

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
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120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. 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 enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following

Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

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, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

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

5. 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.

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

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

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

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

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

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

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

9. 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 reused or adulterated.

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

10. 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 allowed by State law.

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

11. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The

permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette permit shall be as set by the *Code of Iowa*.

(Code of Iowa, Sec. 453A.13)

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess penalties as stated in the *Code of Iowa*. The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of

the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

HOUSE MOVERS

122.01 House Mover Defined
122.02 Permit Required
122.03 Application
122.04 Bond Required
122.05 Insurance Required
122.06 Permit Fee
122.07 Permit Issued

122.08 Public Safety
122.09 Time Limit
122.10 Removal by City
122.11 Protect Pavement
122.12 Overhead Wires
122.13 Tree Trimming

122.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

122.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

122.03 APPLICATION. Application for a moving permit shall be made in writing to the Code Enforcement Office. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, Public Works Superintendent, and public utilities officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety. Sign removal and replacement shall be coordinated with the Public Works Department.

122.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond, in an amount as set by resolution of the Council, issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

122.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees in the amount as set by resolution of the Council.

122.06 PERMIT FEE. A permit fee in the amount set by resolution of the Council shall be payable at the time the permit is approved. A separate permit shall be required for each house, building or similar structure to be moved.

122.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Code Enforcement Officer shall issue a permit.

122.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

122.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

122.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 122.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

122.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

122.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

122.13 TREE TRIMMING. It is the responsibility of the permit holder for the trimming of any trees, whether on public or private property, along the entire route. Tree trimming should be kept to a minimum and should be done in such a manner as to ensure the least amount of damage to the tree. The permit holder is responsible for notifying all property owners along the route.

CHAPTER 123

PERMITS FOR JUNK YARDS

123.01 Permit Required
123.02 Permit Application
123.03 Fee for Permit
123.04 Issuance of Permit
123.05 Revocation; Hearing

123.06 Screening Required
123.07 Illegal Storage of Scrap Metal and Other
123.08 Storage on Streets Outside Enclosure
123.09 Dismantling Articles Outside of Enclosure

123.01 PERMIT REQUIRED. It is unlawful for any person to operate or maintain a junk yard or engage in the business of dealing in junk within the City without having obtained a permit from the City to so engage in the business of dealing in junk or to operate or to maintain a junk yard.

123.02 PERMIT APPLICATION. Application for permit to conduct a junk yard or junk dealer business shall be in writing, setting out the true name of the owners of said business, the exact description of the premises upon which the applicant intends to conduct the business, the nature and kinds of material and junk which will be bought, sold and/or stored, and the application shall be accompanied by a deposit of the amount of the fee for the required permit. A statement that the applicant will abide by and conduct the business according to the ordinances of the City shall be filed with the application.

123.03 FEE FOR PERMIT. The annual fee for permit to operate such business shall be in the sum to be established by resolution of the Council, and all permits shall expire December 31 following date of issuance, unless revoked in the manner hereinafter provided. All fees collected under the terms of this chapter shall be allocated into the General Fund of the City. Permits issued for a part of a year shall be computed on a semiannual basis.

123.04 ISSUANCE OF PERMIT. Said application for permit shall be promptly considered by the Council, which shall determine within twenty (20) days after filing thereof with the Clerk whether said application is approved or not. If approved, a permit shall be issued by the Clerk.

123.05 REVOCATION; HEARING. A permit issued under this chapter shall be subject to revocation if any permit holder is convicted of three (3) or more violations (within one year from the date of issuance of the permit) of any of the regulations set out in this chapter. Said permit may be revoked as set out herein only by a two-thirds vote of the Council at any regular or special meeting thereof, provided the holder of the permit has been notified by written notice of the time and place of hearing concerning said revocation by the Council, at least five (5) days prior to the date of said hearing.

123.06 SCREENING REQUIRED. Any person operating or maintaining any junk yard within the City shall not deposit or keep any junk or refuse within one hundred fifty (150) feet of any street or highway other than an interstate or primary highway, and within one thousand (1,000) feet of any interstate or primary highway, unless a solid fence at least eight (8) feet in height is constructed and maintained between said street or highway and said junk. Said fence is to be at least fifty (50) feet from said street or highway, and it shall be maintained in such a manner as not to be offensive or injurious to the appearance, health or safety of the public.

123.07 ILLEGAL STORAGE OF SCRAP METAL AND OTHER. It is unlawful for any person so engaged in the business of maintaining or operating a junk yard in the City to allow, establish or maintain an accumulation of old iron, tin, fencing wire, scrap metal, rubber tires, rags, papers or other junk without complying with Section 123.06 of this chapter.

