

**CHAPTER 26****BEER AND LIQUOR CONTROL**

26.01 DEFINITIONS. Words and phrases used in this Chapter shall have the following meanings:

1. "Alcoholic liquor, alcoholic beverage or intoxicating liquor": means the variety of liquor defined in Code of Iowa, Chapter 123.5, beverages made as described in subsection 2 below which contain more than five (5) percent of alcohol by weight, and every other liquid or solid, patented or not, containing spirits or wine, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an "alcoholic liquor".

2. "Beer": means any liquid capable of being used for beverage purposes made by the fermentation of an infusion of potable water of barley, malt and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five (5) percent of alcohol by weight.

3. "Club": means 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.

(Code of Iowa, 1995, Sec. 123.3 [10])

4. "Commercial establishment": means 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 this Code

(Code of Iowa, 1995, Sec. 123.3 [11])

5. "Division": means the alcoholic beverages division of the state Department of Commerce.

(Code of Iowa, 1995, Sec. 123.3 [14])

6. "Administrator": means the Administrator of the Division or the Administrator's designee.

(Code of Iowa, 1995, Sec. 123.3 [1])

7. "Grocery store": means any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.

(Code of Iowa, 1995, Sec. 123.129)

8. "Hotel or Motel": means a premise licensed by the State Department of Inspections & Appeals 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.

(Code of Iowa, 1995, Sec. 123.3 [15])

9. "Legal age": means nineteen (19) years of age or more.

(Code of Iowa, 1995, 123.3[19])

10. "Licensed premises or premises": means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the Administrator where alcoholic beverages wine or beer is sold or consumed under authority of a liquor control license wine permit, or beer permit. A single licensed premise may consist of multiple rooms, enclosures, areas or places if they are wholly within the confines of a single building or contiguous grounds.

(Code of Iowa, 1995, Sec. 123.3 [20])

11. "Person": means any individual, association, partnership, corporation, club, hotel or motel, or municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor or beer is only an incidental part of such ownership or operation.

(Code of Iowa, 1995, Sec. 123.3 [25])

12. "Person of Good Moral Character": means any person who meets all of the following requirements:

(Code of Iowa, 1995, Sec. 123.3 [26])

A. Has such financial standing and good reputation as will satisfy the Council and the Administrator that the person will comply with the state beer, wine, and liquor laws, and all other laws, ordinances and regulations applicable to the person's operations under state law.

B. Is not prohibited by the provisions of Iowa section 123.40 from obtaining a liquor license, wine, or beer permit.

C. 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.

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

E. 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 (10) percent or more of any class of stock of such person or has an interest of ten (10) percent 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.

13. "Pharmacy": means a drug store 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.

(Code of Iowa, 1995, Sec. 123.129)

14. "Public place": means any place, building, or conveyance to which the public has or is permitted access.

(Code of Iowa, 1995, Sec. 123.3 [27])

15. "Wine": means any beverage containing more than five percent but not more than seventeen percent of alcohol by weight obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses or cactus.

16. "Permit" or "license" means an express written authorization issued by the division for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

17. "Application" means a formal written request for the issuance of a permit or license supported by a verified statement of facts.
18. "Package" means any container or receptacle used for holding alcoholic liquor.
19. "Wholesaler" means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon the premises.
20. "Retailer" means any person who shall sell, barter, exchange, offer for sale, or have in possession with intent to sell any alcoholic liquor, wine, or beer for consumption either on or off the premises where sold.

(Code of Iowa, 1995, Sec. 123.3 [31])

26.02 ILLEGAL SALE OR POSSESSION OF INTOXICANTS. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions set forth in this Chapter and pursuant to Code of Iowa Chapter 123.

(Code of Iowa, 1995, Sec. 123.2)

26.03 PERSONS UNDER THE AGE OF EIGHTEEN.

1. No person shall sell, give or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and no person or persons under the age of eighteen shall not individually or jointly have alcoholic liquor, wine, or beer in their possession or control, except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under the age of

eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under state laws.

(Code of Iowa, 1995, Sec. 123.47)

2. It is unlawful for any person to misrepresent his or her age for the purpose of obtaining or attempting to obtain alcoholic liquor, wine, or beer.

#### 26.03A PERSONS AGE EIGHTEEN, NINETEEN AND TWENTY.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen, nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge and consent of that person's parent or guardian, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, or beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee.

