

## CHAPTER 120

# LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required  
120.02 General Prohibition  
120.03 Investigation

120.04 Action by Council  
120.05 Prohibited Sales and Acts  
120.06 Amusement Devices

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

*(Code of Iowa, Sec. 123.22, 123.122 & 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 & 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Chief of Police, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32[2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

*(Code of Iowa, Sec. 123.49[1])*

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may

sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

*(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

*(Code of Iowa, Sec. 123.49[2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49[2f])*

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee’s place of business.

*(Code of Iowa, Sec. 123.49[2i])*

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49[2a])*

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49[2j])*

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

*(Code of Iowa, Sec. 123.49[2d])*

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

*(Code of Iowa, Sec. 123.49[2e])*

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49[2g])*

11. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

*(Code of Iowa, Sec. 123.49[21])*

12. Sell, offer to sell, dispense, or serve for on-premises consumption an unlimited number of servings of alcoholic liquor, wine, or beer for a fixed price. Nothing in this subsection 12 shall be construed to prohibit a holder of an on-premises liquor control license or wine or beer permit, or its employees or agents, from:

A. Including drinks containing an alcoholic beverage or beer as part of a hotel or motel package which includes overnight accommodations; or

B. Providing a fixed price for an unlimited number or indefinite quantity of drinks containing an alcoholic beverage or beer for a private event. A private event is defined as an event restricted to a particular group or persons, provided that the licensee or permittee shall provide means or method by which to identify persons participating in the private event, such as the use of a separate room or an identification tag or badge; or

C. As otherwise permitted for a special event by the City Council (provided, however, that no license or permit holder shall be allowed to hold such a special event under this paragraph C more than twice per calendar year).

**120.06 AMUSEMENT DEVICES.** The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

[The next page is 747]

## CHAPTER 121

# CIGARETTE AND TOBACCO PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-Service Sales Prohibited  
121.09 Permit Revocation

**121.01 DEFINITIONS.** For use in this chapter the following terms are defined:

*(Code of Iowa, Sec. 453A.1)*

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product”

includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

**121.02 PERMIT REQUIRED.**

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

*(Code of Iowa, Sec. 453A.13)*

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

*(Code of Iowa, Sec. 453A.47A)*

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

**121.03 APPLICATION.** A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

**121.04 FEES.** The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

*(Code of Iowa, 453A.13 & 453A.47A)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.** Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or

suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

[The next page is 757]



## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Definitions	122.10 Revocation of Permit
122.02 Permit Required	122.11 Notice
122.03 Application for Permit	122.12 Hearing
122.04 Permit Fees	122.13 Record and Determination
122.05 Bonds Required	122.14 Appeal
122.06 Permit Issued	122.15 Effect of Revocation
122.07 Display of Permit	122.16 Rebates
122.08 Permit Not Transferable	122.17 Permit Exemptions
122.09 Time Restriction	122.18 Prohibited Acts

**122.01 DEFINITIONS.** For use in this chapter the following terms are defined:

1. “Peddler” means any person carrying goods or merchandise or offering services who sells or offers for sale for immediate delivery such goods, merchandise, or services from house to house or upon the public street or right-of-way.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street or right-of-way any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Panhandler” means any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. Panhandling does not include passively standing or sitting, without addressing any solicitation to any specific person; however, holding a sign, prop, or other visual aid that a reasonable person would understand to be a request for assistance while passively standing or sitting is solicitation.
4. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

**122.02 PERMIT REQUIRED.** Any person engaging in peddling, soliciting, or panhandling or in the business of a transient merchant in the City without first obtaining a permit as herein provided is in violation of this chapter.

**122.03 APPLICATION FOR PERMIT.** An application in writing shall be filed with the Chief of Police for a permit under this chapter. The applicant shall provide the following information. :

1. Applicant’s name;

2. Permanent and local address and contact information;
3. Business address, if any;
4. Physical description and a government-issued photo I.D.;
5. Applicant's employer, if any, and the employer's address;
6. The nature of the applicant's business;
7. The last three places of such business;
8. The length of time sought to be covered by the permit;
9. Whether applicant has been listed on any sex offender registry within the last five (5) years; and
10. Whether applicant has had a peddler, solicitor, panhandling, or transient merchant permit suspended, revoked, or denied by this or any other city in the last five (5) years and the reasons therefor.

An application fee in an amount fixed by resolution of the Council shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. There is no application fee for permits in conjunction with City sponsored events or activities.

*(Ord. 16-04 – Aug. 16 Supp.)*

**122.04 PERMIT FEES.** Permit fees in amounts fixed by resolution of the Council shall be paid to the Chief of Police or his/her designee prior to the issuance of any permit. There is no permit fee in conjunction with City sponsored events or activities.

*(Ord. 16-04 – Aug. 16 Supp.)*

**122.05 BONDS REQUIRED.**

1. Before a permit under this chapter is issued to a transient merchant, an applicant shall provide to the Chief of Police evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.
2. At the time of filing of the application and as a part thereof, any applicant without a place of residence or place of business in the State of Iowa shall file with the Chief of Police a bond, with sureties to be approved by the Chief of Police, in a penal sum of \$5,000.00 running to the City, for the use and benefit of any purchaser of any merchandise from such transient merchant who might have a cause of action of any nature arising from or out of such sale against the applicant or applicant's employer. The bond is to be further conditioned for the payment of any fines that may be assessed by any court against the applicant for a violation of this chapter, and further conditioned for the payment and satisfaction of any and all causes of action against the applicant commenced within one year from the date of sale of any merchandise. The aggregate liability of the surety for all fines and causes of action shall not exceed the principal sum of the bond.

