

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required	120.04 Action by Council
120.02 General Prohibition	120.05 Prohibited Sales and Acts
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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 City Administrator may forward it to the Polk County Sheriff's Department, 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])

(Ordinance No. 04-213)

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. 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.

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 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.

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

(Ordinance No. 04-210)

CHAPTER 121

CIGARETTE PERMITS

121.01 Definitions	121.06 Refunds
121.02 Permit Required	121.07 Persons Under Legal Age
121.03 Application	121.08 Self-Service Sales Prohibited
121.04 Fees	121.09 Permit Revocation
121.05 Issuance and Expiration	

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 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; snuff flour; 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 be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

(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.47)

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 provided by the State Department of Revenue 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)

(Ordinance No. 03-220)

(Ordinance No. 05-214)

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

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

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 non-assignable. 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 the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$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 fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty days. The retailer may select its preference in the penalty to be applied under this section.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four (4) year, the retailer's permit shall be revoked.

(Ordinance No. 03-217)

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 & 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)

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

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.

(Ordinance No. 16-201)

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. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustaceans or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.
3. "Pushcart" means a non-motorized vehicle limited to serving foods which are not potentially hazardous foods or commissary-wrapped food maintained at proper temperatures. A motorized vehicle is not considered a pushcart.
4. "Solicitor" means any person, firm, corporation, partnership, or association 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.
5. "Transient merchant" means any person who engages in a temporary business of selling and delivering goods, foods which are not potentially hazardous foods, wares or merchandise within the City, who in furtherance of such purpose leases, uses or occupies any vehicle, trailer, tent, railroad car, or other place in the City for the exhibition and retail sale of such goods, wares or merchandise. "Transient merchant" does not include the temporary sale of goods, foods which

are not potentially hazardous foods, wares, or merchandise, by a permanent merchant or private property adjacent to the merchant's permanent place of business.

6. "Vendor" includes peddlers, solicitors and transient merchants.

(Ordinance No. 16-201)

122.03 LICENSE REQUIRED. Any person engaging in or acting as a peddler, solicitor, pushcart operator, vendor, 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. Each pushcart shall be separately licensed and may operate only at the location specified in the license as approved by the Council or a duly authorized representative of the City.

(Ordinance No. 16-201)

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the City Administrator for a license under this chapter and any applicable application fee paid. Such application shall be in compliance with the City of Bondurant's requirements as set forth in its Application for License for Peddlers, Solicitors, and Transient Merchants Application Requirements that have been approved by resolution by the Council and shall be available upon request and a copy of said Requirements shall also be available and maintained at City Hall.

(Ordinance No. 12-208)

(Ordinance No. 16-201)

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

1. Solicitors, Peddlers, Pushcart Operators, Vendors or Transient Merchants License Fees. In addition to the application fee for each person actually soliciting, peddling, or acting as a transient merchant reference above in 22.04, the following fee schedule shall also apply:

- A. For one day.....\$20.00
- B. For one week.....\$30.00
- C. For up to six (6) months.....\$50.00
- D. For one year or major part thereof.....\$100.00

(Ordinance No. 16-201)

122.06 PERMIT BOND REQUIRED.

1. Transient Merchant. 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.

2. Peddlers, Vendors, Pushcart Operator's and Solicitors. No peddler's, vendor, pushcart, or Solicitor's license shall be issued until the applicant has delivered to the City Clerk a cash bond for no less than \$200.00 per license or \$1,000.00 for an employer employing a group of five (5) or more license applicants.

A. The bond shall be held to indemnify and pay the City any penalties or costs incurred in the enforcement of any of the sections of this chapter and indemnify or reimburse any purchaser of services, goods, wares, merchandise or stock for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such services, goods, ware, merchandise or stock, whether the misrepresentations were made by the owner or by his or her servants, agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such stock of goods, wares, merchandise, services or any part thereof.

B. The balance of the bond shall be released by the City Clerk and returned to the applicant or employer upon request by the applicant or employer at any time more than four months after expiration of the peddler, pushcart operator, or solicitor license(s) for which the cash bond was provided, unless the City Clerk has received notice of a pending action in the State or Federal courts seeking a judgment upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the City Clerk shall not release any bond during the pendency of any such action.

