

ORDINANCE NO. 14,674

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. 14,269 passed August 25, 2003, and Ordinance No. 14,287 passed October 20, 2003 and Ordinance No. 14,440 passed May 5, 2005 by amending paragraphs (6) and (7) of Section 10-43 regarding the required separation of establishments selling liquor, wine or beer in the downtown area from churches, schools, public parks and licensed child care centers.

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. 14,269 passed August 25, 2003, and Ordinance No. 14,287 passed October 20, 2003 and Ordinance No. 14,440 passed May 5, 2005 is hereby amended by amending paragraphs (6) and (7) of Section 10-43 regarding the required separation of establishments selling liquor, wine or beer in the downtown area from churches, schools, public parks and licensed child care centers, as follows:

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:

- (6) Licensed premises located outside the C-3, C-3A, C-3B, C-3R and D-R zoning districts shall conform with the following:
 - a. In addition to subsections (1) through (8) of this section, neither class A, B, C or special class C licenses nor class B beer permits shall be granted for premises which are not operated as a restaurant at least half of whose gross income is derived from the sale of prepared food and food-related services and which are located within 150 feet of any church, school, public park or licensed child care center as defined by I.C. ch. 237A.
 - b. No class B, B native or C native wine permit, class C beer permit, or class E liquor license shall be granted to an applicant whose premises are within 75 feet of any church, school, or public park or licensed child care center as defined by I.C. ch. 237A.
 - c. In determining the distances set out in this subsection, measurements shall be taken on a direct line from the nearest property line of the premises upon which the place of business of an applicant for a permit or license is located and over which such applicant has control, to the nearest property

line of the parcel of real estate upon which the church or school building is situated. These area restrictions shall not affect the right of present permit or license holders who have qualified under the rules heretofore in effect, or their successors by purchase, from renewing their permits or licenses in their present locations.

- (7) a. Except in the C-3, C-3A, C-3B, C-3R and D-R zoning districts, neither new permits or licenses nor transfers of existing permits or licenses, other than class C beer permits and class E liquor licenses, will be granted for locations not currently operating under a permit or license, unless 75 percent of the property abutting on both sides of the same street as the premises for which the license or permit is requested and extending 200 feet to the right and left from the center point of such premises facing such street is either currently put to a commercial use or is commercially zoned by chapter 134 of this Code. An exception to this restriction is permitted where the applicant's premises are operated as a restaurant, at least half of the gross income of which is derived from the sale of prepared food and food-related services.
- b. In measuring the distances in subsection (7)a of this section, rights-of-way of intersecting city streets and alleys shall be excluded.
- c. Where the premises involved are located on a corner lot at the intersection of two streets, it will be sufficient if the usage or zoning so measured along either intersecting street meets the requirements of subsection (7)a of this section.

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

FORM APPROVED: Roger K. Brown, Assistant City Attorney

T.M. Franklin Cownie, 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. 07-1421), passed by the City Council of said City at a meeting held July 23, 2007 signed by the Mayor on July 23, 2007 and published as

provided by law in the Business Record on August 6, 2007. Authorized by Publication Order No. 5732.

Diane Rauh, City Clerk