**122.06 PERMIT ISSUED.** The Chief of Police, upon review of the permit application with the police department and any other appropriate department or agency, shall determine whether a permit will be issued to the applicant. A waiting period of not less than three (3) business days from the date of the application shall be in effect to provide sufficient time for the fact-gathering process to be completed in a reasonable period. In making his/her decision, the following factors shall be considered:

1. The information in the application is found to be correct.
2. All information required has been provided and the application is complete.
3. The required bond is paid.
4. Prior peddler, solicitor, panhandler, or transient merchant permits issued to applicant and whether any such permits were suspended or revoked.

If the determination is made that the application satisfies the above factors and the applicant is not a risk to public safety, a permit shall be issued upon payment of the bond and any other fees set forth in the schedule of fees adopted by the City Council by resolution. A denial of a permit may be appealed in the same manner and under the same procedures stated at Section 122.14 of this chapter.

**122.07 DISPLAY OF PERMIT.** Each peddler, solicitor, and panhandler shall keep such permit in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the permit as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's permit in the merchant's place of business.

**122.08 PERMIT NOT TRANSFERABLE.** Permits issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.09 TIME RESTRICTION.** All peddler, solicitor, and panhandler permits shall provide that said permits are in force and effect only between the hours of 9:00 a.m. and 9:00 p.m.

**122.10 REVOCATION OF PERMIT.** After notice and hearing, the Chief of Police may revoke any permit issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The permit holder has made fraudulent statements in the application for the permit or in the conduct of the business.
2. **Violation of Law.** The permit holder has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health, or Safety.** The permit holder has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

**122.11 NOTICE.** The permit holder shall be served with written notice containing particulars of any complaint against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

**122.12 HEARING.** The Chief of Police, with assistance of the City Attorney, shall conduct a hearing at which the permit holder shall be present to determine the truth of the acts alleged in the complaint and notice. Should the permit holder, or authorized representative, fail to appear without good cause, the Chief of Police may use the failure to appear as evidence in support of revocation of the permit.

**122.13 RECORD AND DETERMINATION.** The Chief of Police, with advice of the City Attorney, shall make and record findings of fact and conclusions of law, and shall revoke a permit when the record establishes evidence of a violation of this chapter and/or State law.

**122.14 APPEAL.** If the Chief of Police revokes or refuses to issue a permit, there shall be a record setting forth the reasons for said decision. The permit holder or applicant shall have a right to a hearing before the Council at one of the next two regular meetings. The Council may reverse, modify, or affirm the decision of the Chief of Police, or his/her designee, by a majority vote of the Council members present.

**122.15 EFFECT OF REVOCATION.** Revocation of any permit shall bar the permit holder from being eligible for any permit under this chapter for a period of at least one year from the date of the revocation.

**122.16 REBATES.** No permit holder shall be entitled to a rebate of part of the fee paid if the permit is revoked or surrendered before it expires.

**122.17 PERMIT EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing area schools or school districts conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Charitable and Nonprofit Organizations. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa*. All such organizations seeking to act as a peddler, solicitor, panhandler, and/or transient merchant are required to submit in writing to the Chief of Police the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If it is found that the organization is a bona fide charity or nonprofit organization, such charity or organization shall be issued, free of charge, a permit. In the event the permit is denied, the authorized representatives of such charity or organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.
8. City Employees acting in an extension of their job duties and with the written authorization of their employer. Permits are required for each type of permit use, however individual City employees are not required to complete individual permits.

*(Ord. 16-04 – Aug. 16 Supp.)*

**122.18 PROHIBITED ACTS.** It is unlawful for any person, with or without a permit under this chapter, to conduct peddling, solicitation, panhandling or transient merchant business:

1. With any person situated in a motor vehicle upon any public street, alley, driveway access or public way.
2. Upon any part of the public right-of-way and/or along a parade route on the day of any permitted parade.
3. By blocking the path of the person solicited along a street.
4. By doing business or attempting to do business upon any property on which has a posted notice prohibiting peddling, solicitation or panhandling.
5. By using profane or abusive language, either during the solicitation or following a refusal.
6. By panhandling in a group of three or more persons.
7. While under the influence of alcohol or any illegal narcotic or controlled substance.
8. By any statement, gesture or other communication, which a reasonable person in the situation of the person solicited, would perceive to be a threat, harassment, intimidation or coercion.

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## CHAPTER 123

# HOUSE MOVERS

123.01 House Mover Defined  
123.02 Permit Required  
123.03 Application  
123.04 Bond Required  
123.05 Insurance Required  
123.06 Permit Fee

123.07 Permit Issued  
123.08 Public Safety  
123.09 Time Limit  
123.10 Removal by City  
123.11 Protect Pavement  
123.12 Overhead Wires

**123.01 HOUSE MOVER DEFINED.** A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

**123.03 APPLICATION.** An application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Chief of Police, Public Works Director, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$250,000 per person; \$1,000,000 per accident.
2. Property Damage – \$50,000 per accident.

