

ORDINANCE NO. 13,735

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 13,042, passed May 23, 1994 by repealing Sections 23-19.01, 23-19.02, 23-19.03, 23-19.04, 23-19.06, and 23-19.08 thereof and enacting new Sections 23-19.01, 23-19.02, 23-19.03, 23-19.04, 23-19.06, and 23-19.08, relating to entertainment districts.

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

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 13,042, passed May 23, 1994 is hereby amended by repealing Sections 23-19.01, 23-19.02, 23-19.03, 23-19.04, 23-19.06, and 23-19.08 thereof and enacting new Sections 23-19.01, 23-19.02, 23-19.03, 23-19.04, 23-19.06, and 23-19.08, relating to entertainment districts, as follows:

**23-19.01. DEFINITION.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following term shall for the purpose of this subchapter have the meaning in this section.

"**Entertainment District**" means a specifically identified area or zone of the city, other than residential, which is composed of a group or organization of businesses such as restaurants and bars and shall allow the district to offer food, non-alcoholic beverages, merchandise or entertainment on a portion of the public sidewalk. The district may allow associated signage, planters, flowerpots, artwork, or historic markers or plaques on a portion of the public sidewalk within the entertainment district except the public sidewalk may not be obstructed beyond the portion needed for two directional pedestrian traffic.

**23-19.02. LICENSE REQUIRED--ENTERTAINMENT DISTRICT.**

No person, group, or organization shall use a portion of the public sidewalk, except where otherwise authorized by ordinance or council resolution, for the sale of food, beverage, merchandise, or any other wares or for the purpose of entertainment without an entertainment district license as provided in this subchapter.

**23-19.03. APPLICATION FOR LICENSE.**

Any organization or group applying for an entertainment district license shall make written application to the city clerk. No license shall be issued unless an application containing the following information is first completed:

(1)The name, address and phone number of the sponsoring organization or group;

(2)The name, address and phone number of a person who will be responsible for the operation and conduct of the activities in the district;

(3)A diagram and a description of the area to be declared an entertainment district;

(4)The names of the businesses which will be in the district and a signed release from each business owner or operator agreeing to the use of the sidewalk which fronts the business for entertainment district purposes.

(5)Number of vendors/entertainers, their names, and permanent addresses, if known;

(6)Type of entertainment or food to be offered;

(7)A certificate of insurance issued by an insurance company licensed to do business in this state, providing commercial general liability insurance (ISO CG 00 01 10 93 or its equivalent replacement addition or non-ISO equivalent) including an aggregate per location endorsement and a minimum limit of liability of \$1,000,000 per occurrence, and workers compensation insurance to the extent required by the Code of Iowa, and the city of Des Moines' Additional Insured Endorsement, Governmental Immunities Endorsement and Cancellation and Material Change Endorsement, and any other types of insurance endorsement as deemed necessary by the City's risk management office based on the nature of the activities to take place.

#### **23-19.04. ISSUANCE OF LICENSE.**

Upon the city clerk determining that an organization or group has complied with the terms of section 23-19.03 above, the chief of police, city engineer and community development director agree that the proposed district and its activities will not disrupt pedestrian and vehicular traffic in the area; that no other application has been submitted within thirty (30) days of filing which proposes a similar geographic location for the district; that no other licenses have been issued for conduct in the district, including but not limited to, a farmer's or public market license, whose operation or conduct will be disrupted by the grant of an entertainment district license; that the ordinances of the city or laws of the state will be obeyed in the conduct of the entertainment district; and upon payment of the appropriate fees, the city clerk shall issue a license to conduct an entertainment district. In the event of a denial of the permit, the city clerk shall state the reason therefor on the face of the application and so inform the applicant.

#### **23-19.06. LICENSE FEE--ENTERTAINMENT DISTRICT LICENSE.**

The applicant shall pay a license fee in the amount of \$150.00 to the city clerk at the time of filing the application. In the event the application is denied either initially or on appeal, such fee shall be retained by the city to defray the administrative costs incurred.

#### **23-19.08. CONDUCT OF ENTERTAINMENT DISTRICT.**

(a)An entertainment district licensee as well as all agents, employees, or representatives shall comply with all applicable ordinances of this code and laws of the state.

(b)No person shall erect booths, tables, or display merchandise, provide entertainment or in any other manner participate in an entertainment district's activities without the express consent of the licensee and the participating business.

(c)An entertainment district licensee as well as all agents, employees, members, or representatives shall remove upon request any sign, planter, flowerpot, artwork, or historic marker or plaque causing a safety hazard or an obstruction to the orderly flow of pedestrian or vehicular traffic within the entertainment district. The chief of police, city engineer, community development director or their designees may determine if any such safety hazard or obstruction exists requiring such removal.

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

FORM APPROVED:

Douglas P. Philip

Assistant City Attorney

Christopher J.  
Coleman, Mayor  
Pro Tem

Attest:

I, Diane Rauh, Chief Deputy City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 99-2408), passed by the City Council of said City at a meeting held August 2, 1999, signed by the Mayor Pro Tem August 2, 1999, and published as provided by law in the Business Record on August 16, 1999. Authorized by Publication Order No. 6215.

Diane Rauh,  
Chief Deputy  
City Clerk