



January 4, 2007

Honorable Mayor  
and  
Members, Des Moines City Council

At the December 18, 2006 Council meeting by Roll Call No. 06-2493, Council requested staff to review how the revenue from ticket sales at designated music venues will be used to calculate the "non-alcohol" sales and to also provide a quarterly report on these music venues.

At the Council meeting on December 18, 2006 Nancy Wilson, co-owner of House of Bricks, voiced her concern about the requirement that 50% of gross receipts must be derived from non-alcohol sales in order to allow juveniles in the venue after 9:00 p.m. Her concerns revolved around using outside ticket sellers, who sell tickets to events at House of Bricks. She contended that these sales are not run through their business and are not included in their gross sales.

Contact was made with Iowa-TIX (a locally owned event ticket outlet) and it was learned that any bar owner or promoter has access to sales reports for their events, which Iowa-TIX can produce upon request.

Nancy Wilson was then contacted by an officer from the Vice Unit and Ms. Wilson reports that she realized after the Council meeting that her business can go through Iowa-TIX to retrieve sales reports and acknowledged her error when speaking at the Council meeting.

There are currently four bars that are interested in the new ordinance and how it applies to their businesses: House of Bricks, 525 E. Grand; Blues on Grand, 1501 Grand; Vaudeville Mews, 212 4<sup>th</sup>; and Hairy Mary's, 2307 University. Hairy Mary's is the only establishment that does not have a Sunday sales permit.



OFFICE OF THE CITY MANAGER  
CITY HALL  
400 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1891  
(515) 283-4141

ALL AMERICAN CITY  
1949, 1976, 1981  
2003

Ticket sales for establishments who sell tickets through a third party vendor are currently counted in the establishment's gross receipts, and Assistant City Attorney Mike Kelley is creating a form to be used by establishments that sell tickets in this fashion to make it easier for the owner to report these types of sales

Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick", written over the printed name.

Richard A. Clark  
City Manager

RAC:kr



Roll Call Number

06-2493

40  
Agenda Item Number  
57

December 18, 2006

Date


An Ordinance entitled, "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, by adding a new subsection 1(e) to Section 10-8, to extend hours during which minors 16 years and older may be present in a licensed or permitted establishment which has qualified as a designated music venue",

presented.

Moved by Kiernan that this ordinance be considered and given first vote for passage; refer to the City Manager to review how revenue from ticket sales will be used to calculate the "non-alcohol" sales. City Manager will provide a quarterly activity report.

FORM APPROVED:

(First of three required readings)

  
Michael F. Kelley  
Assistant City Attorney

(Council Communication No. 06-795)


COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY	✓			
MAHAFFEY	✓			
VLASSIS	✓			
TOTAL	6			
MOTION CARRIED			APPROVED	

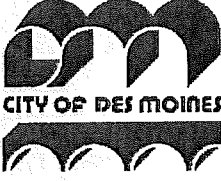
CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

  
T. M. Franklin  
Mayor

  
Diane Rauh  
City Clerk

 <p><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	December 18, 2006
	<b>Agenda Item No.</b> 51 <b>Roll Call No.</b> 06-2493 <b>Communication No.</b> 06-795 <b>Submitted by:</b> Larry Hulse, Community Development Director	

**AGENDA HEADING:**

Approving Amendment to Section 10-8 of the Municipal Code to establish designated music venues.

**SYNOPSIS:**

Recommend approval of the first reading of an amendment to Section 10-8 of the Municipal Code to establish designated music venues which would permit patrons ages 16 to 20 to remain in attendance until 11:30 p. m. This ordinance has a 12-month sunset provision. Staff will evaluate the program after the first year and provide a report to Council to recommend continuing or revising the program as necessary.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

After two public input forums sponsored by the Music Commission, it became clear that music fans in the 16 to 20 year old range were being ill served by Section 10-8 of the Municipal Code which prevents them from attending live shows after 9:00 p.m. at certain music venues which also have liquor or wine and beer permits.

The practical effect of the current ordinance is to force music venues which want to serve this age group into holding "all ages" shows which may start as early as 5:00 p.m. if more than one band is scheduled. This prevents many prospective patrons, especially students of late high school and college age who have classes or other activities scheduled at the same time, from attending these shows. Some bands, especially those which travel, cannot or will not schedule shows before 8:00 or 9:00 p.m. which results in the loss of a significant portion of their fan base; this frequently causes them to not book into Des Moines music venues. This harms not only clubs within the City, but also local musicians who miss the opportunity to make important contacts with more established regionally or nationally known traveling bands when they do not book dates in Des Moines.

