



Roll Call Number

Agenda Item Number

45

Date May 20, 2019

An Ordinance entitled, "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 Sections 14-3, 14-38, 14-42, 30-374, 30-376, 30-395 and 78-29, and by repealing Section 30-380, relating to license applications for theaters, game rooms, bowling alleys and amusement devices, peddlers, and after-hours businesses",

(Council Communication No. 19-236)

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

Douglas P. Philip
Assistant City Attorney

(First of three required readings)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| BOESEN | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| MANDELBAUM | | | | |
| WESTERGAARD | | | | |
| TOTAL | | | | |

MOTION CARRIED APPROVED

Mayor

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.

City Clerk

ORDINANCE NO. _____

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 Sections 14-3, 14-38, 14-42, 30-374, 30-376, 30-395 and 78-29, and by repealing Section 30-380, relating to license applications for theaters, game rooms, bowling alleys and amusement devices, peddlers, and after-hours businesses.

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, is hereby amended by amending Sections 14-3, 14-38, 14-42, 30-374, 30-376, 30-395 and 78-29, and by repealing Section 30-380, relating to license applications for theaters, game rooms, bowling alleys and amusement devices, peddlers, and after-hours businesses, as follows:

Sec. 14-3. Application.

- (a) Before any license shall be issued under this article, the person applying shall do so by making ~~written~~ application to the city clerk, which shall state the business to be licensed, the person to whom the license shall be issued and the amount to be paid.
- (b) In addition to subsection (a) of this section, no theater license shall be issued unless:
 - (1) The applicant gives consent ~~in writing~~ on the application, which consent shall be binding upon the owner, manager, and operator of such theater, 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 the city building codes and fire code;
 - (2) The building inspector and the fire chief or their designees shall have inspected the premises and found that they conform to the requirements of the city building codes and fire code and shall have filed a report with the city clerk to such effect; and
 - (3) If the premises are found not to so conform at the time of the application or after the issuance of a license, the applicant shall be so advised and shall be given opportunity to appeal such finding to the city council which, upon hearing, may allow a reasonable period of time for the premises to be brought to conformance with such codes or, if the city council then or after such period deems the premises sufficiently hazardous to public health or safety, shall direct the denial or revocation of such license and closure of the premises as a theater.

Sec. 14-38. License required.

- (a) No game room or bowling alley shall be opened, operated or permitted to be opened or operated without the owner first obtaining a game room or bowling alley license from the city council. No other commercial establishment shall permit the operation or use of any coin-operated amusement machine or other amusement games, tables, devices or machines without the owner first obtaining a game room license from the city council. However, a license is not required for a bona fide inoperable machine.
- (b) All applicants for licenses for bowling alleys or game rooms shall apply ~~in writing~~ to the city clerk. The city clerk shall forward the application to the appropriate departments for inspections. Upon ~~receipt~~ completion of such inspections ~~reports~~, the city clerk shall forward the application ~~along with the inspection reports or summaries thereof~~ to the city council for approval. If the city council finds that the applicant has fully complied with all the requirements of this article and that the applicant is of good moral character, the city council shall authorize the issuance of a license to the applicant.
- (c) Where the principal business of a commercial establishment has been subjected to and has passed inspection by city building, fire and police departments under this Code or state law, as applicable, the requirement of inspection before issuance of a license pursuant to this article shall be deemed satisfied.
- (d) Where the operation of coin-operated amusement machines is only incidental to the principal business activity of the commercial establishment, fire and building inspections required by this section need only be conducted in and about that portion or room of the commercial establishment wherein the coin-operated amusement machine or machines are actually located.
- (e) All applications shall be made in the name of the owner of the business, whether an individual, a partnership, or a corporation, and shall contain the following:
 - (1) The full name, residence address, ~~business address, date of birth and social security number~~ of the applicant and, where the applicant is a partnership or corporation, of the partners or officers.
 - (2) The Iowa Division of Criminal Investigation criminal history report ~~arrest record and the criminal record~~ of the applicant, if any, or of each partner or corporate officer, as applicable.
 - ~~(3) A statement that the applicant is of good moral character.~~
 - (4) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the subsections of this section pertaining to a corporate applicant apply.
 - (5) The name and address of the owner of the building where such game room or bowling alley will be located.

