

ORDINANCE NO. 14,287

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,895, passed December 4, 2000, and Ordinance No. 14,100, passed June 3, 2002, and Ordinance No. 14,179, passed December 16, 2002, and Ordinance No. 14,279, passed August 25, 2003, by amending Sections 10-13(b), 10-43(6)(b), 10-46, 10-50, adding subparagraphs (i), (j), (k) and (l) to Section 10-54(1), and Sections 10-61 and 10-63 thereof, relating to liquor license amendments.

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

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,895, passed December 4, 2000, and Ordinance No. 14,100, passed June 3, 2002, and Ordinance No. 14,179, passed December 16, 2002, and Ordinance No. 14,279, passed August 25, 2003, is hereby amended by amending Sections 10-13(b), 10-43(6)(b), 10-46, 10-50, adding subparagraphs (i), (j), (k) and (l) to Section 10-54(1), and Sections 10-61 and 10-63 thereof, relating to liquor license amendments, as follows:

**Sec. 10-13. Penalties.**

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(b) The conviction of any liquor control licensee, wine permittee, or beer permittee for a violation of any of the provisions of subsection 10-6(a), inclusive, shall, subject to subsection (c) of this section, be grounds for a civil penalty of up to \$1,000.00 per violation and/or the suspension or revocation of the license or permit by the state department or the city. However, if any liquor control licensee is convicted of any violation of I.C. § 123.49(2)a., d. or e., or any wine or beer permittee is convicted of a violation of subsection (2), paragraphs a or e of such section of the state Alcoholic Beverage Control Act, 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 state department.

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

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

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(6) Licensed premises shall conform with the following:

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b.  
No  
classes B,  
B  
native  
wine  
permit,  
classes C  
beer  
permit,  
or  
classes E  
liquor  
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**Sec. 10-46. Classes of wine permits.**

Wine permits shall be classed as follows:

(1) *Class B.* A class B permit shall allow the holder to sell wine at retail for consumption in original containers only off premises.

(2) *Class B native.* A class B native permit shall allow the holder to sell at retail native wine only for consumption in original containers only off premises.

(3) *Class C native.* A class C native permit shall allow the holder to sell at retail native wine only for consumption on or off premises.

**Sec. 10-50. Procedures for suspension, revocation, or civil penalty.**

(a) Whenever the city council finds that the licensee, permittee, his or her employees or agents has furnished any false information required under this article or has violated or failed to comply with any of the requirements of this chapter, any other chapter of this Code, or state law, the city council may, impose a civil penalty upon the licensee or permittee, and/or suspend or revoke the license or permit.

(b) No civil penalty, suspension or revocation shall issue except upon notice delivered to the licensee or permittee by mailing notice in the regular mail, addressed to the licensee or permittee at the licensed premises, a minimum of ten days prior to the date set for hearing before the council. Such notice shall inform the licensee or permittee of the time, date and

place of hearing and shall set out briefly the reasons therefor.

(c) If, after such hearing, the city council makes a finding based on substantial evidence that a violation of this chapter or another chapter of this Code or state law did in fact take place as alleged, the city council may impose a civil penalty and/or suspend or revoke the license or permit; the determination of whether to impose a civil penalty and/or suspend or revoke such license or permit shall be in the discretion of the city council and shall be dependent upon the circumstances surrounding the violation and its severity.

(d) A licensee or permittee whose license or permit has been revoked shall not be eligible for another such license or permit for a period of two years after such revocation.

**Sec. 10-54. Fees.**

(1) The following fees shall be submitted with the respective application for the license or permit required by this article:

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(i) For a class B native wine permit the annual fee shall be \$25.00.

(j) For a class C native wine permit the annual fee shall be \$25.00.

(k) For the privilege of selling and dispensing alcoholic liquor, wine, or beer to patrons on Sunday the annual fee shall be increased by 20 percent of the regular prescribed fee plus the

designated state  
surcharge.

(1) For all outdoor  
service areas added to  
the licensed or  
permitted premises after  
a license or permit has  
been issued, and for all  
temporary outdoor  
services areas an  
administrative fee in an  
amount set in the  
Schedule of Fees adopted  
by the City council by  
resolution.

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**Sec. 10-61. Causes for suspension, revocation, and civil  
penalty.**

A holder of a liquor license, wine permit or beer permit may be required to pay a civil penalty and/or have the license or permit suspended for a period up to one year or revoked for violations of law, including city ordinances, following notice and hearing, and may be penalized and/or suspended or revoked in accordance with the provisions of state law for any of the following causes:

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

(2) Violation of any of  
the provisions of the  
state Alcoholic Beverage  
Control Act.

(3) 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 state department.

(4) An event which would have resulted in disqualification from receiving such license or permit when originally issued.

(5) Any sale, hypothecation, or transfer of such license or permit.

(6) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the state department under the state act.

**Sec. 10-63. Appeal and hearings.**

(a) The right of appeal to the alcoholic beverages division of the state department of commerce shall be afforded a liquor control licensee, wine permittee, or beer permittee whose license or permit has been suspended or revoked, or when a civil penalty has been imposed.

(b) Any applicant who feels aggrieved by a decision of the administrator of the alcoholic beverages division of the state's department of commerce or the city penalizing, suspending, revoking, or disapproving issuance of a liquor control license, wine permit, or beer permit may, provided such applicant has exercised his or her right of administrative appeal as provided by state law, appeal from such

decision within 30 days to the district court of the county wherein the premises covered by the application are situated.

(c) The city may appeal a decision of the administrator of the alcoholic beverages division of the state department of commerce within 30 days to the district court of the county wherein the premises covered by the application are situated.

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

Preston Daniels, Mayor

Attest:

I, Diane Rauh, 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. 03-2426), passed by the City Council of said City at a meeting held October 20, 2003 signed by the Mayor on October 20, 2003 and published as provided by law in the Business Record on November 3, 2003 Authorized by Publication Order No. 3894.

Diane Rauh, City Clerk