City of Minden

P.O. Box 239, 325 N. Colorado
Minden, Nebraska 68959

phone 308.832.1820
fax 308.832.1949
www.MindenNebraska.org

The Christmas City
Minden NEBRASKA

ORDINANCE NO. 1294

AN ORDINANCE TO AMEND CHAPTER 50 OF THE MUNICIPAL CODE OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA, BY AMENDING ARTICLE III, SECTIONS 50-41, 50-42, 50-43, 50-44, 50-45, 50-46, 50-47, 50-48, AND 50-49; AS THE SAME RELATES TO OFFENSES AGAINST THE PUBLIC PEACE WITHIN THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MINDEN, KEARNEY COUNTY, NEBRASKA.

Section 1. That Chapter 50, Article III of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Article III. Offenses Against the Public Peace.

Section 2. That Section 50-41 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-41. Disorderly Conduct.

A. *Definitions.* For the purposes of this section, the following words and phrases shall have the following meanings:

PUBLIC PLACE shall mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purposes, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

RIOT shall mean a public disturbance involving: an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons, which act or acts shall constitute a clear and present danger of or shall result in damage or injury to the property of any other person or to the person of any other individual; or a threat or threats of the commission of an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of or would result in damage or injury to the property of any other person or to the person of any other individual.

INCITE A RIOT shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or the expression of beliefs, not involving advocacy of any act or acts of violence or assertion of the rightness of or the right to commit any such act or acts.

B. *Disorderly Conduct Prohibited.* A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his/her conduct is likely to cause public danger, alarm, disorder or nuisance, he/she willfully does any of the following acts in a public place:

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1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his/her life, limb or health;
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
4. Interferes with another's pursuit of a lawful occupation by acts of violence;
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the City Police or other lawful authority known to be such;
6. Resists or obstructs the performance of duties by Police officer(s) or any other authorized official of the City, when known to be such an official;
7. Incites, attempts to incite or is involved in attempting to incite a riot;
8. Addresses abusive language or threats to any member of the Police Department, any other authorized official of the City who is engaged in the lawful performance of his/her duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;
9. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition;
10. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed or the traveling public is annoyed;
11. Fails to obey a lawful order to disperse by a police officer, when known to be such an official, where one (1) or more persons are committing acts of disorderly conduct in the immediate vicinity and the public health and safety is imminently threatened;
12. Uses abusive or obscene language or makes an obscene gesture.
13. Urinates and/or defecates in public and/or in the view of the public.

C. *Exemptions.* This section shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion not in contravention of other laws.

Section 3. That Section 50-41 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-42. Disturbing Assemblies.

It shall be unlawful for any person within the City to disturb the peace and quiet of any public assembly of persons for religious worship or for any other purpose by any loud or unusual noise, boisterous laughing or talking or by any other manner whatsoever.

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Section 4. That Section 50-43 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-43. Disturbing the Peace.

Any person who shall intentionally disturb the peace and quiet of any person, family or neighborhood commits the offense of disturbing the peace.

Any person, partnership, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not more than three hundred ($300.00) dollars for each offense. Each separate act of violation of the terms of this section shall constitute a separate offense.

Section 5. That Section 50-44 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be amended to read as follows:

Section 50-44. Loud Noise.

It shall be unlawful for any person to operate any radio, tape player, compact disc player, stereophonic sound system, or similar device which reproduces or amplifies radio broadcasts, or musical recordings, in or upon any street, alley, or other public place in such a manner as to be audible to other persons in such public place or places more than fifty (50) feet from the source. Persons operating such devices while participating in licensed or permitted activities such as parades shall not be deemed to be in violation of this section.

Section 6. That Section 50-45 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-45. Unlawful Assembly.

It shall be unlawful for two (2) or more persons to assemble together within the City upon any sidewalk or street thereof, in front of or adjacent to any store, shop or other place of business so as to obstruct the public right-of-way along the street or sidewalk, or entrance of the place of business, or so as to obstruct or injure the carrying on of any lawful business in any of the places aforesaid.

Section 7. That Section 50-46 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-46. Disorderly House; Maintaining.

The term "disorderly house" as used in this section shall be deemed to be any room, house, building, structure or premises where unlawful or illegal acts are being committed. It shall be unlawful for the owner, lessee or proprietor of any room, house, building, structure or premises to knowingly collect or permit to be collected therein persons who are engaging in any unlawful act, or to knowingly make, cause, permit or suffer to be made therein any loud or improper noise to the annoyance or disturbance of any person or neighborhood.

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Section 8. That Section 50-47 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-47. Inmate of Disorderly House.

It shall be unlawful for any person to be an inmate of or visit or frequent any disorderly house as declared in the above section with knowledge of, and participating in the illegal activities occurring therein.

Section 9. That Section 50-48 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-48. Failure to Disperse.

A. Whenever a police officer has probable cause to believe that a person or persons are creating a disturbance of the peace and quiet of any person or neighborhood, such police officer may order said person or persons not residing on the premises to disperse for the purpose of abating said disturbance.
B. It shall be unlawful for any person to refuse to comply with a lawful order to disperse given by a police officer in the performance of the officer's duties under this section.

Section 10. That Section 50-49 of the Municipal Code of the City of Minden, Kearney County, Nebraska, be added to read as follows:

Section 50-49. Penalty.

A. Any person, partnership, firm or corporation violating any of the provisions of section 50-41, 50-43, 50-46, 50-47 or 50-48 shall be deemed guilty of a misdemeanor.
    a. The violation shall be punished by a fine not exceeding three hundred dollars ($300.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the court; and such violator may be committed to the City or County jail until such fine and costs of prosecution are paid.
    b. Each day any such violation occurs shall constitute a separate offense.
B. Any person, partnership, firm or corporation violating any of the provisions of Sections 50-42, 50-44, or 50-45 shall be deemed guilty of an infraction, and, upon conviction, shall:
    a. For the first (1st) offense, be fined not more than one hundred dollars ($100.00);
    b. On a second (2nd) conviction for the same infraction within a two-year period, be fined not less than one hundred dollars ($100.00) and not more than three hundred dollars ($300.00);
    c. On a third (3rd) or subsequent conviction for the same infraction within a two-year period be fined not less than two hundred dollars ($200.00) and not more than five hundred dollars ($500.00). Any person charged with commission of an infraction which was committed more than two (2) years after such person's last conviction for the same infraction shall be charged as though the most recent infraction was a first offense.

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d. Each distinct act or violation of the terms of sections shall constitute a separate and distinct offense.

Section 11. This ordinance shall be known as Ordinance No. 1294 and shall be in full force and effect from and after its passage, approval and publication according to law.

Passed and approved this 5th day of August, 2024.

/s/ Larry Evans
Larry Evans, Mayor

ATTEST:

/s/ Abbey Jordan
Abbey Jordan, City Clerk

(SEAL)