(Ordinance No. 16-201)

122.07 INSURANCE. All licensees under this chapter shall provide proof of general liability insurance including products liability in the amount of \$300,000 per occurrence and \$100,000 for property damage. A certificate of insurance shall be delivered to the Clerk prior to the issuance of a license. The City and its employees shall be named as additional insured(s) against any liabilities that may arise in connection with the operations of the licensees.

(Ordinance No. 16-201)

122.08 LICENSE ISSUED. A waiting period of not less than three (3) business days from the date of the application shall be in effect to provide sufficient time for the City Administrator to complete a background check, which shall be completed in a reasonable period. If the City Administrator 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. The Permit Badge must be displayed and visible on said applicant at all times.

(Ordinance No. 12-208)

(Ordinance No. 16-201)

122.09 DISPLAY OF LICENSE. Each pushcart operator, vendor, 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.

(Ordinance No. 16-201)

122.10 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.

(Ordinance No. 16-201)

122.11 FDA STANDARD FOR PUSH CART OPERATORS AND VENDORS. Each pushcart operator and vendor shall meet the Food and Drug Administration Food Service Sanitation standards and the Iowa Department of Agriculture Food Service Sanitation Code, and applicable rules and/or regulation, for food storage, preparation, and dispensing.

(Ordinance No. 16-201)

122.12 HAND-WASHING FACILITIES. Each pushcart operator and vendor shall provide hand-washing facilities for the employee of the license, when required by the Food and Drug Administration regulations.

(Ordinance No. 16-201)

122.13 WASTE RETENTION AND REFUSE DISPOSAL. Each pushcart operator and vendor shall provide a waste retention tank when required by Food and Drug Administration regulations. All waste liquids, garbage, litter and refuse shall be kept covered with tight-fitting lids and appropriately disposed of at the permanent location. No waste liquids, garbage, litter or refuse shall be dumped or drained onto sidewalks, streets, gutters, drains, trash receptacles, or any other place except at the permanent location of a pushcart. When leaving the sales area, the licensee or licensee's employees shall pick up all litter resulting from the licensee's business, and shall deposit such litter in an approved container in compliance with the Food and Drug Administration Food Service Sanitation Code and regulations, located on the licensee's cart. Failure to do so shall be grounds for license revocation.

(Ordinance No. 16-201)

122.14 LIST OF APPROVED FOOD AND BEVERAGE ITEMS. The Food and Drug Administration has published laws and regulations regarding approved food and beverage items which may be sold by pushcart operators and vendors. Not items of any kind, other than those

food and beverage items allowed in the Food and Drug Administration regulations shall be sold or dispensed by pushcart operators and vendors.

(Ordinance No. 16-201)

122.15 TIME RESTRICTION. All Pushcart Operators, Vendors, Peddlers, or Solicitors licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (8:00) p.m.

(Ordinance No. 16-201)

122.16 REVOCATION OF LICENSE. After notice and hearing, the City Administrator may revoke any license issued under 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.

(Ordinance No. 16-201)

122.17 NOTICE. The City Administrator shall send a notice to the licensee at the licensee's local address or any other address provided on licensee's application, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such 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.

(Ordinance No. 16-201)

122.18 HEARING. The City Administrator 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 City Administrator may proceed to a determination of the complaint.

(Ordinance No. 16-201)

122.19 RECORD AND DETERMINATION. The City Administrator 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 City Administrator finds clear and convincing evidence of substantial violation of this chapter or State law.

(Ordinance No. 16-201)

122.20 APPEAL. If the City Administrator revokes or refuses to issue a license, the City Administrator shall make a part of the record the reasons therefore. 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 City Administrator by a majority vote of the Council members present and the City Administrator shall carry out the decision of the Council.

(Ordinance No. 16-201)

122.21 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.

(Ordinance No. 16-201)

122.22 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 Bondurant-Farrar Community 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.

(Ordinance No. 16-201)

122.23 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A 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 City Administrator 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 City Administrator finds that the

organization is a bona fide charity or nonprofit organization the City Administrator shall issue, free of charge, a license containing the above information to the applicant. In the event the City Administrator denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.20 of this chapter.

(Ordinance No. 16-201)

122.24 MUNICIPAL INFRACTIONS.

- (a) Any person who violates this article shall be guilty of a municipal infraction punishable pursuant to City Code section 1.14. Any person who violates a section of this article after having previously been found guilty of violating the same section of this article shall be guilty of a repeat offense.
- (b) Relief under this section shall be in addition to the remedies set forth above in section 122.16.

