



# City of Grand Island

Tuesday, January 10, 2006

Council Session

## Item E1

**Public Hearing on Request of The Cigarette Store Corp. dba  
Smoker Friendly, 724 West 2nd Street for a Class "D" Liquor  
License**

Staff Contact: RaNae Edwards

# Council Agenda Memo

**From:** RaNae Edwards, City Clerk

**Meeting:** January 10, 2006

**Subject:** Public Hearing on Request of The Cigarette Store Corp dba Smoker Friendly, 724 West 2nd Street for a Class “D” Liquor License

**Item #'s:** E-1 & H-1

**Presenter(s):** RaNae Edwards, City Clerk

## Background

The Cigarette Store Corp dba Smoker Friendly, 724 West 2nd Street has submitted an application for a Class “D” Liquor License. A Class “D” Liquor License allows for the sale of alcohol off sale only inside the corporate limits of the city.

## Discussion

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

Smoker Friendly is located at the intersection of 2<sup>nd</sup> Street and Eddy Street with a drive thru window for the sale of tobacco. City staff has concerns with traffic safety and would recommend that no business be conducted at the drive thru window. Please see attached memo’s from the Public Works and Building Departments.

Nebraska Liquor Control Commission Rules and Regulations Section 53-178.01 reads as follows: **Licensee; sale to person within motor vehicle; prohibited; exception.** No licensee shall sell alcoholic liquor, including beer, to any person for consumption off the licensed premises while such person is in any manner within any motor vehicle. This section shall not apply to sales to handicapped persons in a motor vehicle displaying a current handicapped license plate issued by the Department of Motor Vehicles.

See the attached Liquor Application Checklist.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the request with stipulations.
2. Deny the request.
3. Forward to the Nebraska Liquor Control Commission with no recommendation.
4. Take no action on the issue.

## **Recommendation**

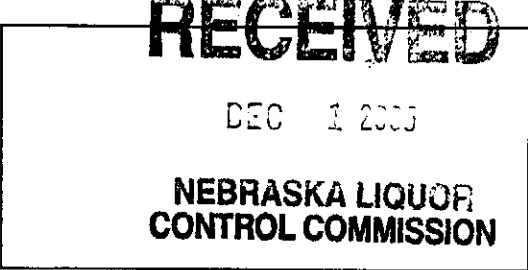
Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve this request contingent upon final inspections and with the stipulation that no business will be conducted at the drive thru window.

## **Sample Motion**

Move to approve the request of The Cigarette Store Corp. dba Smoker Friendly, 724 West 2nd Street for a Class 'D' Liquor License contingent upon final inspections and with the stipulation that no business will be conducted at drive thru window.

APPLICATION FOR LIQUOR LICENSE

NEBRASKA LIQUOR CONTROL COMMISSION  
301 CENTENNIAL MALL SOUTH  
PO BOX 95046  
LINCOLN, NE 68509-5046  
PHONE: (402) 471-2571  
FAX: (402) 471-2814  
Website: www.nol.org/home/NLCC/



OFFICE USE ONLY

CLASS OF LICENSE FOR WHICH APPLICATION IS MADE AND FEES  
CHECK DESIRED CLASS(S)

RETAIL LICENSE(S)

- A Beer, On Sale Only \$45.00
- B Beer, Off Sale Only \$45.00
- C Beer, Wine & Distilled Spirits, On & Off Sale \$45.00
- D Beer, Wine & Distilled Spirits, Off Sale Only \$45.00
- I Beer, Wine & Distilled Spirits, On Sale Only \$45.00

Class K Catering license may be added to any of these classes with an additional fee of \$100.00 and filing form 35-4202

MISCELLANEOUS

			Bond
<input type="checkbox"/>	L	Craft Brewery (Brew Pub)	\$295.00 1,000 min.
<input type="checkbox"/>	O	Boat	\$ 95.00 N/A
<input type="checkbox"/>	V	Manufacturer, Beer, Wine & Distilled Spirits (additional fee of \$100 to \$1,000-call for exact amount)	\$ 45.00 10,000 min.
<input type="checkbox"/>	W	Wholesale Beer	\$295.00 5,000 min.
<input type="checkbox"/>	X	Wholesale Liquor	\$545.00 5,000 min.
<input type="checkbox"/>	Y	Farm Winery	\$295.00 5,000 min.