**123.06 PERMIT FEE.** A permit fee in an amount fixed by resolution of the Council shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

**123.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

**123.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City Engineer or Mayor as to such weight shall be final.

**123.12 OVERHEAD WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.



## CHAPTER 124

# PAWNBROKERS

124.01 Definitions	124.12 Articles of Clothing
124.02 Location of Pawnbroker Businesses	124.13 Searching for Stolen Property
124.03 Compliance with Chapter Provisions	124.14 Examination of Premises by Officers
124.04 License Fees	124.15 Hours of Operation
124.05 License	124.16 Disposing of Stolen Goods or Goods for Which There Is an Adverse Claim
124.06 Expiration Date of License	124.17 Grounds for Revocation of License
124.07 Separate License for Each Place of Business	124.18 Revocation Procedure
124.08 Nonpayment of License Fee Misdemeanor	124.19 Effect of Revocation
124.09 Records	124.20 Summary Suspension
124.10 Daily Reports to Chief of Police	
124.11 Prohibited Acts	

**124.01 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, have the meanings given in this section:

1. “Negative police report” means a report or review compiled by the Chief of Police, which discloses a criminal record of a felony or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the *Code of Iowa*.
2. “Pawnbroker” means every person who makes loans or advancements upon pawn, pledge, or deposit of personal property or who receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale therein, or who, by advertisement, sign, or otherwise, holds himself or herself out as a pawnbroker.
3. “Positive police report” means a report or review compiled by the Chief of Police, which does not disclose a criminal record of a felony or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the *Code of Iowa*.

### **124.02 LOCATION OF PAWNBROKER BUSINESSES.**

1. Locations. No person, whether as principal or agent, clerk or employee, either for such person or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any pawn shop businesses in the following locations.
  - A. In any residential area in the City, including upon any sidewalk abutting upon such residential area;
  - B. Within 1,000 feet of any residentially zoned or used property or any property designated on the City’s Comprehensive Plan as residentially oriented.
  - C. Within 1,000 feet of any parcel of real property upon which is located any of the following facilities:
    - (1) An elementary school, junior high school, or senior high school:

- (2) A church which conducts religious programs;
- (3) Park or recreational facilities operated and approved by the City, County, the Polk County Conservation Board, the State of Iowa, or a not-for-profit institution;
- (4) Federal, State, County, City, or special district governmental offices;
- (5) Supermarket or convenience market primarily engaged in the sale of food;
- (6) Restaurant, fast-food, or food establishment catering to family trade.

D. Within 1,000 feet of any other pawn shop or delayed deposit service business, as defined in Section 124.01 and 167.06(4).

2. Measurement of Distance. The distance between any two pawn shops and/or delayed deposit services businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any pawn shop and delayed services businesses and any religious institution, school or public park, government office, supermarket, restaurant, or any property designated for residential use or used for residential purposes shall be measured in a straight line without regard to intervening structures, from the closest property line of the pawn shop or delayed deposit service business to the closest property line of the religious institution, school, public park, government office, supermarket, restaurant, or the property designated for residential use or used for residential purposes.

3. Restrictions. Visibility into the store shall be maintained by utilizing clear, transparent glass on all windows and doors and by keeping all windows free of obstructions for at least three (3) feet into the store. Products may be displayed for sale in the window provided that the display, including signage, does not occupy more than 30 percent of the window area. Interior and exterior bars, grills, mesh, or similar obstructions, whether permanently or temporarily affixed, shall not cover any exterior door or window.

#### **124.03 COMPLIANCE WITH CHAPTER PROVISIONS.**

1. No person shall engage in or carry on the business of pawnbroker in the City without first paying the fee and procuring the license provided for in this chapter, nor shall any person carry on such business in any manner contrary to the provisions of this chapter.

2. Every clerk, servant, agent, or employee of any pawnbroker must be at least 18 years old and shall be subject to and bound by all provisions of this chapter and liable for the same penalties and to the same extent as such person's employer or principal for any violation thereof.

**124.04 LICENSE FEES.** Any person desiring a pawnbroker license under this chapter shall make a written, signed application to the Clerk on forms provided by the Clerk. All annual fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently

effective license fees shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

**124.05 LICENSE.**

1. Criteria Considered. Upon receipt of a pawnbroker license application, the Clerk shall forward a copy of the application to the Chief of Police, who shall review the application. The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application. The Chief of Police shall report to the Clerk within thirty (30) days of receipt of the application considering (but not limited to) the following criteria:

A. The Chief of Police shall determine whether the applicant or any of the applicant's agents or employees who will be charged with receiving or distributing property have been convicted of a felony. However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license, and if such person's rights of citizenship have been restored by the Governor, such conviction shall not be a bar to obtaining a pawnbroker license.

B. The Chief of Police shall determine whether the applicant has truthfully reported all relevant facts within the pawnbroker application.

C. The Chief of Police shall determine if the applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the State and City.

2. Issuance.

A. Upon receipt of a positive police report and the appropriate fees, the Clerk shall approve the application if the applicant has fully complied with all of the requirements of this chapter, and the Clerk shall thereupon issue a pawnbroker license to the applicant and forward a copy of such to the Chief of Police. The license shall state the name and place of residence of the person licensed, the business to be transacted and the place where it is to be carried on, and the date of issuance and expiration of the license.

B. In the event that the Clerk determines that any applicant for a new license or any person seeking a renewal license has not fully complied with all of the requirements of this chapter, or that the Chief of Police returns a negative report, or that the applicant has falsified his or her application, then the Clerk shall, after consultation with the City Attorney, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing.

**124.06 EXPIRATION DATE OF LICENSE.** All pawnbrokers' licenses shall expire one year after the date of issue.

**124.07 SEPARATE LICENSE FOR EACH PLACE OF BUSINESS.** Any person conducting several or separate places of business shall pay the license fee and procure a license for each place of business. The license shall be sufficient for all clerks, agents, servants, or employees engaged or employed at the place named in the license.

