

TITLE VI - REGULATION OF BUSINESS AND VOCATIONS

BEER, LIQUOR AND WINE CONTROL

Chapter 145 - General Provisions655
Chapter 146 - Beer, Liquor and Wine Permits661

FRANCHISES

Chapter 150 - Natural Gas Franchise 677
Chapter 151 - Cable TV Franchise and Regulations 681
Chapter 152 - Natural Gas Utility Commission 694.1
Chapter 153 - Cable Television Commission 695

MISCELLANEOUS

Chapter 160 - Cigarette Permits701
Chapter 161 - Peddlers, Solicitors and Transient Merchants705
Chapter 162 - Building Movers711
Chapter 163 - Bankrupt, Fire and Closing Out Sales715
Chapter 164 - Licensing of Plumbers723
Chapter 165 - Taxicab and Bus Licenses 729
Chapter 166 - Fair Housing Practices and Standards 731
Chapter 167 - Licensing of Tree Surgeons741
Chapter 168 - Licensing of Electricians743
Chapter 169 - Licensing and Regulation of Pawnshops749
Chapter 170 - False Alarms 750.7

TITLE VI - REGULATION OF BUSINESS AND VOCATIONS
BEER, LIQUOR AND WINE CONTROL

CHAPTER 145
GENERAL PROVISIONS

| | |
|---|--|
| 145.01 Definitions | 145.05 Open Container on Streets and Highways |
| 145.02 General Prohibition | 145.06 Treatment for Intoxicated Persons |
| 145.03 Persons Under Legal Age | 145.07 Protective Custody |
| 145.04 Public Consumption or Intoxication | |

145.01 DEFINITIONS. Where words and phrases used in the chapters of this Code of Ordinances pertaining to Beer, Liquor and Wine Control are defined by State law, such definitions shall apply to their use in these chapters and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

1. "Administrator" means the administrator of the alcoholic beverages division of the Iowa Department of Commerce, or any designee.

(Code of Iowa, Sec. 123.3)

2. "Club" means any nonprofit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

(Code of Iowa, Sec. 123.3)

3. "Commercial establishment" means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the standards and specifications of the Division and to the ordinances of the City.

(Code of Iowa, Sec. 123.3)

4. "Division" means the alcoholic beverages division of the Iowa Department of Commerce.

(Code of Iowa, Sec. 123.3)

5. "Grocery store" means any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.

(Code of Iowa, Sec. 123.129)

6. "Hotel or Motel" means a premise licensed by the State Department of Inspections and Appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.

(Code of Iowa, Sec. 123.3 [32])

7. "Legal age", means that age defined in Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.3)

8. "Person of Good Moral Character" means any person who meets all of the following requirements:

A. Has such financial standing and good reputation as will satisfy the Council and the Administrator that the person will comply with the Iowa Alcoholic Beverage Control Act and all other laws, ordinances and regulations applicable to his operations under State law.

B. Is not prohibited by the provisions of Section 146.23 from obtaining a liquor license or a wine or beer permit.

C. Is a citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.

D. Has not been convicted of a felony. However, if the person's conviction of a felony occurred more than five (5) years before the application for a license or permit, and if the person's rights of citizenship have been restored by the Governor, the Administrator or the council may determine that the person is of good moral character notwithstanding such conviction.

E. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, directors and partners of such person, and to any person

who directly or indirectly owns or controls ten percent (10%) or more of any class of stock of such person or has an interest of ten percent (10%) or more in the ownership or profits of such person. For the purpose of this provision, an individual and the individual's spouse shall be regarded as one person.

(Code of Iowa, Sec. 123.3)

9. "Pharmacy" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.

(Code of Iowa, Sec. 123.129)

145.02 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 terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

(Code of Iowa, Sec. 123.2)

145.03 PERSONS UNDER LEGAL AGE. As used in this section, "legal age" means twenty-one (21) years of age or more.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

(Code of Iowa, Sec. 123.47(1))

2. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under State laws.

(Code of Iowa, Sec. 123-47[2])

3. A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to

Supp. Sep-97

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purchase any alcoholic beverage, wine or beer from any licensee or permittee.

(Code of Iowa, Sec. 123.49[3])

(Amended by Ordinance No.97-1502)

145.04 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:

A. "Arrest" means the same as defined in section 804.5 of the Code of Iowa and includes taking into custody pursuant to section 232.19 of the Code of Iowa.

B. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. "Peace Officer" means the same as defined in section 801.4 of the Code of Iowa.

D. "School" means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible

Supp. Sep-97

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upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

145.05 OPEN CONTAINER ON STREETS AND HIGHWAYS. A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion. A person convicted of a violation of this paragraph is guilty of a simple misdemeanor.

(Code of Iowa, Sec. 123.28)

145.06 TREATMENT FOR INTOXICATED PERSONS. A person who appears to be intoxicated or incapacitated by a chemical substance in a public place and in need of help may be taken to a licensed treatment facility by a peace officer. If the person refuses the proffered help, the person may be arrested and charged with intoxication.

(Code of Iowa, Sec. 125.34 [1])

If no licensed treatment facility is readily available the person may be taken to an emergency medical service customarily used for incapacitated persons.

(Code of Iowa, Sec. 125-34 [2])

145.07 PROTECTIVE CUSTODY. The person being taken to a treatment facility is in protective custody and is not under arrest and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(Code of Iowa, Sec. 125.34 [2])

Supp. Sep-97

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TITLE VI - REGULATION OF BUSINESS AND VOCATIONS BEER, LIQUOR AND WINE CONTROL

CHAPTER 146 BEER, LIQUOR, AND WINE PERMITS

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|--------|---|--------|--|
| 146.01 | License or Permit Required | 146.12 | Five-Day, Fourteen-Day and Seasonal Permits and Licenses |
| 146.02 | Nature of License or Permit | 146.13 | Expiration of License or Permit |
| 146.03 | Beer Permits - Classes | 146.14 | Refunds |
| 146.04 | Liquor Licenses - Classes | 146.15 | Transfers |
| 146.05 | Application | 146.16 | Application for Renewal |
| 146.06 | License and Permit Fees; Bond Filed | 146.17 | Prohibited Sales and Acts |
| 146.07 | Conditions | 146.18 | Optional Suspension or Revocation |
| 146.08 | Civil Liability | 146.19 | Mandatory Suspension or Revocation |
| 146.09 | Separate Locations - Retail Beer and Wine Sales | 146.20 | Hearing on Suspension or Revocation |
| 146.10 | Investigation | 146.21 | Division Notified |
| 146.11 | Action by Council | 146.22 | Appeal to State and Court |
| | | 146.23 | Effect of Revocation |

146.01 LICENSE OR PERMIT REQUIRED. It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of this Code of Ordinances and State law.

(Code of Iowa, Sec. 123.2 and 123.171)

146.02 NATURE OF LICENSE OR PERMIT. A liquor control license, wine permit or beer permit is a personal privilege and is revocable for cause. It is not property nor is it subject to attachment and execution nor alienable nor assignable, and it shall cease upon the death of the permittee or licensee. However, the Administrator has the discretion to allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use it.

(Code of Iowa, Sec. 123.38)

146.03 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:

1. Class "B": A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.

(Code of Iowa, Sec. 123.124 & 123.131)

2. Class "C": A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.

(Code of Iowa, Sec. 123.124 & 123-129)

146.04 Liquor Licenses - Classes. Liquor control licenses shall be classed as follows:

1. Class "A": A class "A" liquor control license issued to a club authorizes the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine only from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licensees, and native wines from native wine manufacturers and to sell liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

(Code of Iowa, Sec. 123.30 [3a])

2. Class "B": A class "B" liquor control license issued to a hotel or motel authorizes the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine only from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses, and native wines from native wine manufacturers and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only; however, beer may also be sold for consumption off the premises. Each such license shall be effective throughout the premises described in the application.

(Code of Iowa, Sec. 123.30 (3b))

3. Class "C": A class "C" liquor control license issued to a commercial establishment must be issued in the name of the individual or individuals who actually own the entire business and authorizes the holder or holders to purchase alcoholic liquors from class "E" liquor control licensees only, wine only from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control

licenses and native wines from native wine manufacturers and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only; however, beer may also be sold for consumption off the premises.

