

**CODE OF ORDINANCES
OF THE
CITY OF
BELMOND, IOWA**

**Prepared By: Local Government Professional Services, Inc.
DBA Iowa Codification
P. O. Box 244
114 E 5th Street
Storm Lake, Iowa 50588
(641) 355-4072
www.sc-ic.com**

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

120.05 Prohibited Sales and Acts

120.06 Amusement Devices

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 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 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 an 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 8:00 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 8:00 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 8:00 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] & 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])

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.

o o o o o o o o o

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. “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 & 453A.47A)

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

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

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor 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)

CHAPTER 125

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

125.01 Definitions	125.11 Revocation of License
125.02 License Required	125.12 Notice
125.03 License Fees	125.13 Hearing
125.04 Application for License	125.14 Record and Determination
125.05 Bond Required	125.15 Appeal
125.06 Approval by Police Chief	125.16 Effect of Revocation
125.07 Agent for Service of Process	125.17 License Exemptions
125.08 License Issued	125.18 Charitable and Nonprofit Organizations
125.09 Display of License	125.19 Form of License
125.10 License Not Transferable	

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

1. “Nonprofit solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street an order to collect money for a charitable or nonprofit cause or who distributes from door to door any written literature of any kind or who uses the public areas of the City to promote a particular point of view.
2. “Peddler” means any person who brings or causes to be brought within the City any goods, wares or merchandise of any kind, nature or description, with the intention of temporarily or intermittently selling or offering to sell the same at retail within the City. A peddler engaging in business is presumed to be temporarily or intermittently in business unless it is the intention of such peddler to remain continuously in business in the City as a merchant for a period of more than 30 consecutive days.
3. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street an order for goods, subscriptions or merchandise to be delivered or services to be performed at a future date.
4. “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 which 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.

125.02 LICENSE REQUIRED. No person shall be a peddler, solicitor, nonprofit solicitor or transient merchant in the City without first obtaining a license as herein provided.

125.03 LICENSE FEES. All peddlers, solicitors, nonprofit solicitors and transient merchants shall pay a fee in an amount set by resolution of the Council. All licenses shall expire on December 31 of each year. All license fees shall be paid to the Clerk.

125.04 APPLICATION FOR LICENSE. Any person desiring a license required by this chapter shall, at least 10 days prior to the first day any sale, solicitation or distribution is made,

file with the Clerk a written application, certified under penalties of perjury, and shall pay the required license fee. The license application shall state the following facts:

1. The name, residence, post office address and tax identification number of the applicant.
2. If the applicant is an agent, bailee, consignee or employee, the name, address and tax identification number of the applicant's principal, bailor, consignor or employer and also the name and address of the owner of the goods, wares and merchandise to be sold or offered for sale or the person, firm or corporation for whom orders are solicited. If the principal, bailor, consignor or employer is a corporation, the names and addresses of the officers and directors shall also be given and whether the applicant is an Iowa corporation or a foreign corporation, and if a foreign corporation, whether the corporation is authorized to do business in Iowa; and if a firm, partnership or association, the names and addresses of all members thereof.
3. The Iowa sales tax permit under which the applicant will operate and the name and address of the person to whom the permit was issued and the date of issue.
4. The date or dates upon which the applicant intends to act as a peddler, solicitor, nonprofit solicitor or transient merchant.
5. The description and license number of all motor vehicles that will be used by the applicant within the City limits during the license period.

125.05 BOND REQUIRED.

1. All Applicants. Any person applying for a license under this chapter shall also be required to file a cash bond or surety bond approved by the Clerk, in the sum of \$500.00, conditioned upon the faithful performance of the conduct of the business for which the license is to be issued, which bond shall stand for the benefit of any person deceived, defrauded or cheated by the licensee to the extent of the damages sustained.
2. Transient Merchants. 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*.

125.06 APPROVAL BY POLICE CHIEF. Upon receipt of a license application, the Clerk shall forward the same to the Police Chief or a duly designated representative, who shall after such investigation is deemed necessary, recommend approval or disapproval of the issuance of the license, and in the case of disapproval, shall state in writing the reasons therefor.

125.07 AGENT FOR SERVICE OF PROCESS. Before any license is issued, the applicant shall first sign an appointment naming the Clerk as agent for the licensee for service of process in the event of claims or litigation against the licensee arising out of or in connection with any business conducted in the City. This shall not apply to corporations which have a registered agent listed in the Iowa Secretary of State's office.

125.08 LICENSE ISSUED. If the application is not disapproved by the Police Chief and if the application has been to the best knowledge of the Clerk completed correctly and completely and if all fees, bonds and other conditions of issuance are met, the Clerk shall issue a license to the applicant in the form prescribed by Section 125.19.

125.09 DISPLAY OF LICENSE. Every licensee shall at all times while doing business in the City keep such license in possession and shall, upon the request of prospective customers and

peace officers, 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.

125.10 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable and are applicable only to the person to whom issued.

125.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons: incorrect or fraudulent statements in the application for the license; unlawful or fraudulent conduct of the licensee's business; conduct of the licensee's business in such manner as to endanger the public welfare, safety, order or morals.

125.12 NOTICE. The license holder and the surety on such license holder's bond shall be served with written notice containing 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.

125.13 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.

125.14 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.

125.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. 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.

125.16 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.

125.17 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 Cub Scouts, Boy Scouts, Girl Scouts, Camp Fire Girls, Blue Birds, 4-H Clubs, Future Farmers of America, T Ball, Little League and similar organizations.
3. Students. Students representing the Belmond-Klemme School District who are soliciting on behalf of their school.
4. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

5. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

125.18 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 125.03 and 125.04. 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.

125.19 FORM OF LICENSE. The license shall be in substantially the following form:

<p>LICENSE</p> <p>Permission is hereby granted to _____</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center;">to conduct business in the City of Belmond, Iowa, as a</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">on the following dates:</p> <p>beginning _____</p> <p>and ending _____.</p> <p style="text-align: center; margin-top: 20px;">(City Seal)</p> <p style="text-align: right; margin-top: 20px;">_____ City Clerk</p>

[The next page is 585]