

## ORDINANCE NO. 16,411

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Chapter 30, Article III, Sections 30-61, 30-62, 30-63, 30-64, 30-65, 30-66, 30-67, 30-68, relating to regulations of certain tobacco products and providing penalties.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Chapter 30, Article III, Sections 30-61, 30-62, 30-63, 30-64, 30-65, 30-66, 30-67, 30-68, relating to regulations of certain tobacco products and providing penalties, as follows:

### **ARTICLE III. CIGARETTE DEALERS AND DEVICE RETAILERS**

#### **Sec. 30-61. Compliance with article.**

No permit shall be issued under I.C. ch. 453A or 453E, known as the cigarette law and the device retailer law, for engaging in any business referred to in such laws except on full and complete acceptance of the terms of and in strict compliance with this article.

#### **Sec. 30-62. Permit required.**

No person shall engage in any business referred to in the cigarette law and the device retailer law within the city until a permit is received under this article.

#### **Sec. 30-63. Application for permit.**

- (a) *Required.* Any person desiring to engage in any business referred to in section 30-62 of this article shall sign and swear to an application, from the Iowa Department of Revenue, asking for a permit under this article and expressly promising compliance with this article and acquiescence in terms and provisions of this article.
- (b) *Contents.* The application shall state the name of the owner and the exact location of the premises upon which such business is proposed to be conducted, giving the street and number. If the premises are occupied by more than one place of business, the applicant shall state with specificity as to which portion of the premises they are making an application for a permit, the name and address of each person in charge of or to be employed in such place, the date of the initiation of the business, and whether it is proposed to do a wholesale or a retail business therein. One application shall be filed for each location or place of business and sworn to by such person or authorized agent.

#### **Sec. 30-64. Permit fee.**

- (a) Each applicant for a cigarette permit required under this article shall pay a fee of \$100.00 or the pro rata amount provided by I.C. ch. 453A to the city clerk or Iowa Department of Revenue.
- (b) If the application is not approved, such payment shall be refunded to the applicant; but if approved, such sum shall be retained by the city and shall be subject to the applicable refund provisions of I.C. ch. 453A.
- (c) Each applicant for a device retailer permit required under this article shall pay a fee of \$1,500.00 provided by I.C. ch. 453E to the Iowa Department of Revenue and then remitted by the Department of Revenue to the treasurer of the City.

**Sec. 30-65. Approval or rejection of permit application.**

Approval or rejection of any application for a permit required under this article shall be by resolution of the city council. If approved, the city clerk or the Iowa Department of Revenue on behalf of the City shall issue one permit for each location applied for and approved and shall make the records and certificates and perform the acts required by I.C. ch. 453A, 453E or this article.

**Sec. 30-66. Restrictions on issuance of permit.**

A permit may be issued to an applicant for a business described in section 30-61 only if the business is located in a zoning district where such use is permitted, the applicant is a person of good moral character, and the applicant has not been found guilty of a violation of I.C. ch. 453A, 453E or this article.

**Sec. 30-67. Suspension or revocation of permit.**

- (a) Any permit issued pursuant to this article may be suspended or revoked or its renewal denied for violation of I.C. ch. 453A, 453E, this article, or any other chapter of this Code.
- (b) No such suspension, revocation or denial shall issue except upon notice delivered to the permittee by mailing notice in the regular mail addressed to the permittee at the premises covered by such permit a minimum of ten days prior to the date set for hearing before the council. Such notice shall inform the permittee of the time, date and place of the hearing and shall set out briefly the reasons therefor.
- (c) If, after such hearing, the city council makes a finding based on substantial evidence that a violation of this article or another chapter of this Code did in fact take place as alleged, the city council may suspend or revoke the permit or deny its renewal; the determination of whether to so suspend, revoke or deny such permit shall be in the discretion of the city council and shall be dependent upon the circumstances surrounding the violation and its severity.
- (d) A permittee whose permit has been revoked or its renewal denied shall not be eligible for another such permit for a period of one year after such revocation.

**Sec. 30-68. Duration of permits; separate permit required for each place of business.**

Permits issued under this article shall extend to June 30 in each year next following issuance. They shall be effective only to June 30 next after being issued and shall then become void unless the

holder shall pay and secure receipts for the annual permit fee on or before June 30. One permit shall be so secured and kept effective and valid, for each location in which any such business is done or contemplated, before the business may be engaged in at such location.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED: Megan E. Norberg, Assistant City Attorney

Connie Boesen, Mayor

Attest: I, Laura Baumgartner, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an Ordinance (Roll Call No. 24-1762), passed by the City Council of said City at the meeting held on December 23, 2024 and signed by the Mayor on December 23, 2024 and published and provided by law in the Business Record on January 10, 2025. Authorized by Publication Order No. 12878.

Laura Baumgartner, City Clerk