- (f) ~~In addition to the information contained in the application described in subsection (e) of this section, an application made by an applicant whose business establishment features machines or devices of the type described in subsection 14-39(a)(1) of this article shall contain the following additional information:~~
- ~~(1) The two previous residence addresses immediately prior to the present address of the applicant; where the applicant is a corporation or partnership, the two previous residence addresses of the managing partner or principal executive officer, as applicable.~~
 - ~~(2) The height, weight and color of eyes and hair of~~ A copy of a government-issued photo ID of the applicant or of the managing partner or principal executive officer of the corporation, as applicable.
 - ~~(3) The business, occupation, or employment of the applicant, or of the managing partner or principal executive officer of the corporation, as applicable, including location thereof, for the three years immediately preceding the date of application.~~
 - ~~(4) The game room or similar license history of the applicant or of the managing partner or principal executive officer of the corporation, as applicable; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended or has been adjudged in violation of this article, the reason therefor, and the business activity or occupation subsequent to any such action of suspension or revocation or judgment.~~
 - ~~(5) All information required in this subsection of any applicant shall also be provided for every person who, directly or indirectly, has any right or responsibility to participate in the management or control of the business to be conducted at the premises of the proposed game room or bowling alley.~~
 - ~~(6) Certified copies~~ Copies of any lease or rental agreement governing the applicant's rights in such building.
 - ~~(7) Such other identification and information necessary to discover the truth of the matters required in this subsection to be set forth in the application as may be required by the city clerk.~~
- (g) ~~Every application for a license under this article shall be verified under oath by the applicant or, if the application is in the name of a partnership or corporation, by the managing partner or principal executive officer of the corporation as applicable.~~

Sec. 14-42. Posting of license.

The license issued by this article shall be enclosed by the licensee in a suitable frame, ~~having a clear glass face and substantial wood or metal back~~, so that the whole of the license may be seen therein. It shall be posted at all times and displayed in a conspicuous place in the principal room or place of the premises where the licensed business is carried on, so that all persons visiting the room or place may readily see it.

Sec. 30-374. License application.

- (a) All applicants for an after-hours business license shall apply ~~in writing~~ to the city clerk. Upon receipt of the application by the city clerk, the application information shall be forwarded to the chief of police or his or her designee, who shall conduct an investigation

~~and shall submit a written report on the applicant as to the truth of the facts averred in the application. It shall be the duty of the building official, zoning enforcement officer and the fire chief or their designees to inspect the premises to determine if they conform to the city's requirements, and no license or permit shall be approved until or unless a report has been filed with the city clerk by such officers.~~

- (b) All applications shall be made in the name of the owner of the business, whether an individual, a partnership, or a corporation, and shall contain the following:
- (1) The full name, residence address, business address, ~~date of birth and social security number~~ Iowa Division of Criminal Investigation criminal history report, copy of government-issued photo ID of the applicant and, when the applicant is a partnership or corporation, of the partners or officers.
 - (2) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent of the stock of the corporation; if the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the subsections of this section pertaining to a corporate application apply.
 - (3) The name and address of the owner of the building where such after-hours business will be located.
 - (4) A sketch or diagram of the proposed licensed premises showing the boundaries and locations of entrance and exits of buildings and parking lots and indicating the address of the proposed licensed premises, street names and abutting addresses.
 - (5) A copy of a valid Iowa sales tax permit for operation of the after-hours business.
- (c) Upon receipt of departmental inspections and if the city clerk finds that the applicant has fully complied with all requirements of this article and all applicable ordinances and codes regulating fire, buildings, health and zoning and that the applicant is of good moral character, the city clerk shall approve the application and shall issue the after-hours business license.

