

TITLE 3
BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1

GENERAL LICENSING PROVISIONS

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3-1-1: **APPLICATIONS:** Applications for all licenses and permits required by this Code shall be made in writing to the Clerk, unless otherwise specifically provided by law. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be required by the issuing official. (1992 Code)

3-1-2: **PERSON SUBJECT TO LICENSE:** Whenever in this Code a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person shall be subject to the

requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the Municipality. (1992 Code)

3-1-3: **FORMS:** Forms for all licenses and permits, and applications therefor, shall be prepared and kept on file by the Clerk. (1992 Code)

3-1-4: **SIGNATURES:** Each license or permit issued shall bear the signatures of the Mayor and the Clerk in the absence of any provision to the contrary. (1992 Code)

3-1-5: **INVESTIGATIONS:** Upon the receipt of an application for a license or permit where laws of the Municipality necessitate an inspection or investigation before the issuance of such permit or license, the Clerk shall refer such application to the proper officer for making such investigation within forty eight (48) hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof. An inspection in regard to such licenses in the connection of the care and handling of food and the preventing of nuisances and the spread of disease shall be made by the proper City official. For the protection of health, the Building Inspector shall make or cause to be made any such inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise provided, shall be made by the police authority or by some other officer designated by the Mayor. (1992 Code)

3-1-6: **TERMINATION OF LICENSE:** All annual licenses shall terminate on the last day of the calendar year of the Municipality where no provision to the contrary is made. (1992 Code)

3-1-7: BUILDING AND PREMISES: No license shall be issued for the conduct of any business, and no permit shall be issued for any thing, or act, if the premises and building to be used for the purpose do not fully comply with the requirements of the Municipality. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the Zoning Ordinance of the Municipality. (1992 Code)

3-1-8: CHANGE OF LOCATION: In the absence of any provision to the contrary, the location of any licensed business or occupation, or of any permitted act, may be changed, provided ten (10) days' notice thereof is given to the Clerk; provided, the building and zoning requirements of this Code are complied with. (1992 Code)

3-1-9: NUISANCES: No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact. (1992 Code)

3-1-10: POSTING OF LICENSE: It shall be the duty of any person conducting a licensed business in the Municipality to keep his license posted in a prominent place on the premises used for such business at all times. (1992 Code)

3-1-11: REVOCATION OF LICENSE OR PERMIT: Unless otherwise provided, any license or permit, for a limited time, may be revoked by the Mayor and City Council during the life of such license or permit for the violation by the licensee or permittee of any provision relating to the license or permit, the subject of the license or permit, or the premises occupied; such revocation may be in addition to any fine imposed. The Mayor, City and the Council shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any business license or permit for a period not to exceed fifteen (15) days.

A. Hearing: Within ten (10) days after the City officials have so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

- B. **Notice of Hearing:** Notice of hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be sent to the licensee or permittee at his last known address at least five (5) days prior to the date for the hearing.
- C. **Hearing Procedures:** At the hearing, the licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision and recommendation.
- D. **Causes for Revocation:** Business licenses and permits issued under the ordinances of the City, unless otherwise provided, may be revoked by the Mayor and City Council after notice and hearing as provided in subsections B and C of this Section for any of the following causes:
1. Any fraud, misrepresentation or false statement contained in the application for the license or permit.
 2. Any violation by the licensee or permittee of ordinance provisions or State law relating to the license or permit, the subject matter of the license or permit, or the premises occupied.
 3. Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude.
 4. Failure of the licensee or permittee to pay any fine or penalty owing to the City.
 5. Refusal to permit an inspection or sampling or any interference with a duly authorized City officer or employee while in the performance of his duties in making such inspections, as provided in the City Code. (1992 Code)

3-1-12: **APPEAL PROCEDURE:** Any applicant aggrieved by the refusal of the City to issue a license or permit or by the revocation of a license or permit shall have the right to appeal the City's decision to the City Council. Such appeal shall be requested by submitting a written request to the Mayor within five (5) days of the action of the City which is appealed.