**124.08 NONPAYMENT OF LICENSE FEE MISDEMEANOR.** When any person shall engage in business as a pawnbroker without paying the fee provided therefor and imposed in

this chapter, such person shall be guilty of a misdemeanor. Each day said violation continues shall be considered a separate offense.

#### **124.09 RECORDS.**

1. Every pawnbroker shall keep a book in which he or she shall accurately and legibly enter, in ink, in the English language, at the time of purchasing or receiving any personal property:
  - A. The name of the person from whom the property is purchased or received, the person's place of residence, the person's date of birth, a photo identification of the person, the person's driver's license number, the state of issue of the driver's license, and the expiration date of the driver's license;
  - B. A particular, detailed, and accurate description of each article, including any serial number;
  - C. The estimated value of each article;
  - D. The amount paid, advanced, or loaned for the article;
  - E. The date and hour of transaction;
  - F. The date and hour when the article is to be redeemed or bought back;
  - G. Any mortgage or bill of sale taken, or receipt or pawn ticket given;
  - H. When, and by whom, an article was brought back or redeemed;
  - I. When, to whom, and how an article was disposed of, if not redeemed.
2. The license and the book shall, at all times, be open to examination or inspection by any police officer.
3. When the pawn log sheets are complete, or upon demand from the Chief of Police, the licensee shall surrender the original sheets to the Chief of Police, who shall provide a copy of the sheets to the licensee; the originals shall remain the property of the City. The licensee shall also maintain a record of the name and residential address of any person redeeming an article of property, the date of such transaction and a description of the article redeemed. In the event property is disposed of other than by redemption, the licensee shall record a description of the property, how disposed, and the name and address to whom the article was transferred. Such redemption and purchase records shall be maintained by the licensee for one year from the date of transaction and shall be at all times open to examination and recordation by the Chief of Police.
4. Every pawnbroker shall require each person from whom any property is purchased or received to print and sign his or her name on any inventory sheet provided by the Chief of Police. The inventory sheet shall be the property of the City.
5. Any person is guilty of a misdemeanor who:
  - A. Fails to keep or maintain such records as required by this chapter;
  - B. Fails to make the required entries in such records;
  - C. Intentionally or knowingly makes any false or unintelligible entry, or any entry which he or she has reason to believe is untrue, or deletes any entry;

- D. Fails to make the inquiries necessary to enable the person to make such entries or any of them;
- E. Fails to produce the license, book, or log sheets when requested by a police officer;
- F. Destroys, alters, or negligently permits such book, records, or log sheets to be destroyed, damaged, altered, rendered unintelligible, or lost;
- G. Fails to require any person to show physical proof of that person's identification.

**124.10 DAILY REPORTS TO CHIEF OF POLICE.** Every pawnbroker who purchases or receives from a person any article of jewelry or precious stones; any sheet copper or brass; copper or brass wire; lead (sheet or pipe); zinc (sheet or pipe); Citizens Band radio, car radio, stereo, or electronic accessory; nickel or nickel-plated articles; silver or silver-plated articles; car or railroad brasses; any guns, pistols, or rifles; any motorcycle, bicycle, automobile, or automobile tire, part, or accessory thereto; shall within 24 hours after purchasing or receiving such articles report the same in writing to the Chief of Police, stating fully and correctly:

- 1. The name, driver's license number and state of issuance, and residence of the person from whom the article was purchased or received;
- 2. A full and accurate description of each article, including any serial numbers;
- 3. The value or amount paid for each article.

**124.11 PROHIBITED ACTS.** No licensee or any agent or employee purchasing or receiving any article or property shall:

- 1. Receive any property without first viewing a form of identification containing a photograph of the person identified.
- 2. Melt, alter, destroy, dismantle, redeem, remove from the licensed premises, or otherwise dispose of such article, without making the report required in Section 124.10, or within 15 days after the receipt and report of any property is made, except upon written permission from the Chief of Police. Every bicycle, motorcycle, or automobile purchased or received shall be kept intact for a period of 15 days. All articles must remain within the City at the place of business during the 15-day period provided for herein.
- 3. Purchase or receive any property from any person under the age of eighteen without his or her parent or guardian being present at the time of the transaction and without receiving their written consent, a copy of which must be submitted along with the records required by Section 124.09 of this chapter.
- 4. Purchase or receive any property or surrender any property from 6:00 p.m. to 8:00 a.m. Monday through Saturday, and 6:00 p.m. Saturday through 8:00 a.m. Monday.
- 5. Conceal, secrete, or destroy for the purpose of concealing, any article purchased or received for the purpose of preventing identification.
- 6. Deface, alter, or remove any serial number or identifying marks from an article in his or her possession.
- 7. Take possession of defaced or altered property as described in subsection 6 above.

8. Sell, dispose of, change in its form, alter, or mutilate in any way any article of jewelry within the time fixed for sale or redemption.
9. Purchase or receive any personal property from any intoxicated person or person who appears to be under the influence of any drug.
10. Sell or otherwise dispose of any article during the time any person has the right to buy back or redeem the article.

**124.12 ARTICLES OF CLOTHING.** All articles of clothing taken in pawn or purchased outright shall be held in the same condition in which they were received for fifteen (15) days following and during this period shall not be cleaned, repaired, dyed, or altered in any manner.

**124.13 SEARCHING FOR STOLEN PROPERTY.** Whenever any police officer has reason to believe that any pawnbroker has in his or her possession or on his or her premises any stolen property, the officer shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property.