123.08 STORAGE ON STREETS OUTSIDE ENCLOSURE. It is unlawful for any person engaged in maintaining a junk yard in the City to place, park, store, maintain or leave any wrecked, junked, dismantled or abandoned vehicles, or any other junk, on any street of the City or upon parking along said streets or upon any public, private or railroad property or pieces of land outside the enclosure described and set out in Section 123.06.

123.09 DISMANTLING ARTICLES OUTSIDE OF ENCLOSURE. It is unlawful for any person engaged in the junk business in the City to engage in the dismantling, wrecking or breaking up of any vehicle, machinery or any article without complying with Section 123.06.

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CHAPTER 124

FOOD SERVICE PROVIDERS AT THE LE MARS CONVENTION CENTER AND THE WILLOW CREEK GOLF COURSE

124.01 License Required

124.03 Revocation of License

124.02 Application, Issuance, Qualifications

124.01 LICENSE REQUIRED. No person shall engage in the business of providing food catering services at the Le Mars Convention Center or The Willow Creek Golf Course unless such person shall have first secured a license therefor. *(Ord. 890 –Aug. 11 Supp.)*

124.02 APPLICATION, ISSUANCE, QUALIFICATIONS. Any person desiring a license under this chapter shall first make written request therefor to the Clerk and submit the appropriate fee with the application. The license will be valid for the calendar year beginning January 1 and expiring December 31 of that year. Annually the Council shall fix by resolution the application fee for a license. The Clerk shall make the fee public and collect the same. A license shall be granted by the Clerk, provided that the applicant can demonstrate the existence of a current sales tax license for the State, a current food service license and general good standing in the community. All licensees hereunder shall be subject to all rules and regulations pertaining to the operation, maintenance and care of the Le Mars Convention Center or The Willow Creek Golf Course as set by the City staff. *(Ord. 890 –Aug. 11 Supp.)*

124.03 REVOCATION OF LICENSE. All licenses granted under the provisions of this chapter shall be subject to revocation in the event any provision of Section 124.02 is not met or is violated.

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CHAPTER 125

ADULT ENTERTAINMENT BUSINESSES

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125.03 Standards of Conduct and Operation	125.13 Exterior Portions of Adult Cabaret Businesses
125.04 Permit Required	125.14 Signage
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125.06 Fees	125.16 Consumption of Alcoholic Beverages Prohibited
125.07 Inspection	125.17 Notices
125.08 Expiration of Permit	125.18 Injunction
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125.01 PURPOSE AND INTENT. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location of adult cabaret businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

125.02 DEFINITIONS. The following terms are defined for use in this chapter.

1. “Adult cabaret” means a commercial establishment that regularly features:
 - A. Persons who appear in a state of nudity; or
 - B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - C. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
2. “Nudity” or “state of nudity” means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breasts without a fully opaque, complete covering of the breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
3. “Permittee” means a person in whose name a permit to operate an adult cabaret has been issued, as well as the individual listed as an applicant on the application for a permit.
4. “Specified anatomical areas” means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

5. “Specified sexual activities” means and includes any of the following:
 - A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
 - B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
 - C. Masturbation, actual or simulated; or
 - D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C above.

125.03 STANDARDS OF CONDUCT AND OPERATION.

1. Adult cabaret businesses are regulated as follows:
 - A. The following standards of conduct must be adhered to by entertainers and employees of any adult cabaret business while on the premises.
 - B. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except when such entertainer or employee is on a stage separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer and employee and any customer within the viewing area and customers are not permitted within four (4) feet of the window or other partition. However, a single opening in such window or partition, allowing for payment for entertainment, by a customer to the entertainer, shall be permitted and at this point customers are permitted within two (2) feet of the window or other partition to allow customers to reach the opening. An entertainer on stage may not expose to view any portion of the pubic region, anus, buttocks, vulva, or genitals at any time during the performance.
 - C. No employee or entertainer shall perform anywhere on the premises:
 - (1) Any specified sexual activities; or
 - (2) The displaying of any specified anatomical area, except as provided for in paragraph B of this subsection.
 - D. No employee or entertainer who is either not separated from any and all customers as provided in paragraph B of this subsection, or in an area of the premises not open to customers shall be unclothed or in less than opaque and complete attire, costume or clothing as described in paragraph B of this subsection.
 - E. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

F. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area or while performing any entertainment, either while clothed or unclothed.

G. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this chapter.

H. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in paragraph B of this subsection.

2. At any adult cabaret business, the following are required:

A. A sign, on which upper-case letters are at least two inches high and lower-case letters are at least one inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

*THIS ADULT ENTERTAINMENT BUSINESS
IS REGULATED BY THE CITY OF LE MARS, IOWA.
ENTERTAINERS ARE:*

1. *Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
2. *Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals, except when separated from customers by the window or partition between the entertainer and customers.*
3. *Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.*

B. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

C. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

125.04 PERMIT REQUIRED.

1. It is unlawful for a person to operate an adult cabaret business without a valid permit issued by the City.

2. An application for a permit must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be

drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

3. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the Le Mars Code Enforcement Officer, Fire Department, Building Official and Zoning Official.