The City Council shall consider the appeal at its next regularly scheduled meeting, at which time the applicant shall be entitled to present his appeal orally or in writing. The Council shall act on the appeal within seven (7) days of the hearing and shall either uphold the action of the City or shall direct the issuance of a license or permit which the City had denied or the reissuance of a license or permit which the City has revoked. (1992 Code)

CHAPTER 2

BEER AND LIQUOR CONTROL

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3-2-1: **DEFINITIONS:** Where words and phrases used in this Chapter are defined by State law, such definitions shall apply to their use in this Chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein shall have the following meanings:

CLUB	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.
COMMERCIAL ESTABLISHMENT	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 ordinances of the City.
DEPARTMENT	The Iowa Beer and Liquor Control Department.
DIRECTOR	The Director of the Iowa Beer and Liquor Control Department or his designee.
GROCERY STORE	Any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.
HOTEL OR MOTEL	A premises licensed by the State Department of Agriculture 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.
LEGAL AGE	Eighteen (18) years of age or more.
PERSON OF GOOD MORAL CHARACTER	Any person who meets all of the following requirements: A. Has such financial standing and good reputation as will satisfy the Council and the Director that he will comply with the Iowa Beer and Liquor Control Act¹ and all other laws, ordinances and regulations applicable to his operations under State law.

1. I.C. §123.1 et seq.

Person of Good Moral
Character (cont.)

B. Does not possess a Federal gambling stamp.

C. Is not prohibited by the provisions of subsection 3-2-19F of this Chapter from obtaining a liquor license or beer permit.

D. 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.

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

F. 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 his spouse shall be regarded as one person.

PHARMACY

A drugstore 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. (1976 Code §2.1-3.0101)

3-2-2: **LICENSE OR PERMIT REQUIRED:** It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor or

beer without first securing a liquor control license or beer permit in accordance with the provisions of this Chapter and State law. (1976 Code §2.1-3.0201)

3-2-3: NATURE OF LICENSE OR PERMIT: A liquor control license or beer permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case, it shall cease upon the death of the permittee or licensee. However, the Director may, in his discretion, 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 same. (1976 Code §2.1-3.0202)

3-2-4: APPLICATION FOR LICENSE OR PERMIT: A verified application for the original issuance or the renewal of a liquor control license or a beer permit shall be filed at such time, in such number of copies and in such form as the Director shall prescribe, on forms prescribed by him. (1976 Code §2.1-3.0205)

3-2-5: BOND AND INSURANCE REQUIREMENTS:

A. The application shall be accompanied by the required fee¹ and bond and be filed with the Council for approval or disapproval. The bond to be submitted shall be in a form prescribed by the Director and in the following amounts:

1. Liquor Control License: With any liquor control license, five thousand dollars (\$5,000.00), conditioned upon the payment of all taxes payable to the State under the provisions of the Iowa Beer and Liquor Control Act² and compliance with all provisions of the Act.

2. Beer Permit: With Class B and C beer permits, five hundred dollars (\$500.00), conditioned upon the faithful observance of the Iowa Beer and Liquor Control Act. (1976 Code §2.1-3.0206)

1. See Section 3-2-7 of this Chapter.

2. I.C. §123.1 et seq.

- B. Every liquor control licensee and Class B beer permittee shall furnish proof of financial responsibility either by the existence of liability insurance policy or by posting bond in such amount as determined by the Department. (1976 Code §2.1-3.0208)

3-2-6: CLASSIFICATION OF PERMITS AND LICENSES:

- A. Beer Permits: 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.
 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. (1976 Code §2.1-3.0203)
- B. Liquor Licenses: Liquor control licenses shall be classed as follows:
1. Class A: A Class A liquor control license issued to a club shall authorize the holder to purchase alcoholic liquors from the Department only and to sell such liquors and beer to bona fide members and their guests by the individual drink for consumption on the premises only.
 2. Class B: A Class B liquor control license issued to a hotel or motel shall authorize the holder to purchase alcoholic liquors from the Department only and to sell such liquors 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.
 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 shall authorize the holder or holders to purchase alcoholic liquors from the Department only and to sell such liquors 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. (1976 Code §2.1-3.0204)

3-2-7: LICENSE AND PERMIT FEES: The following fees shall be submitted with the respective applications:

A. Beer Permits: The following annual beer permit fees shall be charged for the classes listed herein:

1. Class B Beer:

Without Sunday sales privileges	\$200.00
With Sunday sales privileges	240.00

2. Class C Beer: The annual fee shall be graduated on the basis of the amount of interior floor space¹ which comprises the retail sales area of the premises covered by the permit, as follows:

Up to 1,500 square feet	\$ 75.00
Over 1,500 square feet and up to 2,000 square feet	100.00
Over 2,000 square feet and up to 5,000 square feet	200.00
Over 5,000 square feet	300.00

B. Liquor Control Licenses: The following annual liquor control license fees shall be charged for the classes listed herein:

1. Class A Liquor:

Club

Without Sunday sales privileges	\$600.00
With Sunday sales privileges	720.00

Less than 250 members

Without Sunday sales privileges	\$400.00
With Sunday sales privileges	480.00

A post, branch or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week:

Without Sunday sales privileges	\$200.00
With Sunday sales privileges	240.00

¹ I.C. §123.134.

B) 2. Class B Liquor:

Without Sunday sales privileges	\$800.00
With Sunday sales privileges	960.00

3. Class C Liquor:

Without Sunday sales privileges	\$ 950.00
With Sunday sales privileges	1,140.00

(1976 Code §2.1-3.0212)

3-2-8: RESTRICTIONS ON ISSUANCE OF LICENSE OR PERMIT:
 No liquor control license or beer permit shall be approved unless:

A. Character of Applicant: The applicant is a person of good moral character, as defined by this Chapter, 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 this Chapter.

B. Premises:

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

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

3. Seating Capacity: 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.

4. Access to Residential or Sleeping Quarters: No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the Director in the form of a living quarters permit. (1976 Code §2.1-3.0207)

- C. **Right of Entry:** The applicant gives consent, in writing, on the application that members of the Fire, Police and Health Departments and the Building Inspector may enter upon the premises, without warrant, to inspect for violations of the provisions of State law¹ and of this Chapter. (1976 Code §2.1-3.0207; 1992 Code)

3-2-9: INVESTIGATION OF APPLICANT; INSPECTIONS: Upon receipt of an original application for a liquor license or beer permit by the Clerk, it shall be forwarded to the proper City official 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 shall be 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. (1976 Code §2.1-3.0211)

3-2-10: ACTION ON LICENSE OR PERMIT: Action taken by the Council shall be so endorsed on the application, and thereafter, the application, fee and bond shall be forwarded to the Department for such further action as is provided by law. (1976 Code §2.1-3.0214)

3-2-11: EXPIRATION OF LICENSES AND PERMITS: All liquor control licenses and beer 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 Director. (1976 Code §2.1-3.0215)

3-2-12: TRANSFER OF LICENSE OR PERMIT; FEE: 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 application a transfer fee in the amount of fifteen dollars (\$15.00). (1976 Code §2.1-3.0217)

1. I.C. §123.127.

3-2-13: SEASONAL BEER PERMITS: Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by State law.¹ (1976 Code §2.1-3.0213)

3-2-14: REFUNDS OF LICENSE AND PERMIT FEES: Any such licensee or permittee, or his executor, 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 his creditors, may voluntarily surrender such license or permit to the Department and shall notify the City and the Department and the City, or the City by itself in the case of a retail beer permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:

- A. If surrendered during the first three (3) months of the period for which said license or permit was issued, the refund shall be three-fourths ($\frac{3}{4}$) of the amount of the fee.
- B. If surrendered more than three (3) months but not more than six (6) months after issuance, the refund shall be one-half ($\frac{1}{2}$) of the amount of the fee.
- C. If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth ($\frac{1}{4}$) of the amount of the fee.

No refund shall be made, however, for a liquor control license or beer permit surrendered for more than nine (9) months after issuance.

No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is, at the time of said surrender, a complaint filed with the Department or the City charging him with a violation of this Chapter or provisions of the Iowa Beer and Liquor Control Act.² If, upon hearing on any such complaint, the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing, he shall not be eligible for the refund of any portion of his license or permit fee.