**124.14 EXAMINATION OF PREMISES BY OFFICERS.** No pawnbroker or any other person shall refuse, resist, or attempt to prevent any police officer, with or without warrant, from examining the premises occupied by the pawnbroker for the purpose of discovering stolen property.

**124.15 HOURS OF OPERATION.** No pawnbroker or any person shall conduct business on Sunday or at any hour other than between 6:00 a.m. and 6:00 p.m.

**124.16 DISPOSING OF STOLEN GOODS OR GOODS FOR WHICH THERE IS AN ADVERSE CLAIM.** No pawnbroker shall sell, or permit to be redeemed, or otherwise dispose of any article which he or she has reason to believe has been stolen, or which is adversely claimed by any person, or which he or she has been notified not to sell, release, or otherwise dispose of by any police officer without first obtaining written permission to do so from the Chief of Police.

**124.17 GROUNDS FOR REVOCATION OF LICENSE.** The following reasons shall be grounds for the revocation of any license issued under the provisions of this chapter:

1. Fraud. The licensee has made fraudulent or untrue statements in the application for a license.
2. Violation. The licensee has violated any of the provisions of this chapter.
3. Operation. The licensee has conducted the business in such a manner as to endanger the public welfare, health, safety, order, or morals.

**124.18 REVOCATION PROCEDURE.** When it appears to the Clerk or the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:

1. Investigation. The Council or the Clerk shall direct the Chief of Police to make an investigation concerning the alleged grounds for revocation.
2. Report to Council. The Chief of Police shall make such investigation and report the findings in writing to the Council.
3. Determination. The Council shall make a determination as to whether probable cause for revocation exists.

4. Hearing. If the Council finds that probable cause for revocation exists, it shall set a date, time, and place for a hearing on the matter and shall direct the City Attorney to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time, and place for a hearing on the matter.
5. Service of Complaint. The complaint shall be served upon the licensee by certified mail, return receipt requested, not less than ten (10) days prior to the date set for a hearing on the matter.
6. Conduct of Hearing. The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee or the licensee's authorized representative fail to appear without good cause, the Council may proceed to a determination on the complaint.
7. Rights of Licensee. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf and to cross-examine adverse witnesses.
8. Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.
9. Findings. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this chapter.

**124.19 EFFECT OF REVOCATION.** Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of three (3) years from the date of revocation.

**124.20 SUMMARY SUSPENSION.** The Chief of Police may summarily suspend any license issued under this chapter if, after investigation, the Chief of Police finds reasonable grounds to believe that the licensee's establishment poses an immediate hazard to the health or safety of the community. Such suspension shall be effective upon the service of a written notice of suspension upon the licensee. Such service may be accomplished by personal service or by certified mail, return receipt requested. The Chief of Police shall forthwith report such suspension to the Council and the Council shall forthwith commence revocation proceedings in accordance with the provisions of Section 124.18 of this chapter. Such suspension shall remain effective until the completion of said revocation proceedings.

[The next page is 775]



## CHAPTER 125

# ADULT ENTERTAINMENT FACILITIES

125.01 Purpose

125.02 Definitions

125.03 Location of Adult Bookstores, Movie Theaters,  
Nightclubs, Motels, Adult Businesses

125.04 Adult Magazines and Publications to be Covered

125.05 Enforcement

125.06 Permitted Areas

**125.01 PURPOSE.** It is recognized that adult entertainment facilities have certain objectionable side effects which render these adult facilities incompatible with residential and family-oriented uses, when the adult facilities are located directly adjacent to such uses. This chapter seeks to ensure that residential or family-oriented uses and adult entertainment facilities will be located in separate and compatible locations. It is a subject of legitimate concern for the City to use its zoning power to preserve the quality of life, preserve the City's neighborhoods, and to meet effectively the increasing encroachments of urbanization upon the quality of life within the City.

**125.02 DEFINITIONS.** As used in this chapter, the following terms have the following meanings:

1. "Adult entertainment facilities" include but are not limited to the following:
  - A. "Adult bookstore" means an establishment having as the primary portion of its stock in trade, books, magazines, and other periodicals which are substantially devoted to the depiction of specified sexual activities and specified anatomical areas.
  - B. "Adult movie theater" means any theater, arcade, or similar establishment where an enclosed building or open-air facility is used for presenting material in the form of motion picture film, video tape, or other similar means which is substantially devoted to the depiction of specified sexual activities and specified anatomical areas for observation by persons therein.
  - C. "Adult nightclub" means any club, cabaret, nightclub, bar, restaurant, or similar establishment where an enclosed building or open-air facility is used for live performance which is characterized by the exposure of specified sexual activities and specified anatomical areas for observation by persons therein.
  - D. "Adult motel" means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
  - E. "Adult business" means any business or establishment where a specified sexual activity or a specified anatomical area is displayed.

2. “Specified anatomical areas” means:
  - A. Less than completely and opaquely covered:
    - (1) Human genitals;
    - (2) Human buttocks;
    - (3) Human female breast below a point immediately above the top of the areola; and
  - B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
3. “Specified sexual activities” means:
  - A. Human genitals in a state of sexual stimulation or arousal;
  - B. Acts of human masturbation, sexual intercourse, or sodomy;
  - C. Fondling or other touching of human genitals, pubic region, buttock, or female breast; and
  - D. Minors engaged in a prohibited sexual act or simulation of a prohibited sexual act.