All Class C licenses expire October 31st  
All other licenses expire April 30<sup>th</sup>  
Catering expire same as underlying retail license

TYPE OF APPLICATION BEING APPLIED FOR (CHECK ONE)

- Individual License, requires insert form 1
- Partnership License, requires insert form 2
- Corporate License, requires insert form 3a and manager application 3b

NAME OF PERSON OR FIRM ASSISTING WITH APPLICATION

(Commission will call this person with any questions we may have)  
Name: Daniel Gallagher Phone: 303 442-2520 / 219  
Firm Name: The Cigarette Store Corp.  
Firm address: 3223 Arapahoe #201, Boulder, CO 80303

**PREMISE INFORMATION**

Trade Name (doing business as) Smoker friendly - Tobacco, Liquor, Wine, Beer

Street Address #1 724 W. 2nd Street

Street Address #2 \_\_\_\_\_

City Grand Island County Hall

Zip Code 68801

Telephone number at premise to be licensed 303 395-8930

Is this location inside the city/village corporate limits:  YES  NO

**Mail to Address (where you want receipt of Liquor Control Commission mailings)**

Name: The Cigarette Store Corp

Street Address #1 3223 Arapahoe #201

Street Address #2 P.O. Box 18690

City Boulder, CO County Boulder

Zip Code 80308-1690

**DESCRIPTION AND DRAWING OF THE STRUCTURE TO BE LICENSED**

In the space provided or on an attachment draw the area to be licensed. This should include storage areas, basement, sales areas and areas where consumption or sales of alcohol will take place. If only a portion of the building is to be covered by the license, you must still include dimensions (length x width) of the licensed area as well as the dimensions of the entire building in situations. No blue prints please. Be sure to indicate the direction north and number of floors of the building.

- See Attached -

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DEC 1 2005  
NEBRASKA LIQUOR  
CONTROL COMMISSION

**APPLICANT INFORMATION**

**1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.**

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name.

- Yes If yes, please explain below or attach a separate page.  
 No

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**NEBRASKA LIQUOR  
CONTROL COMMISSION**

2. Are you buying the business and/or assets of a licensee? If yes, submit a copy of the sales agreement with a listing of assets being acquired including liquor inventory (name brand and container size required). Liquor Inventory may be taken at time of application being submitted.

- Yes  
Current business name and license number \_\_\_\_\_  
 No

3. Are you filing a temporary agency agreement, Commission form 4231, whereby current licensee allows you to operate on their license. If yes, attach agreement. **Please note: This agreement is not effective until Commissions assigns you a 3-digit ID number.**

- Yes  
 No

4. Are you borrowing any money from any source to establish and/or operate the business? If yes, list the lender.

- Yes \_\_\_\_\_  
 No \_\_\_\_\_

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NEBRASKA LIQUOR CONTROL COMMISSION

5. Will any person or entity other than applicant be entitled to share in the profits of this business? If yes, explain. All involved members must be disclosed on application.

Yes  
 No

6. Will any of the furniture, fixtures and equipment to be used in this business be owned by others? If yes, list such items and the owner.

Yes  
 No

7. Will any person(s) other than named in this application have any direct or indirect ownership or control of the business? If yes, explain? (No silent partners)

Yes  
 No

8. Are the premises to be licensed within 150 ft of a church, school, hospital, home for the aged or indigent persons or for veterans, their wives, children, or within 300 ft of a college or university campus? If yes, list the name of such institution and where it is located in relation to the premises. Neb. Rev. Stat. 53-177.