This proposed ordinance would establish designated music venues that would be exempted from the current ordinance and could allow patrons 16 to 20 years old to remain in these venues until 11:30 p.m. instead of the current 9:00 p.m. restriction. Establishments must meet the following conditions in order to obtain an exception certificate to the current ordinance from the Chief of Police:

- The designated venue must book at least 150 live performances per year.
- The venue must have a dedicated and installed stage, public address system and lighting system.
- Minors under 16 years may not remain in the designated venue past 9:00 p.m.

- The venue must demand photo identification at the door and use wristbands or other effective means to distinguish those persons who are legally of age to purchase alcoholic beverages.
- The venue must have adequate security.
- The venue must make its best effort to provide the police department vice unit with a schedule of events at least 30 days in advance. When an event is booked after submission of the monthly schedule, the venue will contact the vice unit by telephone, fax, or email 10 days before the event.
- The venue must demonstrate to the police department vice unit that at least 50% of its gross receipts are derived from items other than alcohol sales.

This amendment will help promote the music industry in Des Moines and is strongly recommended by the Music Commission.

**PREVIOUS COUNCIL ACTION(S):**

Date: November 20, 2006

Roll Call Number: 06-2323

Action: From Jason Walsmith, Des Moines Music Commission, to speak regarding designated music venues. Moved by Hensley to receive and file comments; refer to City Manager to work with the Police Department, Legal Department, and the Music Commission for recommendation back to City Council on December 18, 2006. Motion Carried 6-0.

**BOARD/COMMISSION ACTION(S):**

Date: November 7, 2006

Roll Call Number: N/A

Action: Unanimous vote by the Des Moines Music Commission to forward recommendation to the City Council to approve an amendment to Municipal Code Section 10-8 to establish designated music venues.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Second and third readings of the amendment to the ordinance.

06-2493  
\$740

ORDINANCE NO. \_\_\_\_\_

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, by adding a new subsection 1(e) to Section 10-8, to extend hours during which minors 16 years and older may be present in a licensed or permitted establishment which has qualified as a designated music venue.

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, is hereby amended by adding a new subsection 1(e) to Section 10-8, to extend hours during which minors 16 years and older may be present in a licensed or permitted establishment which has qualified as a designated music venue, as follows:

**Sec. 10-8. Persons under legal age in licensed or permitted establishments.**

No person or club holding a liquor control license, wine or beer permit, which authorizes on the premises consumption, nor his or her agents or employees shall:

- (1) Allow a person under legal age to enter or remain in the licensed or permitted establishment after 9:00 p.m. unless:

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- e. "The licensee or permittee applies for and qualifies for an exception certificate from the chief of police as follows:
  - 1. The licensee or permittee is a designated venue defined as booking at least 150 live performances per year, with a dedicated and installed stage, public address system and lighting system;
  - 2. Minors aged 16 through 20 years are allowed in the designated venue until 11:30 p.m. Minors under 16 years may not remain in the designated venue past 9:00 p.m.;
  - 3. The designated venue shall demand photo identification at the door and shall identify, by use of wristband or other equally effective means, those persons 21 years of age and older who may legally purchase alcoholic beverages;
  - 4. The designated venue shall be responsible for the security of the venue and any other areas


such as parking lots under its ownership or control;

5. The designated venue shall make its best effort to provide the police department vice unit with a schedule of events at least thirty (30) days in advance. When an event is booked after submission of the monthly schedule, the venue shall notify the vice unit by telephone, fax or electronic mail at least ten (10) days before the event, in which case the event shall be submitted as part of the next monthly schedule;
6. The designated venue must demonstrate to the police department vice unit that at least fifty percent (50%) of its gross receipts are derived from items other than alcohol sales, which may include, but are not limited to, income from cover charges, ticket sales, entertainment fees, articles of apparel, food, drink mixes or non-alcoholic beverages;
7. The Chief of Police may issue an exception certificate if the licensee or permittee seeking an exception as a designated venue has satisfied the requirements of this subsection;
8. This exception shall be effective for a twelve-month period from its date of effect, at which time the city council will determine whether to implement the exception on a permanent basis.

(2) Fail to post notices at all entrances to the licensed or permitted premises in the view of patrons of the licensed or permitted establishment that persons under legal age are not allowed in the premises after 9:00 p.m. unless the licensee or permittee has a current exception certificate under subsection (1)a, (1)b, or (1)c or (1)e 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:

  
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Michael F. Kelley  
Assistant City Attorney