4. Special Class "C": A special class "C" liquor control license may be issued and authorizes the holder to purchase wine only from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses, and to sell wine and beer to patrons by the individual drink for consumption on the premises; however, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

(Code of Iowa, Sec. 123.30 [3c])

5. Class "E": A class "E" liquor control license may be issued and authorizes the holder to purchase alcoholic liquor from the Division only and to sell the alcoholic liquor to patrons for consumption off the licensed premises and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

(Code of Iowa, Sec. 123.30 [3c])

6. Class "B" Wine Permits. A class "B" wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B" and class "C" liquor control licensees in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four (24) hour period and only if the licensed premises of the liquor control licensee is located within the geographic territory of the class "A" wine permittee from which the wine was originally purchased by the class "B" wine permittee. A class "E" wine permittee shall not sell wine to other class "B" wine permittees.

(Amended by Ordinance No. 91-1382)

Supp. Nov-91

146.05 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license, a beer permit or a wine permit shall be filed at such time, in such number of copies and in such form as the Administrator shall prescribe, on forms prescribed by the Administrator. (Code of Iowa, Sec. 123.31 and 123.176)

146.06 LICENSE AND PERMIT FEES; BOND FILED. The application shall be accompanied by the necessary fee and bond, if required, in accordance with the Iowa Alcoholic Beverage Control Act or regulations thereunder, and shall be filed with the Council. (Code of Iowa, Sec. 123.32, 123.34, 123.36, 123.134 and 123.179)

146.07 CONDITIONS. No liquor control license or wine or beer permit shall be approved unless:

1. Character of Applicant. The applicant is a person of good moral character as defined in Chapter 145 and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by said chapter. (Code of Iowa, Sec. 123.30

[1])

2. Right of Entry. The applicant gives consent in writing on the application that members of the Fire and Police Departments and any other City official authorized by State law may enter upon the areas of the premises where alcoholic beverages are stored, served or sold, without warrant during business hours of the applicant, to inspect for violations of the provisions of State law and of this Code of Ordinances.

(Code of Iowa, Sec. 123.30 [1], 123.127, 123.128, 123.129)

3. Access to Residential or Sleeping Quarters. No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the Administrator in the form of a living quarters permit. (Code of Iowa, Sec. 123.30

[2])

4. Location of Premises. The premises are located within areas where such businesses are, or hereafter are, permitted by a valid zoning ordinance.

(Code of Iowa, Sec. 123.128 [1b] and 123.30 [2])

5. Conform to Applicable Laws. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.

(Code of Iowa, Sec. 123.30 [2] and 123.128 [2])

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- 664 -

6. Seating Capacity. With respect to a class "B" beer permit or a class "C" liquor control license, the premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.

(Code of Iowa, Sec. 123.128 [1b] and 123.30 [1])

146.08 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the Division.

(Code of Iowa, Sec. 123-92)

146.09 SEPARATE LOCATIONS - RETAIL BEER AND WINE SALES. Every person holding a class "B" or class "C" beer permit or a class "B" wine permit having more than one place of business where such beer or wine is sold is required to have a separate license for each separate place of business, except as otherwise provided by State law.

(Code of Iowa, Sec. 123.140 and 123.178 (2))

146.10 INVESTIGATION. Upon receipt of an original application for a liquor license, wine or beer permit by the Clerk, it shall be forwarded to the Police Chief, who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the Council as to the approval of the license or permit. It is the duty of the Fire Chief to inspect the premises to determine if they conform to the requirements of the City, and no license or permit shall be approved until or unless an approving report has been filed with the Council by such officers.

(Code of Iowa, Sec. 123.30 [2])

146.11 ACTION BY COUNCIL. The Council shall either approve or disapprove an application. Action taken by the Council shall be so endorsed on the application and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Division for such further action as is provided by law.

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

146.12 FIVE-DAY, FOURTEEN-DAY AND SEASONAL PERMITS AND LICENSES Five (5) day, fourteen (14) day and six (6) or eight (8) month seasonal licenses and permits may be issued as provided by State law. No seasonal license or permit shall be renewed except after a period of two (2) months.

(Code of Iowa, Sec. 123.34)

Supp. Nov-91

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146.13 EXPIRATION OF LICENSE OR PERMIT. All liquor control licenses, wine permits, and beer permits, other than seasonal and five or fourteen-day licenses or permits, unless sooner suspended or revoked, shall expire one year from date of issuance. Sixty (60) days' notice of such expiration must be given in writing by the Administrator.

