

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

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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, and 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, and 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 peace officer, 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 that 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 a liquor control license, a retail wine permit, or a retail 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 holding a liquor license or retail wine or beer permit and the person'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 beverage.

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

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 a.m. on Sunday and 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 6:00 a.m. on Sunday and 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 6:00 a.m. on Sunday and 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 123.150)

3. Sell alcoholic beverages 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 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

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

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, 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. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(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 that 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 that 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 that 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 21 years of age to remain upon licensed premises unless over 50 percent 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 electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

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

4. It is unlawful for any person to knowingly participate in the operation of a registered 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
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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. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
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, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “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.
6. “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.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products 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. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

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

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor 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 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 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

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

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

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 to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

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 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes 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 the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 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. 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 tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes 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 Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

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

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

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122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

122.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

- 1. Solicitors. \$150.00 per year.
- 2. Peddlers or Transient Merchants.
 - A. For one day.....\$ 10.00
 - B. For one week\$ 25.00
 - C. For up to six months.....\$ 50.00
 - D. For one year or major part thereof.....\$150.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s license in the merchant’s place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 8:00 p.m., or as otherwise approved by the Clerk and Mayor.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

- 1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
- 2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
- 3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee’s local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and

notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Vinton-Shellsburg School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit

in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
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123.04 Insurance Required
123.05 Permission Granted

123.06 Public Safety
123.07 Time Limit
123.08 Removal by City
123.09 Protect Pavement
123.10 Above-Ground Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar oversized 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.

123.02 PERMISSION REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without permission from the City for each house, building, or similar structure to be moved.

123.03 PERMISSION PROCESS. Anyone seeking permission to move a house or similar oversized structure shall submit the following to the Clerk:

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 or Structure 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 Municipal Maintenance Superintendent and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 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 for the following minimum amounts:

1. Bodily Injury – \$1,000,000.00 per person; \$2,000,000.00 per accident.
2. Property Damage – \$1,000,000.00 per accident.

123.05 PERMISSION GRANTED. Upon receipt of the items listed in Sections 123.03 and 123.04 above, the Clerk may grant permission. Permission must be obtained for each house, building, or similar structure to be moved.

123.06 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the mover shall maintain flag persons 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 applicant 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.

123.07 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 12 hours without having first secured the written approval of the City.

123.08 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.07, the City is authorized to remove such building or structure and assess the costs thereof against the house mover.

123.09 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 inch in width for each 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.

123.10 ABOVE-GROUND WIRES. The house mover 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.

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CHAPTER 124

LICENSING OF JUNK DEALERS

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124.05 Processing of License Application	124.12 License Suspension or Revocation
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124.07 License Issuance and Terms	

124.01 PURPOSE. The purpose of this chapter is to protect the health, safety and welfare of the citizens and safety of property of the City by providing for the licensing and inspection of junkyards and the elimination of the open storage of junk except in authorized places.

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

1. “Business premises” or “premises” means the area of a junkyard as described in a junk dealer’s license or application for license, as provided in this chapter.
2. “Inoperable motor vehicle” means any motor vehicle which lacks (i) current registration or (ii) two or more wheels or other component parts, the absence of which renders the vehicle totally unfit for legal use on the highways.
3. “Junk” means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles or parts of automobiles, or iron, steel or other old or scrap ferrous or nonferrous material; old bottles or other glass; bones, tinware, plastic or discarded household goods or hardware; and other waste or discarded material that might be prepared to be used again in some form. “Junk” does not include materials or objects accumulated by a person as by-products, waste or scraps from the operation of the person’s own business or materials or objects held and used by a manufacturer as an integral part of its own manufacturing processes.
4. “Junk dealer” means any person who buys, sells, transfers, delivers or stores junk, including all persons who carry on such business at a junk shop or junkyard or as a peddler and any person who by advertisement, sign or otherwise, holds himself or herself out as a junk dealer, or dealer in the articles described in Subsection 3 of this section, including a person engaged in the activity known as “auto salvage,” but “junk dealer” does not include businesses engaged in the towing, repairing or storing of wrecked motor vehicles where sales of such wrecked motor vehicles are only incidental to the collection of repair and storage charges.
5. “Junk yard” means a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity or any place where more than two inoperable motor vehicles or used parts and materials thereof, when taken together, equal the bulk of two motor vehicles, are stored or deposited and the term includes garbage dumps, sanitary fills and automobile graveyards.

