conditions of any Entertainment District designation or Commons Area permit, including without limitation selling alcoholic liquor for consumption on premises of Commons Area without a current Commons Area permit and Entertainment District License in effect.
  2. Not in limitation of any other provisions of §§114.32 through 114.38, any Entertainment District License shall be subject to revocation, cancellation, or suspension for any violation or breach of any applicable provisions of the La Vista Municipal Code, State Statutes or any applicable licenses, permits, conditions, rules or regulations governing the applicable Entertainment District License, Entertainment District Licensee, Entertainment District, Commons Area, Eligible Licensee or licensed premises.

§114.38 Construction. Sections 114.32 through 114.38 are enacted pursuant to Applicable Law, and City exercise of authority granted by such Applicable Law and the Redevelopment Documents. Such provisions, powers conferred by such provisions, and the exercise of such powers, shall be additional and supplemental to, independent of, and separate from any other laws or their exercise, and considered complete and independent

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and not amendatory of or limited by, provisions of or powers conferred by any other law, or their exercise. All provisions, grants or exercise of power, authority, rights or discretion, and all actions of the City or any official, officer, employee or agent of the City, shall be liberally construed. All incidental powers necessary to carry into effect said provisions are hereby expressly granted and conferred. Such provisions shall be full authority for the powers granted therein and the exercise of such powers, and no additional action, proceeding or election shall be required to authorize, exercise or carry out any such provisions, except as expressly provided therein to the contrary. Such provisions shall govern and control the sale and consumption of alcoholic liquor within Commons Area when used as such pursuant to an Entertainment District License. Notwithstanding any provisions of the La Vista Municipal Code to the contrary, if any provisions of §§114.32 through 114.38 are contrary to or inconsistent with any other provisions of the La Vista Municipal Code or any ordinance, the provisions of §§114.32 through 114.38 shall govern and control."

SECTION 2. REPEAL OF CONFLICTING PROVISIONS. Any Ordinances or parts of Ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that they would have passed and approved this Ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication in book, pamphlet or electronic form in accordance with applicable law.

PASSED AND APPROVED THIS 4TH DAY OF FEBRUARY 2025.

CITY OF LA VISTA

  
Douglas Kindig, Mayor

ATTEST:



Rachel D. Carl, CMC  
City Clerk