1. I.C. §123.122 et seq.

2. I.C. §123.1 et seq.

No refund shall be made for seasonal licenses or permits.¹ (1976 Code §2.1-3.0216)

3-2-15: RENEWAL OF LICENSE OR PERMIT: Upon receipt of an application for the renewal of a liquor license or beer permit, it shall be forwarded to the proper City official 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 license or permit. (1976 Code §2.1-3.0218)

3-2-16: CONDITIONS OF LICENSES AND PERMITS: No person or club holding a liquor license or beer permit nor his agents or employees shall do any of the following:

- A. **Sales During Closing Hours:** Sell or dispense any alcoholic liquor or beer on the premises covered by the license or permit or permit the consumption thereon between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. on any weekday and between the hours of two o'clock (2:00) A.M. and noon (12:00) on Sunday and ten o'clock (10:00) P.M. on Sunday and six o'clock (6:00) A.M. on the following Monday.²
- B. **Sales to Intoxicated Persons:** Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.
- C. **Credit Sales:** Sell alcoholic liquor or beer to any person on credit, except with a bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.
- D. **Minors:**
 - 1. **Employment of:** Employ any person under legal age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.
 - 2. **Sales to:** Sell, give or otherwise supply any alcoholic beverage or beer to any person knowing or having reasonable cause to be-

1. See Section 3-2-13 of this Chapter.

2. I.C. §§123.37(7), 123.49(2)(k), 123.134(5) and 123.150.

- D2) lieve him to be under legal age, or permit any person knowing or having reasonable cause to believe him to be under legal age, to consume any alcoholic beverage or beer.
- E. Mixing of Alcoholic Beverage: In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.
- F. Soliciting and Disorderly Conduct: Knowingly permit any solicitors for unusual purposes or immoral or disorderly conduct on the premises covered by the license or permit.
- G. Beer Brand Signs: Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail. (1976 Code §2.1-3.0219)

3-2-17: ADDITIONAL RESTRICTIONS ON BEER PERMITS:

- A. It shall be unlawful for any person to be either directly or indirectly interested in more than one class of beer permit. (1976 Code §2.1-3.0209)
- B. Every person holding a Class B or Class C beer permit, having more than one place of business where such beer is sold, shall be required to have a separate license for each separate place of business, except as otherwise provided by State law. (1976 Code §2.1-3.0210)

3-2-18: LOCATION OF STATE LIQUOR STORE: No State liquor store shall be located within three hundred feet (300') of a public or private educational institution. (1976 Code §2.1-3.0103)

3-2-19: PROHIBITED ACTS AND CONDITIONS:

- A. Illegal Keeping of Intoxicants: It shall be unlawful for a person to operate or conduct, or allow to be operated, a place where intoxi-

- A) cating liquor is illegally kept, sold or given away. (1976 Code §2.1-3.0102)
- B. **Persons Under Legal Age:** No person shall sell, give or otherwise supply alcoholic liquor or beer to any person knowing or having reasonable cause to believe him to be under legal age, and no person under legal age shall individually or jointly have alcoholic liquor or beer in his possession or control, except in the case of liquor or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to him by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverage and beer during the regular course of his employment by a liquor control licensee or beer permittee under State law.¹ (1976 Code §2.1-3.0104)
- C. **Consumption, Intoxication in Public:** It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways or to use or consume alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this Section, "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12). (1976 Code §2.1-3.0105)

3-2-20: SUSPENSION OR REVOCATION OF LICENSE OR PERMIT:

- A. **Optional Suspension or Revocation:** Following a written notice and hearing, as provided by this Section, a liquor license or beer permit may be suspended by the Council for a period up to one year for violations of the City Code 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 such license or permit.

1. I.C. §123.47A.

A) 2. Violations: Violations of any of the provisions of the Iowa Beer and Liquor Control Act.¹

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 beer permit, which change was not previously reported to and approved by the City and the Department.

4. Original Disqualifications: Any event which would have resulted in disqualification from receiving such license or permit when originally issued.

5. Sale or Transfer of License or Permit: Any sale, hypothecation or transfer of such license or permit.

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

7. Commission of Prohibited Sale or Act: The conviction of any liquor control licensee or beer permittee for a violation of any of the provisions of Section 3-2-16 of this Chapter shall, subject to subsection B of this Section, be grounds for the suspension or revocation of the license or permit by the Department or the City. (1976 Code §2.1-3.0220)

B. 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, beer permittee or employee of such licensee or permittee shall be convicted of a violation of subsection 3-2-16D2 of this Chapter, or a retail beer permittee shall be convicted of a violation of subsection 3-2-16E of this Chapter, 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 or beer permit shall be suspended for a period of fourteen (14) days.