124.03 LICENSE REQUIRED. It is unlawful for any person to engage in the business of being a junk dealer in the City, whether personally, by agents or employees, singly or in connection with some other business or enterprise, without first having obtained a license in accordance with the provisions of this chapter.

124.04 APPLICATION. An applicant for a license under this chapter shall file with the Clerk a written application signed by the applicant, if an individual, by all partners, if a partnership, or by the president or chief officer of a corporation or other organization, together with the fee as hereinafter prescribed. The application shall include the following:

1. Name, residence address and telephone number of each individual owner, partner or of each officer and director.
2. Trade names used during the previous five years by the applicant and each person signing the application and the locations of prior establishments.
3. The trade name and address of the business on behalf of which application is made and its telephone number.
4. Exact address or location of the place where the business is or is proposed to be carried on and a sketch of the actual premises to be used in connection with the business, showing adjoining roads, property lines, buildings and uses.

124.05 PROCESSING OF LICENSE APPLICATION. Upon receipt of a completed application for license, the Clerk shall forward the document to the Council. The Zoning Administrator shall examine, or arrange for another City official to examine, the premises and shall submit a report to the Council indicating whether or not the premises inspected is approved. If the premises is disapproved, the Zoning Administrator shall set forth in the report the reasons for disapproval. If the premises is disapproved and the unlawful conditions reported can be corrected, the Zoning Administrator shall so state in the report and grant the applicant a reasonable but specific time to correct the condition. Final action by the Council on the application shall then be postponed until receipt of a supplementary report from the Zoning Administrator after the specified date.

124.06 LICENSE FEE.

1. The application for a junk dealer's license shall be accompanied by an annual license fee of \$5,000.00 to be paid to the Clerk.
2. All licenses issued hereunder shall be effective from the date of issuance to and including the thirtieth day of June next succeeding the date of issuance. The license fee set forth above shall be pro-rated on a quarterly basis from the date of issuance to the time of expiration.
3. If an application for license or renewal of license is denied, the license fee shall be refunded to the applicant.

124.07 LICENSE ISSUANCE AND TERMS.

1. After approval of said application by the Council, and receipt of the required license fee, the Clerk shall issue to the applicant a junk dealer's license. The Clerk shall also notify the Council of the issuance of the license, the person to whom issued, the effective dates thereof and the address of the licensed premises.

2. All licenses issued hereunder shall be numbered serially in the order issued and shall set forth the following information:
 - A. The name of the licensee;
 - B. The street address and an accurate description of the business premises or proposed business premises where junk dealer's activities will be conducted;
 - C. The fee paid; and
 - D. The expiration date.
3. The licensee shall post the license in a conspicuous place on the licensed premises.
4. No license issued hereunder shall be transferable and a separate license shall be required for each business premises.

124.08 SCREENING REQUIREMENTS. Except in those instances described below, a junkyard must be surrounded by a solid opaque fence or wall, of uniform design and color, and not less than 12 feet high, which substantially screens the area in which junk is stored or deposited. The fence must be kept in good repair and shall not be used for advertising displays or signs. Suitable gates, likewise opaque, are required, which shall be closed and locked after business hours or when the junkyard is unattended. A portion of any gate, not to exceed 10 feet in length, may be constructed of a non-opaque material to permit observation of the fenced premises. No junk shall be permitted to be stored or deposited outside of the fence, and junk may not be stacked higher than the fence within 30 feet of the fence. The Council shall have the fences and gates of all junkyards inspected on an annual basis. Variations from the requirements of this section may be granted as follows:

1. If the perimeter of the junkyard is effectively blocked from public view by natural terrain features or is substantially lower in elevation than the surrounding terrain in a manner which renders thereby the opacity requirements of this section ineffective, the Council may, upon application, allow the substitution of a suitable fence in place of the solid opaque fence required herein.
2. If two or more junkyards which otherwise meet the standards of this chapter abut each other and are located on lots adjoining each other, the fencing requirement of this chapter shall be waived by the Council for such common boundary so long as the common boundary continues to exist.
3. If the junkyard that is the subject of the application abuts against an opaque fence which meets the fencing requirements, or an opaque structure which is not less than 12 feet high, the fencing requirement of this section shall be waived by the Council for such common boundary.