Sec. 30-376. Renewal application.

- (a) Upon receipt of an application for the renewal of an after-hours business license, ~~the information shall be forwarded to the chief of police or his or her designee, who shall conduct an investigation and shall submit a written report on the applicant as to the truth of the facts averred in the application.~~
- (b) Inspection of the premises will be the same as under section 30-374 of this chapter.

Sec. 30-380. ~~Numbering of licenses and retention of stub.~~ Repealed by Ord. No. 15,---

~~-----All licenses issued under this division will be numbered, and the city clerk shall keep a duplicate thereof.~~

Sec. 30-395. Procedures for suspension, revocation, or civil penalty.

- (a) Whenever the city council finds that the licensee or his or her employees or agents has furnished any false information required under this article or has violated or failed to comply with any of the requirements of this division, any other chapter of this Code, or state law pertaining to the after-hours business, the city council may, impose a civil penalty of up to \$500.00 upon the licensee and/or suspend or revoke the license.
- (b) No civil penalty, suspension or revocation shall issue except upon notice delivered to the licensee by mailing notice in the regular mail, addressed to the licensee at the licensed premises, a minimum of ten days prior to the date set for hearing before the council. Such notice shall inform the licensee of the time, date and place of hearing and shall set out briefly the reasons therefore.
- (c) If, after such hearing, the city council makes a finding based on substantial evidence that a violation of this chapter or another chapter of this Code or state law did in fact take place as alleged, the city council may impose an appropriate civil penalty and/or suspend or revoke the license; the determination of whether to impose a civil penalty and/or suspend or revoke such license shall be in the discretion of the city council and shall be dependent upon the circumstances surrounding the violation and its severity.
- (d) A licensee whose license has been revoked shall not be eligible for another such license for a period of two years after such revocation.
- (e) Failure to pay a civil penalty imposed by the city council within 30 days of the resolution imposing such penalty if not stayed by appeal shall result in an automatic suspension of the after-hours business license for 20 calendar days. The city clerk shall issue a suspension order and the 20 days suspension shall commence at 6:00 p.m. one day following service of the order by ordinary mail to the last known address of the license holder personal service to the license holder or by posting on the main entrance to the business premises.

Sec. 78-29. Application for license.

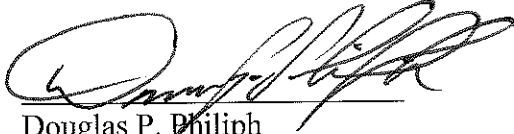
An application ~~in writing~~ shall be filed ~~in person~~ with the city clerk for a license required under this article. The applicant shall provide the following information:

- (1) applicant's name, e-mail address, if any, and local phone number or cell phone number;
- (2) permanent and local address, business address, business e-mail address, and phone number, if any;
- (3) ~~physical description and a government-issued photo I.D.;~~
- (4) applicant's employer, if any, and the employer's address, e-mail address, and phone number, if any;
- (5) the nature of the applicant's business;
- (6) the last three places of such business;
- (7) the length of time sought to be covered by the license;
- (8) applicant's federal identification number and the federal identification number for any business applicant is peddling under as an agent, employee or otherwise;
- (9) an Iowa sales tax permit number or a letter from the Iowa Department of Revenue confirming a sales tax permit is not required;

- (10) a Department of Criminal Investigation criminal history report/record for applicant from the state of applicant's residence for the previous five (5) years to include pending charges, such report or record must be dated no more than 30 days prior to the application;
- (11) whether applicant has been listed on any sex offender registry within the last five (5) years;
- (12) whether applicant has had a peddlers license suspended, revoked, or denied by this or any other city in the last five (5) years and the reasons therefore;
- (13) the dates of any previous peddlers licenses issued by the city clerk.

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

FORM APPROVED:



Douglas P. Philip
Assistant City Attorney