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|  <p style="text-align: center;"><b>Council<br/>Communication</b><br/>Office of the City Manager</p> | <b>Date:</b>             | December 7, 2015                          |
|  | <b>Agenda Item No.</b>   | <b>37</b>                                 |
|  | <b>Roll Call No.</b>     | <b><u>15-2073</u></b>                     |
|  | <b>Communication No.</b> | <b><u>15-641</u></b>                      |
|  | <b>Submitted by:</b>     | <b>Scott E. Sanders, City<br/>Manager</b> |

**AGENDA HEADING:**

Amending Section 10-8 of the Municipal Ordinance to permit the presence of patrons aged 16 to 20 in music venues until 11:30 p.m.

**SYNOPSIS:**

Amending Section 10-8 of the Municipal Ordinance permitting the presence of patrons aged 16 to 20 to remain in attendance until 11:30 p.m. in licensed or permitted establishments holding a liquor control license or wine or beer permit for a one (1) year pilot program.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

In the fall of 2006, the Des Moines Music Commission held two (2) public input forums and it became clear to them that music fans in the 16 to 20 year old range were being ill served by section 10-8 of the Municipal Code which prevents them from attending live shows after 9:00 p.m. at certain music venues which hold liquor or wine and beer permits. The practical effect of the ordinance at that time was to force music venues wanting to serve this age group into holding “all ages” shows which would start as early as 5:00 p.m. if more than one (1) band was scheduled. This prevented many prospective patrons, especially students of late high school and college age who have classes or other activities scheduled at the same time, from attending these shows. Some bands, especially those which travel, could not or would not schedule shows before 8:00 p.m. or 9:00 p.m., which resulted in a loss of a significant portion of their fan base. This frequently caused them to not book into Des Moines music venues, which not only harmed clubs within the City, but also local musicians who missed the opportunity to make important contacts with more established regionally or nationally known traveling bands.

At the December 18, 2006 meeting by Roll Call No. 06-2493, Council approved an amendment to the Municipal Code to establish music venues that would be exempt from the current ordinance and allowed patrons 16 to 20 years old to remain in music venues until 11:30 p.m. Establishments needed to meet the following conditions in order to obtain an exception certificate to the current ordinance from the Chief of Police:

- The designated venue must book at least 150 live performances per year.  
Council Communication No. 15-551 Page 2 of 3.
- The venue must have a dedicated and installed stage, public address and lighting systems.

- Minors under 16 years may not remain in the designated venue past 9:00 p.m.
- The venue must demand photo identification at the door and use wristbands or other effective means to distinguish those persons who are legally of age to purchase alcoholic beverages.
- The venue must have adequate security.
- The venue must make its best effort to provide the Police Department's Vice Unit with a schedule of events at least 30 days in advance. When an event is booked after submission of the monthly schedule, the venue will contact the Vice Unit by telephone, fax, or email 20 days before the event.
- The venue must demonstrate to the Police Department's Vice Unit that at least 50% of its gross receipts are derived from items other than alcohol sales.

After this ordinance amendment was approved, only one (1) music venue, House of Bricks obtained an exception certificate. After a year, the House of Bricks was unable to meet the 50% of its gross receipts being derived from items other than alcohol sales, so they did not seek another exception certificate, so this ordinance amendment was allowed to sunset.

At the September 14, 2015 Council meeting Finn Andersen of 3843 Woods Drive, requested to speak regarding youth issues, specifically the ordinance that prevents people under 21 from being in music venues past 9:00 p.m. By Roll Call No. 15-1540, Council directed the City Manager's Office and Police Department to work with stakeholders regarding revising the ordinance that prevents those under 21 from being in music venues past 9:00 p.m. and bring recommendations back to Council.

Staff is recommending that the same conditions that were presented in 2006 be applied to obtain an exception certificate to allow patrons aged 16-20 years to this recommended ordinance amendment with the exception that the venue must book 100 live performances per year instead of 150. Staff will evaluate the program after one (1) year and provide a report to Council to recommend continuing or revising the program as necessary.

At the October 12, 2015 City Council meeting, the Council directed staff to meet with interested parties and appropriate staff. Staff conducted a meeting with interested parties (Amedeo Rossi, Finn Anderson, and Zachary Mannheimer) on October 19<sup>th</sup> to further discuss the staff recommendations. The interested parties had suggested removing the 50% of the gross receipts be derived from items other than alcohol sales. Upon further research and discussions after this meeting, staff has decided to remain with the original staff recommendation and to keep the condition that 50% of gross receipts be derived from other items besides alcohol.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: October 12, 2015

Roll Call Number: [15-1720](#)

Action: [Amending](#) Chapter 10 of the Municipal Code regarding the presence of persons under legal age in licensed or permitted establishments holding a liquor control license or wine or beer permit.

([Council Communication No. 15-551](#)) Moved by Gatto that this ordinance be considered and given first vote for passage. Refer to City Manager to meet with appropriate staff and all interested parties. Motion Carried 7-0.

Date: September 14, 2015

Roll Call Number: [15-1540](#)

Action: [From](#) Finn Andersen, 3843 Woods Drive, requesting to speak regarding youth issues, specifically the ordinance that prevents people under 21 from being in music venues past 9:00 p.m. Moved by Hensley to receive and file comments. Refer to the City Manager and Police Department to work with stakeholders and bring a recommendation back to Council. Motion Carried 7-0.

Date: November 8, 2010

Roll Call Number: [10-1867](#)

Action: [From](#) Tom Zmolek, 328 38<sup>th</sup> Place, to speak regarding proposal to institute a new designated music ordinance to allow minors into small venues after 9:00 p.m. Moved by Meyer to refer to City Manager for review and recommendation. Motion Carried 7-0.

Date: December 18, 2006

Roll Call Number: [06-2493](#)

Action: [Amending](#) Chapter 10 of the Municipal Code to extend the hours which minors 16 years and older may be present in a licensed or permitted establishment which has qualified as a designated music venue. ([Council Communication No. 06-795](#)) Moved by Kiernan that this ordinance be considered and given first vote for passage; refer to the City Manager to review how revenue from ticket sales will be used to calculate the “non-alcohol” sales. City Manager will provide a quarterly activity report. Motion Carried 6-0.

Date: November 20, 2006

Roll Call Number: [06-2323](#)

Action: [From](#) Jason Walsmith, Des Moines Music Commission, to speak regarding designated music venues. Moved by Hensley to receive and file comments; refer to City Manager to work with the Police Department, Legal Department, and the Music Commission for recommendation back to City Council on December 18, 2006. Motion Carried 6-0.

#### **BOARD/COMMISSION ACTION(S):**

Board: Des Moines Music Commission

Date: November 7, 2006

Resolution Number: N/A

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Third reading of the ordinance.

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