(Code of Iowa, 1995, Sec. 123.47A)

#### 26.04 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this Section unless the context otherwise requires:
  - A. "Arrest": means the same as defined in Section 804.5 of the Code of Iowa (1995) and includes taking into custody pursuant to Section 232.19, of the Code of Iowa (1995).
  - B. "Chemical Test": means a test of a person's blood, breath, or urine to determine the percentage of alcohol or other substance present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
  - C. "Peace Officer": means the same as defined in Section 801.4[11] of the Code of Iowa (1995).
  - D. "School": means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade 12.

2. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor, wine, or beer, in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood-alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of the chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine, established by the results of the chemical test performed within two hours of the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present in the blood at the time of the arrest.

(Code of Iowa, 1995, Sec. 123.46)

26.05 OPEN CONTAINER IN PUBLIC PLACES. It is unlawful for any person to possess an open container of alcoholic liquor, wine, or beer upon the public streets or highways of the City.

26.06 INTOXICATED PERSONS. It is unlawful for any person to sell, give or otherwise supply alcoholic liquor, wine, or beer to any intoxicated person, or any person simulating intoxication.

(Code of Iowa, 1995, Sec. 123.49)

26.07 LICENSE OR PERMIT REQUIRED. No person shall sell, offer for sale, exchange, barter, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer without first securing a license or permit in accordance with the provisions of this Code and state law.

(Code of Iowa, 1995, Sec. 123.2)

26.08 NATURE OF LICENSE OR PERMIT. A license or permit is a purely personal privilege and be revocable for cause. It is not property nor is subject to attachment and execution nor alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the Administrator may in the Administrator's 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.

(Code of Iowa, 1995, Sec. 123.38)

26.09 BEER PERMITS - CLASSES. Permits for the manufacture and sale, or sale of beer shall be divided into four classes, known as class "A", special class "A", class "B", or class "C" permits. A class "A" permit allows the holder to manufacture and sell beer at wholesale. A holder of a special class "A" permit may only manufacture beer to be consumed on the licensed premises for which the person also holds a class "C" liquor control license or class "B" beer permit. A class "B" permit allows the holder to sell beer at retail for consumption on or off the premises. A class "C" permit allows the holder to sell beer at retail for consumption off the premises.

Permits shall be issued pursuant to and in accordance with the provisions of Code of Iowa Sections 123.125 through 123.135, which are hereby incorporated herein by reference and made a part of this Code as if fully set forth herein.

(Code of Iowa, 1995, Sec. 123.124)

26.10 LIQUOR LICENSES CLASSES. Liquor control licenses shall be classed as follows:

1. Class "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, 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 may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, 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 license shall be effective throughout the premises described in the application.
3. Class "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, 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.

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees only, and to sell wine 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. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

4. Class "D". A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under Chapter 99F, the owner shall obtain a separate class "D" liquor control license for each excursion gambling boat operating in the waters of this state.

5. Class "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premises and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

The division may issue a class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county have a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other application for a class "E" license has been made within the previous twelve consecutive months.

26.11 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license, wine or beer permit shall be filed at such time, in such number of copies and in such form as the Administrator shall prescribe, on forms prescribed by the Administrator.

(Code of Iowa, 1995, Sec. 123.31)

26.12 FILING OF APPLICATION. An application for a class "A", class "B", class "C", or class "E" liquor control license, for a retail beer permit as provided in Code of Iowa sections 123.128 and 123.129, or for a class "B" retail wine permit as provided in Code of Iowa section 123.176, accompanied by the necessary fee and bond, if required, shall be filed with the Council. An application for a class "D" liquor control license and for a class "A" beer or class "A" wine permit, accompanied by the necessary fee and bond, if required, shall be filed with the division, which shall proceed in the same manner as in the case of an application approved by the Council.

(Code of Iowa, 1995, Sec. 123.32)

A special Class "C" liquor control license issued shall authorize the holder to purchase wine and beer from the department or class "A" wine permittees only, and to sell wine and beer to patrons by the individual drink for consumption only on the premises; however, beer may also be sold for consumption off the premises.

(Code of Iowa, 1995, Sec. 123.30[3c])

26.13 CONDITIONS. No liquor control license, wine or beer permit shall be approved unless:

1. 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.

(Code of Iowa, 1995, Sec. 123.30 [1])

2. Right of Entry. The applicant gives consent in writing on the application that members of the Fire and Police Departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this Code.

(Code of Iowa, 1995, Sec. 123.30 [1])

3. Access to Residential or Sleeping Quarters. No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the Administrator in the form of a living quarters permit.