(Ordinance No. 16-201)

CHAPTER 123

HOTEL AND MOTEL TAX

123.01 Purpose	123.04 Payment of Tax
123.02 Definitions	123.05 Use of Proceeds
123.03 Tax Imposed	

123.01 PURPOSE. The purpose of this Ordinance is to provide for the imposition of a hotel and motel tax pursuant to Iowa Code Chapter 423.4.

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

1. “**Hotel**” and “**motel**” mean any hotel, motel, inn, public lodging house, rooming house or tourist court, or any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals within the corporate boundaries of the City of Bondurant.
2. “**Renting**” and “**rent**” include any kind of direct or indirect charge for any room, apartment, lodging or sleeping quarter in a hotel or motel, as defined in this chapter.
3. “**Gross receipts**” shall mean the entire cost directly or indirectly related to the renting. If a person is charged for items other than “rent” in connection with the renting of lodging (e.g., food, telephone, laundry or recreation facility use), such charges must be stated separately or the entire charge will be considered “rent.”

123.03 TAX IMPOSED. A tax is hereby imposed upon the gross receipts from the renting of any and all rooms, apartments or sleeping quarters in any hotel or motel, as defined in this chapter, at the rate of seven percent (7%) of such gross receipts received by any hotel or motel, as defined in this chapter.

123.04 PAYMENT OF TAX. Such tax shall be paid as is provided in Chapter 423A of the Code of Iowa.

123.05 USE OF PROCEEDS. The proceeds of such tax imposed by this chapter shall be used for the following purposes:

(Code of Iowa, Sec. 422A.2[4])

1. At least fifty (50%) of the revenues derived from such tax shall be used for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those

recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

2. The remaining revenues may be spent for any City operations authorized by law as a proper purpose for the expenditure within statutory limitations of City revenues derived from ad valorem taxes.
3. Pay the Greater Des Moines Convention and Visitors Bureau 2/7ths of the Hotel and Motel Tax Revenues, once this tax is collected.
4. Pay the Greater Des Moines Convention and Visitors Bureau the greater of 2/7ths of the Hotel and Motel Tax Revenues or \$1,500.00.

(Ordinance 15-212)

123.05 EXEMPTIONS. The tax imposed herein shall not apply:

1. When lodging is furnished to a person, if that person rents a location for more than 31 consecutive days,
2. To the renting of rooms in dormitories and in memorial unions at all universities and colleges located in the state,
3. To contracts made directly with the federal government, or
4. To the renting to the guest of a religious institution upon real property exempt from tax as the property of a religious institution, if the reason for renting the room is to provide a place for a religious retreat or function and not a place for transient guests generally.

(Ordinance 15-208)

CHAPTER 124

REGULATING ACTIVITIES DURING THE DES MOINES REGISTER'S ANNUAL GREAT BICYCLE RIDE ACROSS IOWA (RAGBRAI)

124.01 Purpose	124.07 Nuisance
124.02 Vendor Permit Required	124.08 Penalty for Violation
124.03 Vendor Fee	124.09 Noise
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124.01 PURPOSE. The purpose of this Ordinance is to help city officials and citizens control the public health and safety problems created by the large number of people coming to the City of Bondurant during the Des Moines Register's Annual Great Bicycle Ride Across Iowa (RAGBRAI) on (insert date) July 27, 2011.

124.02 VENDOR PERMIT REQUIRED. Any person, club, group, church, organization or entity of any kind selling food, beverages or other merchandise to the public (or in open-air areas) shall obtain a special vendor permit from the City of Bondurant through the City Administrator, located at 200 2nd Street, Northeast, Bondurant, Iowa. The vendor permit or a copy thereof, shall be posted at the place of sale.

124.03 VENDOR FEE. The vendor fee for this event shall be paid to the City of Bondurant by (insert date) July 01, 2011. The fees are as follows:

Local non-profit	\$100
Local for-profit	\$200
Outside food vendor	\$300
Outside non-food vendor	\$250
Electrical connection	\$ 50

124.04 VENDOR LOCATION. A vendor with a vendor permit shall be assigned a location designated by the RAGBRAI Committee or the City Administrator. Consideration shall be given to electrical needs.

124.05 HEALTH REGULATIONS. All vendors shall comply with the rules and regulations of the Iowa Health Department and the Polk County Department of Health, pertaining to the sale and distribution of food and drinks.