124.09 GENERAL OPERATING REQUIREMENTS. The following general operating requirements shall apply to all junk dealers in the City:

1. The junkyard and all things kept therein shall be maintained in a sanitary condition.
2. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.

3. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed business.
4. No junk shall be allowed to rest upon or protrude over any public street, walkway or curb or become scattered or blown off the business premises.
5. Junk shall be stored and arranged so as to permit easy access to all such junk for firefighting purposes.
6. No combustible material of any kind not necessary to the licensed business shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.
7. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
8. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on a Sunday, any legal holiday or at any time between the hours of 6:00 p.m. and 7:00 a.m.
9. No automobile or part thereof shall be burned for wrecking or salvage purposes in or on premises occupied as a junkyard unless the same is burned in a manner that has been approved by the Council and all motor vehicle gasoline and fuel tanks shall be separated and removed from motor vehicles intended for salvage purposes prior to cutting, stacking or burning such vehicles.
10. Each junk dealer shall keep complete, accurate and legible records of all purchases, in the English language. The records shall be kept in a permanent register that shall be kept on the premises. The records shall be available for inspection by any law enforcement officer, or authorized agent of the City for a period of at least six months. The records shall include:
 - A. The name and residence of the person from whom the junk was received or purchased.
 - B. Reasonably accurate inventory and description of each article.
 - C. The value or amount paid for each article.
11. No junk dealer shall purchase or receive any personal property from any minor without first receiving the consent, in writing, of the parent or guardian. Such written consent shall be included in the permanent records.
12. No junk dealer shall conceal, secrete or destroy for the purpose of concealing, any article purchased or received by the dealer for the purpose of preventing identification thereof by any officer or any person claiming the same. No junk dealer shall sell, melt down, break up or otherwise dispose of any article the dealer has reason to believe has been stolen or which is adversely claimed by any person or which the dealer has been notified not to sell or otherwise dispose of by any law enforcement officer.

124.10 INSPECTIONS. The Council and/or contracted law enforcement agency, during the period a junk dealer's license is in effect, may inspect any premises licensed hereunder at such intervals as they shall deem reasonable to determine whether or not the premises is being operated and maintained in compliance with all applicable regulations, ordinances and laws. No person shall prevent, hinder or obstruct or attempt to prevent, hinder or obstruct any City official or law enforcement officer in the performance of duties set forth in this chapter.

124.11 LICENSE RENEWAL. Licenses may be renewed in the same manner and under the same conditions as originally issued hereunder. An application for renewal of a junk dealers' license shall be submitted to the Clerk at least 30 days prior to the expiration of the license then in effect. The application for renewal of a junk dealers' license shall be processed in accordance with the provisions of Section 124.05 of this chapter. When renewal of a license is denied, the junk dealer previously licensed under the provisions of this chapter shall have a period of six months immediately after such denial in which to conclude the business and dispose of the junk, during which time the junk dealer shall be required to comply with all the terms and conditions of the ordinances of the City, except the licensing requirements of this chapter. If litigation is pending contesting the denial or revocation of a license, the Clerk may grant an extension of time during which the junk dealer may operate, pending the final outcome of such litigation.

124.12 LICENSE SUSPENSION OR REVOCATION. The Clerk may suspend or revoke any license issued hereunder for any of the following reasons:

1. The licensee, an agent or employee has been convicted of a violation of any of the provisions of this chapter.
2. The Council or law enforcement officer has found that the licensee has failed to comply with one or more of the provisions of this chapter or the licensed premises fails to comply with one or more of the provisions of this chapter or of some other regulation, ordinance or statute, and the licensee has failed to correct such condition within the reasonable time specified by the City.

124.13 APPEALS. Any applicant who has been denied a license or renewal under this chapter or any licensee under this chapter whose license has been suspended or revoked may appeal to the Council by filing with the Clerk, within seven days after the aggrieved party receives notice of the adverse administrative decision, a written notice of appeal, setting forth the grounds upon which the appeal is based. The Council shall, within 15 days after the filing of said notice of appeal, fix a time and place for hearing on the appeal. The hearing shall be commenced within 30 days after the filing of the appeal. If the Council finds from the evidence presented at the hearing that the appellant has been denied a license without just cause, or that the appellant's license has been suspended or revoked without just cause, it may reverse or modify the administrative decision.

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