(Code of Iowa, 1995, Sec. 123.30 [2])

4. Location of Premises. The premises are located within areas where such businesses are, or hereafter are, permitted by a valid zoning ordinance; provided however no such premises shall be located within a distance of one hundred fifty (150) feet of a church as measured from building to building.

(Code of Iowa, 1995, Sec. 123.30 [2])

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

(Code of Iowa, 1995, Sec. 123.30 [2])

26.14 CIVIL LIABILITY. Every liquor control licensee, wine, and beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.

(Code of Iowa, 1995, Sec. 123.92)

26.15 SEPARATE LOCATIONS - BEER AND WINE PERMITS. Every person holding a class "B" or class "C" 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 law.

(Code of Iowa, 1995, Sec. 123.140)

26.16 INVESTIGATION. Upon receipt of an original application for a license or permit by the Clerk, it shall be forwarded to the Police Chief 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.

(Code of Iowa, 1995, Sec. 123.30 [2])

26.17 LICENSE AND PERMIT FEES. The following fees shall be submitted with the respective application:

1. Class "B" Beer. For a class "B" beer permit the annual fee shall be two hundred dollars (\$200.00):

(Code of Iowa, 1995, Sec. 123.134[2])

2. Class "C" Beer. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:

(Code of Iowa, 1995, Secs. 123.134[3], 123.134[5])

- A. Up to one thousand five hundred square feet - \$75.00.
- B. Over one thousand five hundred square feet and up to two thousand square feet - \$100.00.
- C. Over two thousand and up to five thousand square feet - \$200.00.
- D. Over five thousand square feet - \$300.00.
- E. Any class "C" beer permittee seeking Sunday sales privileges shall increase the regular fees prescribed above by twenty (20) percent.

3. Class "A" Liquor. For a class "A" liquor control license the annual fee shall be:

(Code of Iowa, 1995, Sec. 123.36[2])

- A. Club with more than 250 members, without Sunday sales privileges - \$600.00. Club, with Sunday sales privileges - \$720.00.
- B. Club, less than 250 members, without Sunday sales privileges \$400.00. Club, with Sunday sales privileges - \$480.00.
- C. Club, which is a post, branch or Chapter of a veteran's 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.

4. Class "B" Liquor. For a class "B" liquor control license the annual fee shall be:

(Code of Iowa, 1995, Sec. 123.36[3])

- A. Without Sunday sales privileges - \$1,050.00.
- B. With Sunday sales privileges - \$1,260.00.

5. Class "C" Liquor. For a class "C" liquor control license the annual fee shall be:

- A. Without Sunday sales privileges - \$950.00.
- B. With Sunday sales privileges - \$1,140.00.

6. Wine. For a class "A" wine permit, the annual fee shall be seven hundred fifty (750) dollars and for a class "B" wine permit, the annual fee shall be five hundred (500) dollars.

7. Special class "C" Liquor. For a special class liquor permit, the annual fee shall be:

- A. Without Sunday sales privileges - \$300.00.
- B. With Sunday sales privileges - \$360.00.

8. Special Fourteen Day Licenses or Permits. For a special fourteen day license or permit, the fee shall be:

- A. One-quarter of the annual fee for that class of liquor license or beer permit.
- B. The fee for the privilege to sell on the two Sundays in the fourteen day period is twenty (20) Percent of the price of the fourteen day liquor license, wine permit, or beer permit.

9. Special Five Day Licenses or Permits. For a special five day license or permit, the fee shall be one-eighth of the annual fee for that class of license or permit. The fee for the privilege to sell on a Sunday is ten percent of the price of the five-day license or permit.

26.18 SEASONAL OR FOURTEEN-DAY LICENSE OR PERMIT. 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. A fourteen-day license or permit may be issued, but the holder shall not sell on the two Sundays in the fourteen-day period unless the holder qualifies for and obtains the privilege to sell on Sundays as permitted by law.

(Code of Iowa, 1995, Sec. 123.34)

26.19 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a license or permit, shall endorse its action on the application and shall forward the application, fee and bond to the division for such further action as is provided by law.

(Code of Iowa, 1995, Sec. 123.32 [2])

26.20 EXPIRATION OF LICENSE OR PERMIT. All licenses and permits, unless sooner suspended or revoked, expire one year from date of issuance. Sixty (60) days notice of such expiration must be given in writing to each licensee or permittee by the Administrator.