124.06 CLOSING TIME. Vendors shall close at approximately 5:30 p.m., to help ensure the bicyclists' safe arrival at the (insert City) overnight destination. Business may resume at approximately 6:30 p.m.

124.07 NUISANCE. Any vendor without a permit or in violation of this Ordinance shall be considered a nuisance. Any Polk County Sheriff's Department Deputy is authorized to dismantle and remove the nuisance without notice. However, if the only nuisance or violation of the Chapter is the offender's failure to obtain a necessary permit, the City Administrator, or his designated agents, in lieu of immediate abatement, may allow the person or organization to immediately purchase a necessary permit as provided by this Chapter.

124.08 PENALTY VIOLATION. It shall be a municipal infraction for any person or organization to violate any provision of this Ordinance, with the civil penalty up to the maximum allowed by law. Each act shall be a separate violation.

124.09 NOISE. All music and entertainment must be coordinated with and approved by the City of Bondurant RAGBRAI Committee.

124.10 EFFECTIVE PERIOD. The Ordinance shall be in effect from 12:01 a.m., (CDST) on July 27, 2011, until 6:30 p.m., on July 27, 2011 (insert dates).

124.11 STREET CLOSINGS. During the effective dates of this Ordinance and without prior City Council approval regarding the blocking of any City streets, the City of Bondurant may cause barricades or road blocks to be placed in any City street, alley or roadway to redirect vehicular traffic in order to enhance the proper and safe flow of bicycle and vehicular traffic within the City limits of the City of Bondurant, Polk County, Iowa.

(Ordinance No. 11-203)

CHAPTER 125

MOBILE FOOD VENDOR

125.01 Purpose	125.07 License Issuance
125.02 Definitions	125.08 Appeal of Denial
125.03 License Required	125.09 Transferability of License
125.04 Application for License	125.10 Suspension or Revocation of License
125.05 Insurance	125.11 General Regulations
125.06 Cash Bonds	125.12 Municipal Infractions

125.01 PURPOSE. The purpose of this chapter is to make rules and restrictions for the governance of the operation of Mobile Food Vendors in the City of Bondurant.

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

1. “Certified food protection manager” is a person who holds an active certified food protection manager certificate from a program approved by the National Conference for Food Protection.
2. “Food service establishment” shall have that same meaning established in § 481-30.2 of the Iowa Administrative Code.
3. “Mobile vendor” means a person engaged in the business of selling food or beverages from a mobile vendor vehicle.
4. “Mobile vendor vehicle” means a motorized vehicle or trailer used primarily for the sale of food or beverages other than prepackaged items that do not require hot or cold handling procedures, for immediate consumption.

125.03 LICENSE REQUIRED

- (1) Every mobile vendor shall, before offering for sale any food or beverages in the city, obtain a license for their sale from the city administrator as provided in this article.
- (2) A mobile vendor license authorizes the operation of a mobile vendor vehicle upon the public streets, subject to any geographical restrictions set out in said license and furthermore subject to the regulations set forth in this article.
- (3) A separate mobile vendor license shall be required for each mobile vending vehicle.

125.04 APPLICATION FOR LICENSE

(1) Every mobile vendor shall apply to the city administrator for a mobile vendor license at least seven business days prior to use by providing the following information upon a form to be provided by the city administrator, and paying the application fee pursuant to the following fee schedule:

- (a) For one day..... \$ 20.00
- (b) For one week.....\$30.00

(c) For up to six (6) months..... \$50.00

(d) For one year or major part thereof\$ 100.00

(2) Every license applicant shall supply, at a minimum, the following information on said city license application form:

(a) The full name, age, permanent address and phone number of the applicant.

(b) The business name and address.

(c) A description of the motorized vehicle or trailer from which the sale will be conducted, including the license plate number, and the length of the motorized vehicle or the trailer and tow vehicle.

(d) A summary of the cuisine of food to be sold.

(e) The period of time the applicant has been engaged in the same or similar business, and the jurisdictions in which the applicant has previously conducted business in the last year.

(f) The application must be accompanied by a Division of Criminal Investigation criminal history report/record for applicant from the state of applicant's residence for the previous five (5) years to include pending charges; such report or record must be dated no more than 30 days prior to the application.

(g) The application must be accompanied by a copy of a retail sales tax permit issued to the applicant by the Iowa Department of Revenue.