Yes  
 No

9. Is anyone listed on this application a law enforcement officer? If yes, list the person, the law enforcement agency involved and the person's exact duties.

Yes  
 No

10. List the primary bank and/or financial institution (branch if applicable) to be utilized by the business and the individual(s) who will be authorized to write checks and/or make withdrawals on accounts at the institutions.

US Bank  
424 W. 3rd  
Grand Island, NE 68901  
Terry Gallagher Jr.

11. List all past and present liquor licenses held in Nebraska or any other state by any person named in this application. Include license holder name, location of license and license number. Also list reasons for termination of any licenses previously held.

1. Colorado Alcohol Beverage License - 1054 W. Vine, Ft. Collins, CO  
3.2% Beer Retail Off Premises - Lic # 06-12947-0048  
2. NLCC Class D Liquor License - 825/827 S. Jeffers, North Platte, NE  
License # 66210

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12. List the person who will be the on site supervisor of the business and the estimated number of hours per week such person or manager will be supervising operations.

Megan Kenney, Location Manager  
45-50 hours per week

NEBRASKA LIQUOR CONTROL COMMISSION

13. List the training or experience (when and where) of the person listed in #12 above in connection with selling and/or serving alcohol products.

Trained in the sale of age restricted products as manager of Tobacco store. Corporate policy is to ID under the age of 35 for the sale of any age restricted product. Company conducts monthly compliance shops and employs the "We Card" training program.

14. If the property for which this license is sought is owned, submit a copy of the deed, or proof of ownership. If leased, submit a copy of the lease covering the entire license year. Documents must show title or lease held in name of applicant as owner or lessee in the individual(s) or corporate name for which the application is being filed.

- Lease: expiration date \_\_\_\_\_
- Deed
- Purchase Agreement

15. When do you intend to open for business? As soon as license is issued.

16. What will be the main nature of business? What are the anticipated hours of operation? Retail Tobacco and Liquor  
M-SAT 8A-10pm Sunday 12:00noon-6pm

17. List the principal residence(s) for the past 10 years for all persons required to sign application, including spouses. If necessary attach a separate sheet.

Applicant Name	From: Year	To: Year	City/State
<i>See Attached</i>			

The undersigned applicant(s) hereby consent(s) to a background investigation and release present & future records of every kind and description including police records, tax records (State and Federal), bank or lending institution records, and said applicant(s) and spouse(s) waive(s) any right or causes of action that said applicant(s) or spouse(s) may have against the Nebraska Liquor Control Commission, the Nebraska State Patrol, and any other individual disclosing or releasing said information. Any documents or records for the proposed business or for any partner or stockholder that are needed in furtherance



of the application investigation or any other investigation shall be supplied immediately upon demand to the Nebraska Liquor Control Commission or the Nebraska State Patrol. The undersigned understand and acknowledge that any license issued, based on the information submitted in this application, is subject to cancellation if the information contained herein is incomplete, inaccurate or fraudulent.

Individual applicants agree to supervise in person the management and operation of the business and that they will operate the business authorized by the license for themselves and not as an agent for any other person or entity. Corporate applicants agree the approved manager will superintend in person the management and operation of the business. Partnership applicants agree one partner shall superintend the management and operation of the business. All applicants agree to operate the licensed business within all applicable laws, rules, regulations, and ordinances and to cooperate fully with any authorized agent of the Nebraska Liquor Control Commission.

Must be signed in the presence of a notary public by applicant(s) and spouse(s). If partnership or LLC (Limited Liability Company), all partners, members and spouses must sign. If corporation all officers, directors, stockholders (holding over 25% of stock) and spouses. Full (birth) names only, no initials.