(Code of Iowa, 1995, Sec. 123.34)

26.21 REFUNDS. Any licensee or permittee, or the licensee's or permittee's 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 the licensee's or permittee's creditors, may voluntarily surrender a license or permit to the division. When a license or permit is surrendered, the division shall notify the City, and the division or the City shall refund to the person surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows: 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 of the amount of the fee; if surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee; if surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for a license or 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 division or the City, charging the licensee or permittee with a violation of this Code or provisions of Code of Iowa Chapter 123. If, upon hearing on any such complaint, the license or permit is not revoked or suspended, then the licensee or permittee is eligible, upon surrender of the license or permit, to receive a refund as herein provided. If the license or permit is revoked or suspended upon such hearing, the licensee or permittee is not eligible for the refund of any portion of the license or permit fee. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, 1995, Sec. 123.38)

26.22 TRANSFERS. 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 established by rule by the Administrator.

(Code of Iowa, 1995, Sec. 123.38)

26.23 SIMPLIFIED APPLICATION FOR RENEWAL. The Administrator shall prescribe simplified application forms for the renewal of liquor control licenses, wine permits, and beer permits which may be filed by licensees and permittees in lieu of a detailed renewal application form when qualifications and qualification information have not changed since the original issuance of the license or permit. The simplified form shall require the licensee or permittee to verify under oath that the information contained in the original application remains current, and that no reason exists for the division's refusal to renew the license or permit as originally issued.

Such application, accompanied by the necessary fee and bond, if required, shall be filed in the same manner as is provided for filing the initial application.

(Code of Iowa, 1995, Sec. 123.35)

26.24 PROHIBITED SALES AND ACTS. No person or club holding a liquor license, retail wine or beer permit nor the person's or club's agents or employees shall do any of the following:

1. Knowingly permit any gambling, except in accordance with Code of Iowa Chapters 99B, 99D, 99E, or 99F, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.
2. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of eight a.m. on Sunday and two a.m. on the following Monday.
3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.
4. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the division, and except mixed drinks or cocktails mixed on the premises for immediate consumption. This

prohibition does not apply to common carriers holding a class "D" liquor control license.

5. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been so reused or adulterated.

6. Employ a person under eighteen years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

7. Allow any person other than the licensee, permittee, or employees of the licensee or permittee, to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as permitted in Code of Iowa section 123.95. This paragraph does not apply to the lodging quarters of a class "B" liquor control licensee or wine or beer permittee, or to common carriers holding a class "D" liquor control license.

8. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or having reasonable cause to believe the person to be under legal age, or permit any person, knowing or having reasonable cause to believe the person to be under legal age, to consume any alcoholic beverage, wine, or beer.

9. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

10. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

11. Sell or dispense any wine on the premises covered by the permit or permit the consumption on the premises between the hours of two a.m. and six a.m. on a weekday, and between the hours of two a.m. on Sunday and six a.m. on the following Monday, however, a holder of a wine permit authorized to sell wine on Sunday may sell or dispense wine between the hours of ten a.m. and twelve midnight on Sunday.

(Code of Iowa, 1981, Sec. 123.49 [2b])

12. Permit any signs or other matter advertising any brand of alcoholic liquor, beer, or wine to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail.

(Code of Iowa, 1995, Sec. 123.51)

13. Allow or permit any of the following:

(Code of Iowa, 1995, Sec. 728.5)

A. The actual or simulated public performance of any sex act upon or in such licensed premises.

B. The exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

C. The exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

D. Any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

E. The displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

F. A minor to engage in or otherwise perform in a live act intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

G. The advertising that any activity prohibited by this section is allowed or permitted in such licensed premises.

14. Sell, offer to sell, dispense or serve for on-premises consumption an unlimited number of servings of alcoholic liquor, wine or beer for a fixed price.

Nothing in subsection 14 shall be construed to prohibit a holder of an on-premises liquor control license or wine or beer permit, or its employees or agents, from:

- (a) Including drinks containing an alcoholic beverage or beer as part of a hotel or motel package which includes overnight accommodations; or,

- (b) Providing a fixed price for an unlimited number or indefinite quantity of drinks containing an alcoholic beverage or beer for a private event. A private event is defined as an event restricted to a particular group or persons, provided that the licensee or permittee shall provide means or method by which to identify persons participating in the private event, such as the use of a separate room or an identification tag or badge; or,
- (c) As otherwise permitted for a special event by the City Council (provided, however, that no license or permit holder shall be allowed to hold such a special event under this subparagraph (c) more than twice per calendar year).

The provisions of this subsection shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

26.25 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this Code, a liquor license, wine permit, or beer permit may be suspended by the Council for a period up to one year for violations of this 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.