**125.03 LOCATION OF ADULT BOOKSTORES, MOVIE THEATERS, NIGHTCLUBS, MOTELS, ADULT BUSINESSES.**

1. Locations. No person, whether as principal or agent, clerk or employee, either for such person or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any adult bookstore, adult movie theater, adult nightclub, adult motel, or adult business in the following locations.
  - A. In any residential area in the City, including upon any sidewalk abutting upon such residential area;
  - B. Within 2,000 feet of any residentially zoned or used property, or any property designated on the City’s Comprehensive Plan as residentially oriented.
  - C. Within 2,000 feet of any parcel of real property upon which is located any of the following facilities:
    - (1) An elementary school, junior high school, or senior high school;
    - (2) A church which conducts religious programs;
    - (3) Park or recreational facilities operated and approved by the City, County, the Polk County Conservation Board, the State of Iowa, or a not-for-profit institution;
    - (4) Federal, State, County, City, or special district governmental offices;
    - (5) Supermarket or convenience market primarily engaged in the sale of food;
    - (6) Restaurant, fast-food, or food establishment catering to family trade.

- D. Within 2,000 feet of any other adult entertainment facility, as defined in Section 125.02.
2. **Measurement of Distance.** The distance between any two adult entertainment facilities shall be measured in a straight line, without regard to intervening structures from the closest exterior structural wall of each business. The distance between any adult entertainment facilities and any religious institution, school or public park, government office, supermarket, restaurant or any property designated for residential use or used for residential purposes shall be measured in a straight line without regard to intervening structures, from the closest property line of the adult entertainment facilities to the closest property line of the religious institution, school, public park, government office, supermarket, restaurant, or the property designated for residential use or used for residential purposes.
3. **Viewing Area.**
- A. It is unlawful to maintain, operate or manage or permit to be maintained, operated or managed any adult theater or arcade in which the viewing areas are not visible from a continuous main aisle or are obscured by a curtain, door, wall, or other enclosure. For purposes of this section, “viewing area” means the area where a patron or customer would ordinarily be positioned while watching the performance, picture, show, or film.
- B. It is unlawful for more than one person at a time to occupy any individually partitioned viewing area or booth.
- C. It is unlawful to create, maintain, or permit to be maintained any holes or other openings between any two booths or individual viewing areas for the purpose of providing viewing or physical access between the booth or individual viewing area.
- D. The opening to the viewing area shall be from the main aisle.

**125.04 ADULT MAGAZINES AND PUBLICATIONS TO BE COVERED.** The display of adult magazines and publications in a public place, other than a public place from which minors are excluded, is prohibited unless a device commonly known as a blinder rack is placed in front of such material, so that the lower two-thirds of the material is not exposed to view. As used herein, “public place” includes grocery stores, convenience stores, drug stores, supermarkets, and other retail establishments unless minors are excluded therefrom by law.

**125.05 ENFORCEMENT.** In case any building, structure, or sign is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building structure, sign, or land is used in violation of this chapter, the City Attorney, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct business or use in or about the premises.

**125.06 PERMITTED AREAS.** The areas in the City in which adult entertainment facilities are permitted are defined in Section 125.03.

[The next page is 781]

## CHAPTER 126

# PUBLIC DANCE HALLS

126.01 Definitions	126.11 Display of License
126.02 License Required	126.12 Expiration Date of License
126.03 Application for License	126.13 Rebates Prohibited
126.04 Material to Accompany Application	126.14 Transfer Prohibited
126.05 Application for License; Building Requirements	126.15 Rules and Regulations
126.06 Inspection Fee	126.16 Hours of Operation
126.07 Investigation	126.17 Grounds for Revocation
126.08 License; Action by Clerk	126.18 Revocation Procedure
126.09 License Fee	126.19 Effect of Revocation
126.10 Form of License	126.20 Summary Suspension

**126.01 DEFINITIONS.** The following words and phrases, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

1. “Application” means a formal written request for the issuance of a license, supported by a verified statement of facts.
2. “Good moral character” means a person who meets all of the following requirements:
  - A. Such person shall have such financial standing and be of such good reputation as will satisfy the Clerk that such person will comply with the provisions of this chapter and all other laws and ordinances applicable to such person’s operations.
  - B. Such person shall not possess a federal gambling stamp.
  - C. Such person shall not have been convicted of a felony or an indictable misdemeanor. However, such conviction shall not prevent the issuance of a license if: (i) the conviction occurred more than five years prior to the date of application for a license; (ii) the rights of citizenship have been restored to such person; and (iii) the Clerk determines that such person is of good moral character notwithstanding such conviction.

If such person is a corporation, firm, co-partnership, or association, the foregoing requirements shall apply to each of the officers, directors, partners, and general managers thereof and to any person who owns or controls ten percent or more of the ownership or profits thereof.

3. “License” means a license by the Clerk authorizing the holding of the license to operate a public dance hall.
4. “Licensee” means the person to whom a license has been issued in accordance with the provisions of this chapter.
5. “Open to the public” means a place in or at which a public dance is conducted for, engaged in, or performed by the general public and to which the general public is admitted or in attendance. The term “open to the public” does not include the following:

- A. A place that the general public is not free to enter and to which admission is restricted by reason of and to members of a club, fraternal organization, or religious or educational group;
  - B. A place where dancing is conducted for the primary purpose of instruction, where no one is permitted to dance except regularly enrolled students and employed instructors and where no beer is sold or available on or about the premises where the dancing is conducted.
6. "Premises," when applied to locations where public dancing is authorized by license, means all rooms or enclosures encompassed by such license.
7. "Public dance hall" means a place which is open to the public in or at which public dancing is conducted for, engaged in, or performed by the general public and to which the general public is admitted or in attendance. The term "public dance hall" may include the following:
- A. A place whose operator holds a license issued in accordance with the provisions of *Code of Iowa* Chapter 137F.
  - B. A place whose operator holds a license or permit issued in accordance with Chapter 120 of this Code and the provisions of *Code of Iowa* Chapter 123.