4. If a person who wishes to operate an adult cabaret business is an individual, he or she must sign the application for a permit as applicant. If a person who wishes to operate an adult cabaret business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of an adult cabaret business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

5. The fact that a person possesses other types of State or City permits and/or licenses does not exempt said person from the requirement of obtaining an sexually oriented business permit.

6. Application for a permit, whether original or renewal, must be made to City Hall by the intended operator of the enterprise. Applications must be submitted by hand delivery to City Hall during regular working hours. Application forms shall be supplied by City Hall. The intended operator shall be required to give the following information on the application form:

A. The name, street address (and mailing address if different) and Iowa driver's license number of the intended operator;

B. The name and street address (and mailing address if different) of the owner;

C. The name under which the establishment is to be operated and a general description of the services to be provided;

D. The telephone number of the establishment;

E. The address and legal description of the tract of land on which the establishment is to be located;

F. If the establishment is in operation, the date on which the owner acquiring the establishment began operations as an adult cabaret business at the location for which the permit is sought; and

G. If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.

H. Statement that the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a

misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Code of Iowa, Federal law, or the statutes of any other state, or controlled substance or illegal drugs or narcotics offenses, as defined in the Code of Iowa, Federal law or the statutes of any other state, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution or the possession or sale of controlled substances or illegal drugs or narcotics.

7. The application shall be accompanied by the following:
 - A. Payment of the application fee in full.
 - B. If the establishment is an Iowa corporation, a certified copy of the articles of incorporation, together with all amendments thereto.
 - C. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in the State, together with all amendments thereto.
 - D. If the establishment is a partnership formed under the laws of the State, a certified copy of the certificate of partnership, together with all amendments thereto.
 - E. If the establishment is a foreign partnership, a certified copy of the certificate of partnership and the qualification documents, together with all amendments thereto.
 - F. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.
 - G. If the persons identified as the fee owners of the tract of land in paragraph F are not also the owners of the establishment, then the lease purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.
 - H. The items in paragraphs B through G above shall not be required for a renewal application if the applicant states that the documents previously furnished the City with the original application or previous renewals thereof remain correct and current.
8. The application shall contain a statement under oath that:
 - A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - B. The applicant has read the provisions of this chapter.

9. A separate application and permit shall be required for each sexually oriented business.

125.05 ISSUANCE OF PERMIT.

1. The City shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless the City finds one or more of the following to be true:
 - A. An applicant is under eighteen (18) years of age.
 - B. An applicant or an applicant's spouse is overdue in the payment to the City of taxes, fines or penalties assessed against said applicant or spouse or imposed in relation to an adult cabaret business.
 - C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
 - D. An applicant is residing with a person who has been denied a permit by the City to operate an adult cabaret business within the preceding twelve (12) months, or residing with a person whose permit to operate an adult cabaret business has been revoked within the preceding twelve (12) months.
 - E. The premises to be used for the adult cabaret business has not been approved by the Code Enforcement Office, Fire Department, Building Official and Zoning Official as being in compliance with applicable laws and ordinances.
 - F. The permit fee required by this chapter has not been paid.
 - G. An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.
2. The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the adult cabaret business that it may be easily read at any time.
3. The Le Mars Code Enforcement Office, Fire Department, Building Official and Zoning Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City. The certification shall be promptly presented to the City.
4. In the event that the City determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days after the receipt of the application by the City, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.
5. An applicant may appeal the decision of the City regarding a denial to the Council by filing a written notice of appeal with the Clerk within fifteen (15) days after the applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The City may submit a memorandum in response to the memorandum filed by the applicant on appeal to the

Council. After reviewing such memoranda, as well as the City's written decision, if any, and exhibits submitted to the City, the Council shall vote either to uphold or overrule the City's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the Clerk receives the notice of appeal. However, all parties shall be required to comply with the City's decision during the pendency of the appeal.

6. The Police Chief shall conduct a background investigation of all applicants, including a check of the applicant's background by the Department of Criminal Investigation.

125.06 FEES. The annual fee for an adult cabaret business permit is five hundred dollars (\$500.00). This fee is to be used to pay for the cost of the administration and enforcement of this chapter.

125.07 INSPECTION. An applicant or permittee shall permit representatives of the Police Department or other City or State departments or agencies to inspect the premises of an adult cabaret business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

125.08 EXPIRATION OF PERMIT.

1. Each permit shall expire one year after the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least thirty (30) days before the expiration date and when made less than 30 days before the expiration date, the expiration of the permit will not be affected.

2. When the City denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to the denial, the City finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the denial became final.