(Code of Iowa, Sec. 123-34)

146.14 REFUNDS. Any licensee or permittee, or the licensee's or permittee's executor, or administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of the licensee's or permittee's creditors, may voluntarily surrender a license or permit to the Division and shall notify the City, and the Division or the City shall refund to the person surrendering the license or permit, a proportionate amount of the fee received by the Division or the City for the license or permit as follows: If surrendered during the first three (3) months of the period for which it was issued, the refund shall be three-fourths of the amount of the fee; if surrendered more than three (3) months but not more than six (6) months after issuance, the refund shall be one-half of the amount of the fee; if surrendered more than six (6) months but not more than nine (9) months after issuance, the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for a liquor control license, wine permit, or beer permit surrendered more than nine (9) months after issuance. No refund shall be made to any licensee or permittee, upon the surrender of the license or permit, if there is at the time of surrender, a complaint filed with the Division or the City, charging the licensee or permittee with a violation of the chapters in this Code of Ordinances pertaining to Beer, Liquor and Wine Control or provisions of the Iowa Alcoholic Beverage Control Act. If upon a hearing on a complaint the license or permit is not revoked or suspended, then the licensee or permittee is eligible, upon surrender of the license or permit, to receive a refund; but if the license or permit is revoked or suspended upon hearing the licensee or permittee is not eligible for the refund of any portion of his license or permit fee. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, sec. 123-38)

146.15 TRANSFERS. The Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the

Supp. Nov-91

application a transfer fee in the amount of fifteen dollars (\$15.00).
(Code of Iowa, Sec. 123.38)

146-16 APPLICATION FOR RENEWAL. Upon receipt of an application for the renewal of a liquor license, wine permit, or beer permit, it shall be forwarded to the Police Chief, who shall conduct an investigation and shall submit a written report as to the truth of the facts contained in the application and a recommendation to the Council as to the approval of the renewal of the license or permit.
(Code of Iowa, Sec. 123.35)

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

1. Intoxicated Persons. 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. Hours of Operation. 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 two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day. (Amended by Ord. No. 91-1382)
(Code of Iowa, Sec. 123.49 [2b] & 123.150)

3. Credit Sales. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.
(Code of Iowa, Sec. 123.49 [2c])

4. Employment of Minors. 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. Selling of Alcoholic Beverage to Minors. Sell, give or otherwise supply any alcoholic beverage, wine or beer to any person, knowing or having reasonable cause to believe the person to be under legal age, or permit any person, knowing or having reasonable cause to believe the person to be under legal age, to consume any alcoholic beverage, wine or beer.

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

6. Mixing of Alcoholic Beverage. 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])

7. Soliciting and Disorderly Conduct. 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])

8. Brand Signs Prohibited. Permit any signs or other matter advertising any brand of beer or wine to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer or wine at retail.

(Code of Iowa, Sec. 123-51)

9. Public Indecent Exposure Prohibited. Allow or permit any of the following:

(Code of Iowa, Sec. 728.5)

A. The actual or simulated public performance of any sex act upon or, in such licensed premises.

B. The exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

C. The exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

D. Any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

E. The displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

The provisions of this subsection do not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section are permitted or allowed as part of such art exhibits or performances.

10. Minors Prohibited. Permit or allow any person under legal age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

146.18 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this chapter, a liquor license, wine permit or beer permit may be suspended by the Council for a period up to one year for violations of the Code of ordinances, or suspended for a period up to one year or revoked by the Council for any of the following causes:

1. Misrepresentation. Misrepresentation of any material fact in the application for the license or permit.

(Code of Iowa, Sec. 123.39 [1])

2. Violations. Violation of any of the provisions of the Iowa Alcoholic Beverage Control Act.

(Code of Iowa, Sec. 123.39 [2])

3. Change in Ownership. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the City and the Division.

(Code of Iowa, Sec. 123.39 [3])

4. Original Disqualifications. An event which would have resulted in disqualification from receiving the license or permit when originally issued.

(Code of Iowa, Sec. 123.39 [4])

Supp. Nov-91

5. Sale or Transfer. Any sale, hypothecation or transfer of the license or permit.

(Code of Iowa, Sec. 123-39 [5])

6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the Division under the State law.

(Code of Iowa, Sec. 123.39 [6])

7. Commission of Prohibited Sale or Act. The conviction of any liquor control licensee, wine permittee or beer permittee for a violation of any of the provisions of Section 123.49 of the Code of Iowa (subject to the provisions of subsection 3 of Section 123.50), or for a violation of any of the provisions of Section 146.17 of this Code of Ordinances, subject to Section 146.19, is grounds for the suspension or revocation of the license or permit by the Division or the City.