*Signature Pages Included*  
\_\_\_\_\_  
(sign here) (sign here)

\_\_\_\_\_  
(sign here) (sign here)

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\_\_\_\_\_  
(sign here) (sign here)

DEC 1 2000

\_\_\_\_\_  
(sign here) (sign here)

**NEBRASKA LIQUOR CONTROL COMMISSION**

\_\_\_\_\_  
(sign here) (sign here)

Subscribed in my presence and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Notary Public Signature & Seal

In compliance with the ADA, this application for license form is available in other formats for persons with disabilities. A ten day advance period is requested in writing to produce the alternate format.

FORM 35-4010  
REV. 4/05

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NEBRASKA LIQUOR CONTROL COMMISSION

7. List the principal residence for the past 10 years for all persons required to sign application. If necessary attach a separate sheet.

NAME	FROM (YEAR)	TO (YEAR)	RESIDENCE (CITY, STATE)
Terry Gallagher Sr	1994	2005	Boulder, CO
David Berschhof	1994	2005	Denver, CO
Phil Herbison	1994	2005	Longmont, CO
Terry Gallagher Jr	1994	2005	Boulder, CO
Mike Gallagher	1994	2005	Boulder, CO
Mary Szarmach	1994	2005	Boulder, CO
Delmar Peterson	1994	2005	Cheyenne, WY
Nancy Gallagher	1994	2005	Boulder, CO
Dan Gallagher	1994	2005	Superior, CO
Kathleen Allen	1994	2005	Billings, MT
Cynthia Berschhof	1994	2005	Denver, CO
Windy Gallagher	1994	2005	Boulder, CO
Gayle Gallagher	1994	2005	Boulder, CO
Randy Szarmach	1994	2005	Boulder, CO
Suzan Peterson	1994	2005	Cheyenne, WY
Rhonda Gallagher	1994	2005	Superior, CO
Ron Allen	1994	2005	Billings, MT



**INTEROFFICE  
MEMORANDUM**  
*Police Department*

*Working Together for a  
Better Tomorrow. Today.*

**DATE:** December 27, 2005

**TO:** RaNae Edwards, City Clerk

**FROM:** Robert Falldorf, Captain

**RE:** Liquor License/Liquor Manager Designation  
Applications for "Smoker Friendly/Megan Kenney"

The Grand Island Police Department has no objections to the issuance of a Liquor License to Smoker Friendly, 724 West 2<sup>nd</sup> Street, Grand Island, Nebraska or to the Manager Designation for the establishment to Megan Marie Kenney, 221 East Street, Phillips, Nebraska.

RF/rk

**CITY OF GRAND ISLAND  
LIQUOR APPLICATION CHECKLIST**

**\_\_\_ Retail: Individual \*\***

- \_\_\_ Applicant is Nebraska Resident.
- \_\_\_ Applicant is of good character and reputation in the community in which he or she resides.
- \_\_\_ Applicants is citizen of the United States.
- \_\_\_ Applicant has no Felony or Class I Misdemeanor convictions or guilty pleas.
- \_\_\_ Applicants has had no prior liquor licenses issued under the Nebraska Liquor Control Act revoked.
- \_\_\_ Applicant's spouse must qualify the same as applicant.
- \_\_\_ Applicant owns premise or has a lease of premise for the full period for which the license is issued.
- \_\_\_ Premise meets State Fire Marshal codes.
- \_\_\_ Applicant is not a law enforcement officer.
- \_\_\_ Applicant is at least 21 years of age.

**\_\_\_ Retail: Partnership \*\***

- \_\_\_ One partner must be a resident of Nebraska.
- \_\_\_ All partners and spouses must be citizens of the United States.
- \_\_\_ All partners must be of good character and reputation in the community.
- \_\_\_ All partners must not have been convicted or plead guilty to a Felony or Class I Misdemeanor.
- \_\_\_ All partners must not have had a liquor license issued under the Nebraska Liquor Control Act revoked.

\_\_\_ **Retail: Limited Liability Company \*\***

\_\_\_ One of the members must be a resident of Nebraska.

\_\_\_ All members of such company must qualify to above individual restrictions.