1. I.C. §123.1 et seq.

B1) b. Upon a second conviction within a period of two (2) years, the violator's liquor control license or beer permit shall be suspended for a period of thirty (30) days.

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

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

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers: If any liquor control licensee is convicted of any violation of Code of Iowa, section 123.49 (2, a, d or e) or any beer permittee is convicted of a violation of subsection (2), paragraph A of said section, the liquor control license or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the Department. (1976 Code §2.1-3.0221)

C. Department Notified: When the City Council revokes or suspends a liquor license or beer permit, the Iowa Beer and Liquor Control Department shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same. (1976 Code §2.1-3.0223)

D. Hearing on Suspension or Revocation: The Council shall conduct a hearing on each suspension or revocation in the following manner:

1. Notice: The permit holder and the surety on his bond shall be served with written notice containing a copy of the complaint against him, 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 present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his 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

- D3) to be represented by counsel, to testify and present witnesses in his 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 subsection. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this subsection.

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 subsection only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this Chapter or State law.¹ (1976 Code §2.1-3.0222)

- E. Appeal to State and Court: The right of appeal to the hearing board shall be afforded a liquor control licensee or beer permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the Director or City disapproving, suspending or revoking issuance of a liquor control license or beer permit may, provided he has exercised his right of appeal to the hearing board as provided by State law,¹ appeal from said decision within ten (10) days to the district court of the county wherein the premises covered by the application are situated. The City may appeal a decision of the hearing board within ten (10) days to the district court of the county wherein the premises covered by the application are situated. (1976 Code §2.1-3.0224)

- F. Effect of Revocation: Any liquor control licensee or beer permittee whose license or permit is revoked under the Iowa Beer and Liquor Control Act² shall not thereafter be permitted to hold a liquor control license or beer permit in the State for a period of two (2) years from the date of such revocation. The spouse and

1. I.C. §123.15

2. I.C. §123.1 et seq.

- F) business associates 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 or beer permit, and no liquor control license 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 such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one year. (1976 Code §2.1-3.0225)

CHAPTER 3

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS**SECTION:**

- 3-3- 1: Purpose
- 3-3- 2: Definitions
- 3-3- 3: License Required
- 3-3- 4: Application for License
- 3-3- 5: License Fees
- 3-3- 6: Bond
- 3-3- 7: Agent for Service of Process
- 3-3- 8: Issuance of License
- 3-3- 9: Conditions of License
- 3-3-10: Exemptions from Provisions
- 3-3-11: Revocation of License
- 3-3-12: Notice and Hearing Procedures

3-3-1: **PURPOSE:** The purpose of this Chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants. (1976 Code §7-1.0101)

3-3-2: **DEFINITIONS:** For use in this Chapter, the following terms are defined:

PEDDLER Any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

SOLICITOR: Any person who solicits or attempts to solicit from house to house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.

TRANSIENT MERCHANT: Any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer or conduct of such transient business in connection with, as a part of or in the name of any local merchant, dealer or auctioneer shall not exempt any person, firm or corporation from being considered a "transient merchant". (1976 Code §7-1.0102)

3-3-3: LICENSE REQUIRED: Any person engaging in peddling, soliciting or in the business of a transient merchant in this city without first obtaining a license as herein provided shall be in violation of this chapter. (1976 Code §7-1.0103)

3-3-4: APPLICATION FOR LICENSE: An application, in writing, shall be filed with the clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, right thumbprint and if a peddler, a certificate signed by the proper city official or other local physician that the applicant is in good health and free from any contagious diseases. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places of such business and the length of time sought to be covered by the license. (1976 Code §7-1.0106; amd. 1992 Code)

3-3-5: LICENSE FEES:

A. Fees Established: The following license fees shall be paid to the clerk prior to the issuance of any license:

For one day or any part thereof \$ 50.00

For one week (6 days) 300.00

- B. Exemptions: Schools and local organizations are exempt from payment of these fees. (Ord. 596-04, 9-13-2004)