125.09 SUSPENSION. The City shall suspend a permit for a period not to exceed thirty (30) days if it is determined that the permittee or an employee of a permittee has:

1. Violated or is not in compliance with any section of this chapter;
2. Become impaired or intoxicated through the use of alcoholic beverages or controlled substances while on the adult cabaret business premises.

125.10 REVOCATION.

1. The City shall revoke a permit if a cause of suspension in Section 125.09 occurs and the permit has been suspended within the preceding twelve (12) months.

2. The City shall also revoke a permit if it is determined that:

A. A permittee gave false or misleading information in the material submitted during the application process.

B. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.

- C. A permittee or an employee has knowingly allowed prostitution on the premises.
 - D. A permittee or an employee knowingly operated the adult cabaret business during a period of time when the permittee's permit was suspended.
 - E. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the premises.
 - F. A permittee is delinquent in the payment to the City or State for any taxes or fees past due.
 - G. The owner or operator of the establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment.
 - H. There was a change of owner or operator for which a transfer application was not filed in a timely manner.
3. When the City revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued an adult cabaret business permit for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days has elapsed since the date the revocation became effective.

125.11 TRANSFER OF PERMIT. A permittee shall not transfer the permit to another, nor shall a permittee operate an adult cabaret business under the authority of a permit at any place other than the address designated in the application.

125.12 LOCATION RESTRICTIONS. An adult cabaret business shall be permitted only as a conditional use in any B-3 zoned commercial district, provided that:

- 1. The adult cabaret business may not be operated within 1,200 feet of:
 - A. A church, synagogue or regular place of religious worship;
 - B. A public or private elementary or secondary school or licensed day care center;
 - C. A boundary of any residential district;
 - D. A public park;
 - E. Federal, State, County, City or special district governmental offices;
 - F. In any residential area in the City.
- 2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult cabaret business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day care center.

125.13 EXTERIOR PORTIONS OF ADULT CABARET BUSINESSES.

1. It is unlawful for an owner or operator of an adult cabaret business to allow activities of the establishment to be visible from a point outside the establishment.
2. It is unlawful for the owner or operator of an adult cabaret business to allow the exterior portion of the adult cabaret business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.
3. It is unlawful for the owner or operator of an adult cabaret business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to an adult cabaret business if the following conditions are met:
 - A. The establishment is a part of a commercial multi-unit center; and
 - B. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
 - C. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of an adult cabaret business.

125.14 SIGNAGE.

1. Notwithstanding any other City ordinance, code or regulation to the contrary, it is unlawful for the owner or operator of any adult cabaret business or any other person to erect, construct, or maintain any sign for the adult cabaret business other than the one primary sign and one secondary sign, as provided herein.
2. Primary signs shall have no more than two display surfaces. Each such display surface shall:
 - A. Not contain any flashing lights;
 - B. Be a flat plane, rectangular in shape;
 - C. Not exceed 75 square feet in area; and
 - D. Not exceed 10 feet in height or 10 feet in length.
3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
4. Each letter forming a word on a primary sign shall be of solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
5. Secondary signs shall have only one display surface. Such display surface shall:
 - A. Be a flat plane, rectangular in shape;
 - B. Not exceed 20 square feet in area;
 - C. Not exceed 5 feet in height and 4 feet in width; and
 - D. Be affixed or attached to any wall or door of the enterprise.

6. The provisions of paragraph A of subsection 2 and of subsections 3 and 4 shall also apply to secondary signs.

125.15 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.

1. It is unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult cabaret business at any time that the adult cabaret business is open for business.

2. It shall be the duty of the operator of each adult cabaret business to ensure that an attendant is stationed at each public entrance to the adult cabaret business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the adult cabaret business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

A. A valid operator's commercial operator's or chauffeur's driver's license reflecting that such person is 18 years of age or older; or

B. A valid personal identification certificate issued by the State reflecting that such person is 18 years of age or older.

125.16 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED. The permittee of an adult cabaret business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine, or beer. No person shall possess or consume any alcoholic beverage, wine, or beer on the premises of any adult cabaret business.

125.17 NOTICES.

1. Any notice required or permitted to be given by the City or any City office, division, department or other agency under this chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the City, or any notice of address change that has been received by the City. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the City shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given to the City by any person under this chapter shall not be deemed given until and unless it is received in the office of the City.

3. It is the duty of each owner who is designated on the permit application and each operator to furnish a notice to the City in writing of any change of residence or mailing address.

125.18 INJUNCTION. A person who operates or causes to be operated an adult cabaret business without a valid permit or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

125.19 EXEMPTIONS. It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated by:

1. A proprietary school licensed by the State of Iowa or a college, junior college or university supported entirely or partly by taxation; or
2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

A theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances may request temporary permits for regulated activities, if such activities are proved to be for limited engagements of two months or less. Temporary permits must be applied for 60 days in advance to City Hall and provide a detailed description of the activity or performance.