\_\_\_ **Retail: Corporation \*\***

\_\_\_ Any officer, manager, or director of the corporation or any stockholder owning more than 25% of the stock must qualify to above individual restrictions.

\_\_\_ The manager and spouse of the corporation must be a resident of Nebraska and qualify to above individual restrictions.

\_\_\_ Corporation must be registered with the Secretary of State.

\_\_\_ Corporation owned by a corporation, the owning corporation must register with the Secretary of State.

\_\_\_ **Manufacturer, Wholesaler, Railroad, Airline, Boat, Nonbeverage**

\_\_\_ Application filed in duplicate.

\_\_\_ Beer Wholesaler must file sales territory of their brands.

\_\_\_ Must file a bond.

\_\_\_ Must pay registration fee and license fee.

\_\_\_ No Manufacturer or Wholesaler may have interest as owner, part owner, lessee, or lessor in any retail establishment.

**\*\*All Retail Licenses:**

\_\_\_ Premise is not within 150' from any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children.

\_\_\_ Premise is not within 300' from any college campus.

**Other Comments or Concerns:**

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CITY OF  
**GRAND ISLAND**

*INTEROFFICE*  
*MEMORANDUM*

**DATE:** January 5, 2006

**SUBJECT:** Drive up window to Smoker Friendly at 724 West 2<sup>nd</sup> Street

**TO:** Gary Greer  
RaNae Edwards

**FROM:** Steve Riehle

The Regional Planning Commission and the City Council adopted guidelines for all site plan reviews in 1985. These guidelines required a minimum 100' stacking distance for drive-up service windows when the driveway is off a street that is not classified as a local street. The minimum distance of 100' from the window to the property line is needed for stacking of vehicles in line.

In 2004, the business opened a drive-up window that was located closer than 100' to the property line. In January 2005 in a spirit of cooperation, city staff negotiated with the property owners to move the drive-up window as far back in the existing building as possible. The drive-up window is approximately 45' from the US Highway 30/2<sup>nd</sup> Street property line.

This window continues to be a problem with 4 to 5 vehicles regularly waiting in line. Many times the line will back up into US Highway 30/2<sup>nd</sup> Street. The situation is not safe and will only be exacerbated if there is an increase in traffic to the property.

Public works recommends that the approval of a liquor license be contingent on removal of the existing drive-up window.



January 5, 2006

*Working Together for a  
Better Tomorrow. Today.*

The Cigarette Store Corp.  
Attn: Daniel Gallagher  
3223 Arapahoe #201  
PO Box 18690  
Boulder CO 80308-1690

RE: Liquor License inspection for store located at 724 W 2<sup>nd</sup> Street, Grand Island, NE

Dear Mr. Gallagher,

An inspection was conducted of the above referenced property on January 5, 2006. Based upon that inspection the following items are in need of your attention to correct violations of the adopted building and electrical codes:

1. There were a number of extension cords being utilized as permanent wiring that need to be removed.
2. Electrical wall receptacle cover plates were missing along the south and east walls.
3. A hole had been cut into the floor along the west wall leaving an opening to the basement for what appeared as ventilation. That hole needs to be closed to provide separation from the basement and the main floor.
4. In the basement the clearances from combustibles and the furnace and water heater were adequate and had been maintained. Continued monitoring needs to be paramount as the amount of combustibles in the basement is extreme and I believe the Fire Department will address that issue.

The drive up window for the facility had, in the past, been approved based upon a plan submitted, the occupancy of the building and the limited amount of stacking distance available. I believe with the introduction of additional product offered for sale that the traffic at the site may once again become a concern for traffic along (second street) and the Public Works Department. The items listed need to be corrected at your earliest opportunity and additional inspections will be required prior to a Liquor License being released from the City Clerk's office.

If you have any questions, comments, or need any additional information please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig A. Lewis".

Craig A. Lewis  
Building Department Director







Eddy Street

Smoker  
Friendly

2nd Street

N