3-3-6: **BOND:** Before a license under this chapter shall be issued, each principal shall post a bond, by a surety company authorized to engage in the business of insuring the fidelity of others in the state, in the amount of one hundred dollars (\$100.00) with the clerk to the effect that the registrant and the surety shall consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: a) to indemnify the city for any penalties or costs occasioned by the enforcement of this chapter and b) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with such registrant's peddling or solicitation. Said bond shall not be retired until after a lapse of one year from the expiration of the license which it covers. (1976 Code §7-1.0107)

3-3-7: **AGENT FOR SERVICE OF PROCESS:** Before the license is issued, the applicant shall first sign an appointment naming the clerk as agent of the licensee for service of process in the event of claim or litigation against such registrant arising out of or in connection with any peddling or solicitation. (1976 Code §7-1.0108)

3-3-8: **ISSUANCE OF LICENSE:** If the clerk finds the application is completed in conformance with section 3-3-4 of this chapter and the facts stated therein are found to be correct, the required bond is posted and the license fee paid, a license shall be issued immediately. (1976 Code §7-1.0110)

3-3-9: CONDITIONS OF LICENSE:**A. License to be Displayed:**

1. Each solicitor or peddler shall, at all times while doing business in this City, keep in his possession the license provided for in Section 3-3-8 of this Chapter and shall, upon the request of prospective customers, exhibit the license as evidence that he has complied with all requirements of this Chapter.

2. Each transient merchant shall display publicly his license in his place of business. (1976 Code §7-1.0111)

B. License Not Transferable: Licenses issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application. (1976 Code §7-1.0112)**C. Time Restriction:** All peddler's and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M. (1976 Code §7-1.0113)**3-3-10: EXEMPTIONS FROM PROVISIONS:****A. Generally:** The following are excluded from the application of this Chapter:

1. Newsboys.

2. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.

3. Farmers who offer for sale products of their own raising.

4. Students representing the Sibley Community School District conducting projects sponsored by organizations recognized by the school.

5. Milk delivery men who only incidently solicit additional business or make special sales.

- A) 6. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use. (1976 Code §7-1.0104)
- B. Religious and Charitable Organizations: Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Sections 3-3-4 through 3-3-9 and 3-3-11 of this Chapter. All such organizations shall be required to submit, in writing, to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on and whether any commissions, fees or wages are to be charged by the solicitor for his efforts and the amount thereof. If the Clerk shall find that the organization is a bona fide charity or religious organization, he shall issue, free of charge, a license containing the above information to the applicant. (1976 Code §7-1.0105)

3-3-11: REVOCATION OF LICENSE: After notice and hearing as provided in Section 3-3-12 of this Chapter, the Clerk may revoke any license issued under this Chapter for the following reasons:

- A. Fraudulent Statements: The licensee has made fraudulent statements in his application for the license or in the conduct of his business.
- B. Violation of Law: The licensee has violated this Chapter or has otherwise conducted his business in an unlawful manner.
- C. Endangered Public Welfare, Health or Safety: The licensee has conducted his business in such manner as to endanger the public welfare, safety, order or morals. (1976 Code §7-1.0114)

3-3-12: NOTICE AND HEARING PROCEDURES:

- A. Notice: The license holder and the surety on his bond shall be served with written notice containing particulars of the complaints against him, the ordinance provisions or State statutes allegedly violated and the date, time and place for hearing on the matter. (1976 Code §7-1.0115)

- B. Hearing: The Clerk¹ shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee or his authorized representative fail to appear without good cause, the Clerk may proceed to a determination of the complaint. (1976 Code §7-1.0116)
- C. Clerk's Decisions: The Clerk shall make and record findings of fact and conclusions of law and shall revoke a license only when, upon review of the entire record, he finds clear and convincing evidence of substantial violation of this Chapter and State law. (1976 Code §7-1.0117)
- D. Appeal: If the Clerk revokes or refuses to issue a license, he shall make a part of the record his reasons therefor. The licensee or the applicant shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Councilmembers present, and the Clerk shall carry out the decision of the Council. (1976 Code §7-1.0118)
- E. Effect of Revocation: Revocation of any license shall bar the licensee from being eligible for any license under this Chapter for a period of one year from the date of the revocation. (1976 Code §7-1.0119)