(Code of Iowa, Sec. 123.50 [2])

146.19 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the City Council in accordance with the following:

1. Sale to Minors or "Spiking". If any licensee, wine permittee, beer permittee, or employee of a licensee or permittee is convicted of a violation of Section 146.17, subsection 5 of this Code of Ordinances, or if a retail wine or beer permittee is convicted of a violation of subsection 6 of that section, the City shall, in addition to the other penalties fixed for such violations by this chapter, assess a penalty as follows:

A. Upon a first conviction, the violator's liquor control license, wine permit or beer permit shall be suspended for a period of fourteen (14) days. However, if the conviction is for a violation which occurred on or after January 1, 1988, the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty will result in automatic suspension of the license or permit for a period of fourteen (14) days.

(Code of Iowa, Sec. 123.50 [3a])

B. Upon a second conviction within a period of two (2) years, the violator's liquor control license, wine

Supp. Nov-91

permit or beer permit shall be suspended for a period of thirty (30) days.

(Code of Iowa, Sec. 123.50 [3b])

C. Upon a third conviction within a period of five (5) years, the violator's liquor control license, wine permit or beer permit shall be suspended for a period of sixty (60) days.

(Code of Iowa, Sec. 123.50 [3c])

D. Upon a fourth conviction within a period of five (5) years, the violator's liquor control license, wine permit or beer permit shall be revoked.

(Code of Iowa, Sec. 123.50 [3d])

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers. If any liquor control licensee is convicted of any violation of Code of Iowa, Sec. 123.49 (2) ("a", "d" or "e") , or any wine or beer permittee is convicted of a violation of Code of Iowa, Section 123.49(2)("a" or "e"), the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the Division.

(Code of Iowa, Sec. 123.50 [2])

146.20 HEARING ON SUSPENSION OR REVOCATION. The Council shall conduct a hearing on each suspension or revocation in the following manner:

(Code of Iowa, Sec. 123.39)

1. Notice. The permit holder, and the surety on the permit holder's bond, shall be served with written notice containing a copy of the complaint against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

2. Hearing. The Council shall conduct a hearing, at which both the permit holder and complainants shall be allowed to be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or authorized representative fail to appear without good cause, the Council may proceed to a determination of the complaint.

3. Rights of Permit Holder. The permit holder shall have the right to be represented by counsel, to testify and

Supp. Nov-91

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present witnesses in the permit holder's own behalf, and to cross-examine adverse witnesses.

4. Evidence. The Council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.

5. Criminal Charges. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the Council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.

6. Record and Determination. The Council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this Code of Ordinances or State law.

146.21 DIVISION NOTIFIED. When the Council revokes or suspends a liquor license, wine permit or beer permit, the Division shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.

146.22 APPEAL TO STATE AND COURT. The right of appeal to the Division hearing board shall be afforded an applicant whose application has been disapproved, or a liquor control licensee, wine permittee or beer permittee whose license or permit has been suspended or revoked. Any applicant, licensee or permittee who feels aggrieved by a decision of the Administrator or City disapproving, suspending or revoking issuance of a liquor control license, wine permit or beer permit may, provided the person has exercised the right of appeal to the hearing board as provided by State law, appeal from said decision in accordance with the provisions of the Iowa Administrative Procedure Act or may file a petition for judicial review in the District Court of the County. The City may seek judicial review of a decision of the hearing board in accordance with the terms of the Iowa Administrative Procedure Act within thirty days.

(Code of Iowa, Sec. 123.32 (4&5))

Supp. Nov-91

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146.23 EFFECT OF REVOCATION. Any liquor control licensee, wine permittee or beer permittee whose license or permit is revoked under the Iowa Alcoholic and Beverage Control Act shall not thereafter be permitted to hold a liquor control license, wine permit or beer permit in the State for a period of two (2) years from the date of revocation. A spouse or business associate holding ten percent (10%) or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license, wine permit or beer permit, and no liquor control license, wine permit or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of revocation. If a license or permit is revoked, the premises which have been covered by the license or permit shall not be relicensed for one year.

(Code of Iowa, Sec. 123.40)

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