

★ **Roll Call Number**

**Agenda Item Number**

50

Date June 4, 2007

Request from Council Member Brian Meyer to discuss ordinance change regarding temporary 5-day liquor control licenses (Section 10-43 (13) draft ordinance language attached).

Moved by \_\_\_\_\_ to refer to Legal Department for preparation of proper legislation; and refer to the City Manager for review and recommendation.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Proposed amendments to the City Code Section 10-43 (13)**

Amend paragraph (13) of Section 10-43 as follows:

**Sec. 10-43. Conditions for approval.**

The following conditions and regulations must be met by an applicant for a liquor control license or a wine or beer permit:

- (1) The applicant must give consent in writing on the application that members of the fire and police departments and the building inspector may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.
- (2) The premises for which a liquor control license, or a wine or a beer permit is sought must be located within an area where such business is permitted by chapter 134 of this Code and must otherwise conform to the city zoning requirements.
- (3) The premises of a class B beer permit shall, at the time of the application, continue to be equipped with sufficient tables and seats to accommodate 25 persons at one time.
- (4) All permits and licenses provided for in this chapter shall be displayed in a conspicuous place on the premises of the permit or license holder and at all times shall be subject to inspection.
- (5) No liquor control license or a wine or beer permit shall be approved for premises which do not conform to all applicable laws, ordinances, resolutions, and health and fire regulations.
- (6) Licensed premises shall conform with the following:
  - a. In addition to subsections (1) through (8) of this section, neither class A, B, C or special class C licenses nor class B beer permits shall be granted for premises which are not operated as a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services and which are located within 150 feet of any church, school, public park or licensed child care center as defined by I.C. ch. 237A.
  - b. No class B, B native or C native wine permit, class C beer permit, or class E liquor license shall be granted to an applicant whose premises are within 75 feet of any church, school, or public park or licensed child care center as defined by I.C. ch. 237A.
  - c. In determining the distances set out in this subsection, measurements shall be taken on a direct line from the nearest property line of the premises upon which the place of business of an applicant for a permit or license is located and over which such applicant has control, to the nearest property line of the parcel of real estate upon which the church or school building is situated. These area restrictions shall not affect the right of present permit or license holders who have qualified under the rules heretofore in effect, or their successors by purchase, from renewing their permits or licenses in their present locations.
- (7) a. Except in the geographic areas identified in chapter 134 of this Code as a C-3 commercial (downtown) district, neither new permits or licenses nor transfers of existing permits or licenses, other than class C beer permits and class E liquor licenses, will be granted for locations not currently operating under a permit or license, unless 75 percent of the property abutting on both sides of the same street as the premises for which the license or permit is requested and extending 200 feet to the

right and left from the center point of such premises facing such street is either currently put to a commercial use or is commercially zoned by chapter 134 of this Code. An exception to this restriction is permitted where the applicant's premises are operated as a restaurant, at least half of the gross income of which is derived from the sale of prepared food and food-related services.

- b. In measuring the distances in subsection (7)a. of this section, rights-of-way of intersecting city streets and alleys shall be excluded.
  - c. Where the premises involved are located on a corner lot at the intersection of two streets, it will be sufficient if the usage or zoning so measured along either intersecting street meets the requirements of subsection (7)a. of this section.
- (8) The area restrictions set forth in this section shall not affect the right of present permit or license holders or their successors by purchase from renewing their permits or licenses in their present locations. No property whose principal structure shall be used wholly or in part for residence purposes shall be deemed actually devoted to commercial use unless more than 50 percent of the gross floor area of the structure shall be devoted to commercial use.
- (9) The subsections of this section concerning the location of new or transferred permits and licenses shall not apply to an application for a permit or license by a college or university where 75 percent of the real estate, exclusive of street rights-of-way, within 200 feet of the structure for which the permit or license is sought, is owned by the college or university.
- (10) a. Subsections (2) and (3) of this section shall not apply to a person who makes application for a class B beer permit in connection with the operation of a concession stand at a city park designated "community" or "major" by the director of the park and recreation department, or at a city-owned golf course. The city council may approve an application for a class B beer permit in connection with the operation of a concession stand at city parks designated "neighborhood" in special circumstances upon review of the facts and taking into account the recommendation of the park and recreation board.
- b. For the purposes of section 10-47 of this chapter, each park at which an applicant desires to operate a concession stand and sell beer shall be deemed a separate place of business for which such applicant shall be required to have a separate license.
- (11) Subsection (2) of this section shall not apply to a club or corporation which makes application for a class A liquor control license in connection with the operation of and located on the land occupied by a private full-sized nine- or 18-hole golf course.
- (12) Subsection (6)a of this section shall not apply to nonprofit corporations which make application for a five-day, 14-day, seasonal, or Sunday sales liquor control license, where the sale of alcoholic beverages does not occur between the hours of 8:00 a.m. and 5:00 p.m., and where the sale of alcoholic beverages is done on a temporary basis for special events and so as to not comprise greater than 50 percent of the gross revenue for each day alcoholic beverages are sold.
- (13) The required separation from any church, school, public park or licensed child care center imposed by subsection (6)a of this section, and the requirements of subsection (7)a of this section, shall not apply to nonprofit corporations which make application for a five-day liquor control license, where the sale of alcoholic beverages occurs only between the

hours of 11:00 a.m. and 10:00 p.m., and outside the regular school hours of any school within 150 feet.

- (14) For all class A, B, C or special class C liquor licenses and all class B beer permits the applicant must provide a statement that all designated security employees have received training and certification in security methods. Such training shall be performed and certified to by a third party that is in the training business and shall include a minimum of four hours of training in the following areas: mediation techniques, civil rights or unfair practices awareness as provided in I.C. § 216.7, and proper physical restraint methods used against a person who has become combative.

(O.4760; C42, §§ 46-8, 46-17, 46-18, 46-25; O.5390, 5420; C54, §§ 9-12, 9-14, 9-15, 9-30, 9-31, 9-34, 9-42; O.5723, 5964; C62, §§ 9-12, 9-14, 9-15, 9-30, 9-31, 9-34, 9-42; O.7370, 7402, 7999, 8280; C62, § 9-4; O.8350, 8368, 8673, 8692, 8708; C75, § 5-5; O.9217, 9589; C79, § 5-5; O.9833, 9916, 10,112; C85, § 5-5; O.10,928, 11,051, 11,537, 13,228, 13,233, 13,402; C91, § 5-5; O.13,895, 14,100, 14,269, 14,287, 14,440)

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