**126.02 LICENSE REQUIRED.** No person shall either operate a public dance hall or permit or allow a public dance to be conducted within the City unless such person holds a valid license issued in accordance with the provisions of this chapter.

**126.03 APPLICATION FOR LICENSE.** An application for a license shall be filed with the Clerk and shall contain the following:

1. Name of Applicant. The full name of the applicant, other names by which the applicant has been known, and the name of applicant's spouse, if any.
2. Residence of Applicant. A list of the residences at which the applicant has resided in the five (5) years immediately preceding the date of the application and the length of time at each such residence.
3. Citizenship. A statement that the applicant is a citizen of the State of Iowa.
4. Birth/Naturalization Date. The place and date of birth of the applicant and, if the applicant is a naturalized citizen, the time and place of such naturalization.
5. Location. The location of the place or building where the applicant intends to operate.
6. Building Owner. The name of the owner of the place or building where the applicant intends to operate and, if the applicant is not the owner thereof, a statement that the applicant is the actual lessee thereof.
7. Code Compliance. A statement that the place or building where the applicant intends to operate conforms with all of the requirements of the *Code of Iowa* and of this Code of Ordinances applicable thereto and that the same is a safe and proper place or building.
8. Seating Available. A statement that the place or building where the applicant intends to operate is and will continue to be equipped with sufficient tables and seats to accommodate 25 persons at one time.

If the applicant is a corporation, firm, co-partnership, or association, the requirements of subsections 1 through 4, inclusive, shall apply to each of the officers, directors, partners, and general managers thereof and to any person who owns or controls ten percent or more of the ownership or profits thereof. If the applicant is a corporation, the application shall contain a statement showing that the applicant is incorporated under the laws of the State of Iowa and is in good standing as of the date of the application.

**126.04 MATERIAL TO ACCOMPANY APPLICATION.** In addition to the foregoing, each application shall be accompanied by the following:

1. Plot Diagram. A diagram of the lot on which the place or building where the applicant intends to operate is located which shall show: (i) the dimensions of the lot; (ii) the location and identification of adjacent streets; (iii) the location of adjacent sidewalks; (iv) the location of access driveways; (v) front yard, side yard, and rear yard dimensions as computed in accordance with the provisions of the Zoning Ordinance; (vi) the location of any off-street parking facilities available to the applicant; and (vii) the location and dimensions of all buildings and accessory structures located on the lot.
2. Interior Diagram. A diagram of the interior of the place or building where the applicant intends to operate which shall show: (i) the location and dimensions of all rooms and enclosures in which the applicant intends to conduct public dances; (ii) the location and dimensions of any restroom, kitchen, storage area, or other room or enclosure owned or leased by the applicant which will be used in conjunction with the premises for which the license is sought; and (iii) the location of all exits available for use by the general public.
3. When Required. The foregoing requirements shall apply to all applications for new licenses and to all applications for renewal of licenses whenever any changes have been made in the place or building for which the renewal is sought which would require the issuance of a building permit under the provisions of the Building Code.

**126.05 APPLICATION FOR LICENSE; BUILDING REQUIREMENTS.** At the time an application for a license is filed, the place or building where the applicant intends to operate shall meet the following requirements:

1. Safety. The same shall conform to all of the requirements of the *Code of Iowa* and ordinances of the City applicable thereto and the same shall be a safe and proper place or building.
2. Church or School. If the place or building where the applicant intends to operate fronts on the same street as a church or school, said place or building shall be at least 300 feet from said church or school. If the place or building where the applicant intends to operate fronts on a different street than a church or school, said place or building shall be at least 150 feet from said church or school. In determining the distances set forth herein, measurements shall be taken on a direct line from the nearest part of the place or building where the applicant intends to operate to the nearest part of the church or school.
3. Seating. The same shall be equipped with sufficient tables and seats to accommodate 25 persons at one time.
4. Booths. All booths therein shall be entirely open at one side in a manner which will afford a full view of the interior thereof, and the occupants therein, from

any place in the room in which they are located. No booth structure shall exceed 40 inches in height.

5. Lighting. All premises on which beer is sold at retail or served shall be lighted so that all objects therein are plainly visible at all times. Minimum compliance with this section shall be an illumination of two foot-candles as measured by a foot-candle meter at a plane of 30 inches above the floor line.

**126.06 INSPECTION FEE.** Any person applying for a license shall pay to the Clerk, at the time the application is filed, an inspection fee. Such inspection fee shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such inspection fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective inspection fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours. Payment of such inspection fee shall be by cash or by certified or cashier's check payable to the City. In the event that a license is granted to the applicant, such inspection fee shall be credited to the license fee. In the event that a license is not granted to the applicant, such inspection fee shall not be refunded, but the same shall be credited to the General Fund of the City to defray the cost of the inspections required hereunder.

**126.07 INVESTIGATION.** Before any application for a license is approved by the Clerk, the Clerk shall cause a thorough investigation to be made of the applicant, the statements made in the application and the place or building where the applicant intends to operate. Such investigation shall include, but not be limited to, the following:

1. Chief of Police. A written report by the Chief of Police to the Clerk as to the background and reputation of the applicant, the truth of the statements made in the application, and the effect which the granting of a license would have on the welfare and morals of the City as a whole.
2. Fire Chief. A written report by the Fire Chief to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the Fire Prevention Code.
3. Building Official. A written report by the Building Official to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the provisions of the Building Code, Zoning Ordinance, and this chapter.
4. Plumbing Inspector. A written report by the Plumbing Inspector to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the provisions of the Plumbing Code.
5. Electrical Inspector. A written report by the Electrical Inspector to the Clerk as to the results of an inspection of the place or building where the applicant intends to operate for compliance with the provisions of the Electrical Code.
6. Referred to Clerk. Such reports shall be furnished to the Clerk within fifteen (15) days following the filing of the application. The Clerk may order such further or supplemental reports, as the Clerk deems necessary.