1. See subsection 1-7B-F of this Code.

CHAPTER 4
CIGARETTE DEALERS

SECTION:

- 3-4-1: Definitions
- 3-4-2: Permit Required; Restrictions
- 3-4-3: Application for Permit
- 3-4-4: Permit Fees and Term
- 3-4-5: Issuance of Permits
- 3-4-6: Permits Not Transferable
- 3-4-7: Revocation of Permit

- 3-4-1: **DEFINITIONS:** For use in this Chapter, the following terms are defined:

CIGARETTE Any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. It also shall mean cigarette papers, wrappers and tubes. It shall further include cigarillos, provided their weight does not exceed three (3) pounds per thousand. However, this definition shall not be construed to include cigars.

PLACE OF BUSINESS Any building or structure in which cigarettes are sold or are kept for the purpose of sale by a retailer.

RETAILER

Every individual, firm, corporation or other association that sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales. (1976 Code §7-2.01)

3-4-2: PERMIT REQUIRED; RESTRICTIONS: No retailer shall sell, distribute or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor. (1976 Code §7-2.02)

3-4-3: APPLICATION FOR PERMIT: A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 3-4-4 of this Chapter shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant. (1976 Code §7-2.03)

3-4-4: PERMIT FEES AND TERM:

A. Fees Established: The fee for issuing or renewing a cigarette permit shall be as follows:

<u>FOR PERMITS ISSUED OR RENEWED DURING:</u>	<u>FEE</u>
July, August or September	\$75.00
October, November or December	56.25
January, February or March	37.50
April, May or June	18.75
(1976 Code §7-2.04)	

B. Refunds: A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, as follows:

B) <u>PERMITS SURRENDERED DURING</u>	<u>AMOUNT OF REFUND</u>
July, August or September	\$56.25
October, November or December	37.50
January, February or March	18.75
(1976 Code §7-2.08)	
C. Expiration of Permit: Permits expire on June 30 of each year. (1976 Code §7-2.07)	

3-4-5: **ISSUANCE OF PERMITS:** The Council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals and shall certify its action in issuing a permit to the State Department of Revenue. (1976 Code §7-2.05)

3-4-6: **PERMITS NOT TRANSFERABLE:** A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his place of business, the Council, if it decides to issue a new permit to him, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit. (1976 Code §7-2.06)

3-4-7: **REVOCATION OF PERMIT:**

- A. **Grounds for Revocation:** The Council, after notice and hearing, shall revoke a permit if it finds the retailer has substantially violated the provisions of this Chapter or chapter 98, Code of Iowa, or if grounds exist that would be sufficient for refusal to issue such a permit.
- B. **Notice and Hearing:** The Clerk shall give five (5) days' written notice to the retailer by mailing a copy of the notice by certified mail to the place of business as it appears on his application for a permit. The notice shall state the reason for the contemplated revocation and the time and place at which he may appear and be heard. The hearing shall be held at the regular meeting place of the Council. (1976 Code §7-2.09)

- C. **Renewal After Revocation:** Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the Council. (1976 Code §7-2.10)

CHAPTER 5

HOUSE MOVERS¹

SECTION:

- 3-5-1: Purpose
- 3-5-2: House Mover Defined
- 3-5-3: License Required
- 3-5-4: Application for License
- 3-5-5: License Fee
- 3-5-6: Bond and Insurance Required
- 3-5-7: Issuance of License
- 3-5-8: Public Safety
- 3-5-9: Time Limit

3-5-1: **PURPOSE:** The purpose of this Chapter is to protect and preserve the public safety and well-being by licensing and regulating house and building movers. (1976 Code §7-1.0201)

3-5-2: **HOUSE MOVER DEFINED:** A "house mover" shall mean any person who undertakes to move a building or similar structure upon, over or across the public streets, alleys, walks or property using skids, jacks, dollies or any method other than upon a properly licensed motor vehicles. (1976 Code §7-1.0202)

3-5-3: **LICENSE REQUIRED:** It shall be unlawful for any person to engage in the activity of house mover as defined in Section 3-5-2 above, without a valid license from the City for each house, building or similar structure to be moved. (1976 Code §7-1.0203)

1. See also Section 9-1-6 of this Code.

3-5-4: **APPLICATION FOR LICENSE:** Application for a house mover's license shall be made, in writing, to the clerk on forms furnished by him. The application shall include:

- A. The applicant's full name and address and if a corporation, the names and addresses of its principal officers.
- B. An accurate description of the present location and future site of the building or similar structure to be moved.
- C. A routing plan approved by the street commissioner and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety. (1976 Code §7-1.0204)

3-5-5: **LICENSE FEE:** A license fee of one hundred dollars (\$100.00) shall be payable at the time of filing the application with the clerk along with a proof of insurance certificate. A separate license shall be required for each house, building or similar structure to be moved. (Ord. 591-04, 9-13-2004)

3-5-6: **BOND AND INSURANCE REQUIRED:**

- A. **Bond:** The applicant shall post with the clerk a penal bond in the sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the state. The bond shall guarantee the licensee's payment for any damage done to the city or to public property and payment of all costs incurred by the city in the course of moving the building or structure. (1976 Code §7-1.0205)
- B. **Insurance:** Each applicant shall also have filed a certificate of insurance indicating that he is carrying public liability insurance in effect for the duration of the license covering himself and his agents and employees for the following amounts:

	<u>Per Person</u>	<u>Per Accident</u>
Bodily injury	\$50,000.00	\$100,000.00
Property damage		50,000.00

(1976 Code §7-1.0206)

3-5-7: ISSUANCE OF LICENSE: Upon completion of the application, filing of bond and insurance certificate and payment of the required fee, the clerk shall issue a license. (1976 Code §7-1.0208)

3-5-8: PUBLIC SAFETY:

- A. Flagmen: At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the licensee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure.
- B. Warning Signs And Flares: At all times when the building or structure is at rest upon any street, alley, sidewalk or public property, the licensee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind and ahead of the building or structure. (1976 Code §7-1.0209)

3-5-9: TIME LIMIT: No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the city. (1976 Code §7-1.0210)

In the event any building or similar structure is found to be in violation of this section, the city is authorized to remove such building or structure and assess the costs thereof against the license holder and the surety on his bond. (1976 Code §7-1.0211)

CHAPTER 6

PLUMBING CONTRACTORS

SECTION:

- 3-6-1: Purpose
- 3-6-2: License Required
- 3-6-3: Examination Of Applicant
- 3-6-4: License Fees (Rep. by Ord. 623-10, 5-24-2010)
- 3-6-5: Bond; Liability
- 3-6-6: Expiration Of License; Renewals (Rep. by Ord. 623-10, 5-24-2010)
- 3-6-7: Compliance With Plumbing Code

3-6-1: **PURPOSE:** The purpose of this chapter is to provide for the examination of a plumber's state license pursuant to the Iowa plumber and mechanical professional licensing act in order to protect the public safety, health and welfare. (Ord. 623-10, 5-24-2010)

3-6-2: **LICENSE REQUIRED:** No person shall engage in the plumbing business or do any plumbing work or make any connection with any sewer, drain, soil or water pipe or any other pipe connected with any sewer, drain, soil or water pipe without first securing a state plumber's license pursuant to the Iowa plumber and mechanical professional licensing act. (Ord. 623-10, 5-24-2010)

3-6-3: **EXAMINATION OF APPLICANT:** The plumbing inspector shall examine each applicant for a state plumber's license, and his or her qualifications. (Ord. 623-10, 5-24-2010)

3-6-4: **LICENSE FEES:** (Rep. by Ord. 623-10, 5-24-2010)

3-6-5: **BOND; LIABILITY:** Every employing plumber shall be held responsible for all acts of his agents or employees, and no employing plumber shall do any plumbing work until a surety bond in the sum of two thousand dollars (\$2,000.00) in favor of the city and conditioned for the faithful observance of all rules, regulations and ordinances in regard to plumbing shall be filed with the clerk. (Ord. 623-10, 5-24-2010)

3-6-6: **EXPIRATION OF LICENSE; RENEWALS:** (Rep. by Ord. 623-10, 5-24-2010)

3-6-7: **COMPLIANCE WITH PLUMBING CODE:** All plumbing work performed by a licensee or under his supervision shall be performed in accordance with the provisions of the latest edition of the Iowa state plumbing code unless otherwise specified in another section. (Ord. 478-82, 4-12-1982)