(Code of Iowa, 1995, Sec. 123.39 [1])

- 2. Violations. Violations of any of the provisions of the Code of Iowa Chapter 123.

(Code of Iowa, 1995, Sec. 123.39 [2])

- 3. Change in Ownership. Any change in the ownership or interest in the business operated under a liquor control license, or any wine or beer permit which change was not previously reported to and approved by the City and the division.

(Code of Iowa, 1995, Sec. 123.39 [3])

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

(Code of Iowa, 1995, Sec. 123.39)

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

(Code of Iowa, 1995, Sec. 123.39)

6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the law.

(Code of Iowa, 1995, Sec. 123.39)

7. Commission of Prohibited Sale or Act. The conviction of any liquor control licensee, or wine or beer permittee for a violation of any of the provisions of Section 26.24 shall, subject to Section 26.26, be grounds for the suspension or revocation of the license or permit by the division or the City.

(Code of Iowa, 1995, Sec. 123.50 [2])

8. Brand Signs. No signs or other matter advertising any brand of alcoholic liquor, beer or wine shall be erected or placed on the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. The use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises is not prohibited by this paragraph.

26.26 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the Council in accordance with the following:

1. Sale to Minors or "Spiking". If any licensee, permittee, or employee of such licensee or permittee shall be convicted of a violation of Section 26.23, subsection 8, or a retail beer permittee shall be convicted of a violation of subsection 9 of said section, 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 shall be assessed a civil penalty in the amount of three hundred (300) dollars and, if such amount is not paid as ordered under Code of Iowa section 123.39, the violator's license or permit shall be suspended for a period of fourteen (14) days.

(Code of Iowa, 1995, Sec. 123.50 [3a])

B. Upon a second conviction within a period of two (2) years,

the violator's license or permit shall be suspended for a period of thirty (30) days.

(Code of Iowa, 1995, Sec. 123.50 [3b])

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

(Code of Iowa, 1995, Sec. 123.50 [3c])

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

(Code of Iowa, 1995, Sec. 123.50 [3d])

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers. If any licensee is convicted of any violation of Code of Iowa, 1995, Sec. 123.49 (2, a, d or e), or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" said section, the liquor control license, wine permit, 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 division.

(Code of Iowa, 1995, Sec. 123.50 [2])

26.27 HEARING ON SUSPENSION OR REVOCATION. The Council shall conduct a hearing on each suspension or revocation in the following manner:

(Code of Iowa, 1995, Sec. 123.39)

1. Notice. The license or permit holder, and the surety on the holder's bond, shall be served with written notice containing a copy of the complaint, 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 license or 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 license or 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 License or Permit Holder. The license or permit holder shall have the right to be represented by counsel, to testify and present witnesses on his or her 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 license or 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 section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.

6. Record and Determination. The Council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a license or permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this Chapter or state law.

26.28 DIVISION NOTIFIED. When the Council revokes or suspends a license or permit, the division shall be given written notice thereof stating the reasons for the revocation or suspension and

the length of same.

26.29 APPEAL TO STATE AND COURT. Pursuant to the provisions of Code of Iowa Chapter 123, the right of appeal shall be afforded a licensee or permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the Administrator or City disapproving, suspending or revoking issuance of a license or permit may, provided the applicant has exercised the right of appeal as provided by state law, appeal from said decision to the district court of the county wherein the premises covered by the application are situated. The City may also appeal a decision to the district court of the county wherein the premises covered by the application are situated.

(Code of Iowa, 1995, Sec. 123.32 [4, 5 & 6])

26.30 EFFECT OF REVOCATION. Any liquor control licensee, wine permittee, or beer permittee whose license or permit is revoked shall not thereafter be permitted to hold a liquor control license, wine permit, or beer permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent 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, wine permit, or beer permit, and no liquor control license, wine permit, 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.

(Code of Iowa, 1995, Sec. 123.40)

26.31 LIGHTING. During the hours when alcoholic liquor, beer, or wine is offered for sale, any room on the premises of a permit or license holder, where the liquor, beer, or wine is sold or consumed, and all booths on the premises of a permit or license holder shall be illuminated to a minimum of two (2) foot-candles as measured by a foot candle meter at a plane of thirty (30) inches from the floor and shall be so lighted that all objects are plainly visible at all times. The requirements of this section do not apply to private rooms of hotels or club permit holders.

26.32 PENALTY. Unless another penalty is expressly provided by this chapter for a particular violation, any person violating any provision of this chapter, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.