**126.08 LICENSE; ACTION BY CLERK.** The Clerk shall act on all applications for licenses within 45 days following receipt of the application. If the Clerk finds that all of the prescribed conditions for the issuance of a license have been satisfied and that no grounds for revocation exist, the Clerk shall authorize the issuance of the license.



**126.09 LICENSE FEE.** Before any license is issued, the applicant shall pay to the Clerk a license fee, subject, however, to credit for the inspection fee herein before provided. Payment of such license fee shall be by cash or by certified cashier's check payable to the City. All license fees under this chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fee may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth the currently effective license fee shall be kept on file in the office of the City Administrator, and be open to inspection during regular business hours.

**126.10 FORM OF LICENSE.** The license shall be signed by the Mayor and the Clerk and shall show the name of the licensee, the address of the licensed premises, the purpose of the license, the date of issuance of the license, and the date of expiration of the license.

**126.11 DISPLAY OF LICENSE.** Every licensee shall display the license in a conspicuous place on the licensed premises.

**126.12 EXPIRATION DATE OF LICENSE.** Each license issued under the provisions of this chapter shall expire at 11:59 p.m. on December 31 in the calendar year of issuance.

**126.13 REBATES PROHIBITED.** No licensee shall be entitled to a rebate of any kind by reason of the surrender of a license prior to the expiration date.

**126.14 TRANSFER PROHIBITED.** Each license issued hereunder shall be personal to the licensee, shall be restricted to the licensed premises and shall be void upon transfer or assignment to another person or transfer to other premises.

**126.15 RULES AND REGULATIONS.** Every licensee shall observe the following rules and regulations:

1. Intoxicated Persons. No intoxicated person or person simulating intoxication shall enter or remain on the licensed premises.
2. Profanity. No person shall use profane, obscene, or threatening language on the licensed premises.
3. Lewd and Lascivious Acts. No person shall commit any lewd or lascivious acts on the licensed premises.
4. Indecent Dances. No person shall engage in any indecent exposure on the licensed premises.
5. Fighting and Quarreling. No person shall engage in any fighting or quarreling on the licensed premises.
6. Enforcement. It shall be the duty of the licensee to inform all persons present at a public dance of the foregoing regulations and to cause the same to be enforced.

**126.16 HOURS OF OPERATION.** No person shall permit any public dancing between the hours of 2:00 a.m. and 6:00 a.m.

**126.17 GROUNDS FOR REVOCATION.** The following reasons shall be grounds for the revocation of any license issued under the provisions of this chapter:

1. Fraud. The licensee has made fraudulent or untrue statements in the application for a license.

2. Violation. The licensee has violated any of the provisions of this chapter.
3. Operation. The licensee has conducted the business in such a manner as to endanger the public welfare, health, safety, order, or morals.

**126.18 REVOCATION PROCEDURE.** When it appears to the Clerk or the Council that grounds for the revocation of a license may exist, the following procedure shall be followed:

1. Investigation. The Council or the Clerk shall direct the Chief of Police to make an investigation concerning the alleged grounds for revocation.
2. Report to Council. The Chief of Police shall make such investigation and report the findings in writing to the Council.
3. Determination. The Council shall make a determination as to whether probable cause for revocation exists.
4. Hearing. If the Council finds that probable cause for revocation exists, it shall set a date, time, and place for a hearing on the matter and shall direct the City Attorney to prepare the complaint against the licensee. The complaint shall state the alleged grounds for the revocation and the date, time and place for a hearing on the matter.
5. Service of Complaint. The complaint shall be served upon the licensee by certified mail, return receipt requested, not less than ten (10) days prior to the date set for a hearing on the matter.
6. Conduct of Hearing. The Council shall conduct the hearing at which the licensee shall be present. The purpose of the hearing shall be to determine the truth of the facts alleged in the complaint. Should the licensee or the licensee's authorized representative fail to appear without good cause, the Council may proceed to a determination on the complaint.
7. Rights of Licensee. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.
8. Evidence. The Council shall admit only reliable and substantial evidence into the revocation proceeding and shall give all admitted evidence its natural probative value.
9. Findings. The Council shall make and record findings of fact and conclusions of law and shall revoke a license under this section only when, upon review of the entire record, it finds substantial evidence of a violation of this chapter.

**126.19 EFFECT OF REVOCATION.** Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of three years from the date of revocation.

**126.20 SUMMARY SUSPENSION.** The Chief of Police may summarily suspend any license issued under this chapter if, after investigation, the Chief finds reasonable grounds to believe that the continuation of public dancing at the licensee's establishment would pose an immediate hazard to the health or safety of the community. Such suspension shall be effective upon the service of a written notice of suspension upon the licensee. Such service may be accomplished by personal service or by certified mail, return receipt requested. The Chief of Police shall forthwith report such suspension to the Council and the Council shall forthwith

commence revocation proceedings in accordance with the provisions of Section 126.18 of this chapter. Such suspension shall remain effective until the completion of said revocation proceedings.

[The next page is 797]