(h) Furthermore, the application shall also contain the following:

i. A copy of the mobile food unit license issued by the Iowa Department of Inspections and Appeals for the mobile vendor vehicle.

ii. A copy of the appropriate food establishment license issued by the Iowa Department of Inspection and Appeals for any commissary kitchen or other premises where food is prepared for sale from the mobile vendor vehicle, and the name and contact information for the individual or business responsible for the operation of such kitchen or premises.

iii. The name of one or more certified food protection managers employed by the business and a copy of their current certification as a certified food protection manager.

iv. The addresses of the businesses or facilities at which any fat, oil or grease generated in the operation of the mobile vendor business are disposed of, including the contact information for the individual or business responsible for the operation of each such business or facility. Any change in the businesses or facilities used for the disposal of such fat, oil and grease shall be reported to the city administrator in writing by the mobile vendor within three business days of the first use of a the new business or facility.

(i) The location where the mobile vendor vehicle will be regularly parked when not in use.

(j) Evidence of liability insurance for operation of the mobile vendor vehicle, or the tow vehicle if the mobile vendor vehicle is a trailer, providing the coverages required by section 125.06 below.

(3) A mobile vendor shall notify the city administrator in writing of any change to the information provided pursuant to subsection 125(2)(a) above, within five business days of such change.

125.05 INSURANCE

Every mobile vendor shall maintain liability insurance for operation of the mobile vendor vehicle, or the tow vehicle if the mobile vendor vehicle is a trailer, and provide proof of the following coverages in its application for a mobile vendor license and any time upon request by the city administrator:

- (1) An insurance policy or policies, or certificate of insurance, issued by an insurance company having an A.M. Best rating of no less than B+. The policy(ies) shall include commercial general liability insurance coverage and automobile liability insurance coverage, or the equivalent thereof, for the owner of the mobile vendor vehicle and tow vehicle if applicable, and for the mobile vendor business if different from the vehicle owner. The commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence and aggregate combined single limit. The automobile liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit.
- (2) The certificate of insurance referred to in this section shall provide that the insurance policy or policies have been endorsed to provide 30 days advance written notice of cancellation, 45 days advance written notice of non-renewal, and ten days advance written notice of cancellation due to nonpayment of premium, and that these written notices shall be provided by e-mail, facsimile, delivery or regular mail to the city administrator.
- (3) The cancellation or other termination of any required insurance policy shall automatically revoke and terminate the mobile vendor license, unless another policy(ies), complying with this section, shall be provided and in effect at the time of such cancellation or termination. The city administrator shall immediately issue written notification of the revocation of the mobile vendor license.
- (4) The "mobile vendor" further agrees to add the City of Bondurant as an Additional Insured only with respect to liability for bodily injury, property damage, or personal and advertising injury caused, in whole or part, by their acts or omissions or the acts of those acting on their behalf in the performance of Vendor's ongoing operations; or in connection with the premises owned by or rented to Vendor.

125.06 CASH BONDS

(1) Except as provided in paragraph (c) below, no mobile vendor license shall be issued until the applicant has delivered to the city administrator a cash bond for no less than \$200.00. The bond shall be held to indemnify and pay the city any penalties or costs incurred in the enforcement of any of the sections of this article and indemnify or reimburse any purchaser

of food or beverages for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such food or beverages, whether the misrepresentations were made by the owner or by his or her agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such food or beverages.

- (2) A single bond may be used for all licenses obtained by the same mobile vendor.
- (3) The balance of the bond shall be released by the city administrator and returned to the applicant upon request by the applicant at any time more than four months after expiration of all mobile vendor licenses for which the cash bond was provided, unless the city administrator has received notice of a pending action in the state or federal courts seeking a judgment upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the city administrator shall not release any bond during the pendency of any such action.

125.07 LICENSE ISSUANCE

- (1) A mobile vendor license shall be denied to any applicant who has operated a mobile vendor business in material violation of any of the requirements of this article or any other chapter of this Code within the prior 180 days.
- (2) The city administrator or the city administrator's designee shall, upon satisfaction that the information provided in an application for a mobile vendor license is true and correct and that the requirements of this article for issuance of the license have been satisfied, and upon payment of the cash bond required by section 125.207 issue the license.
- (3) The city administrator shall deny any application for the operation of a mobile vendor business that does not conform with all applicable requirements of this article, the City Code, the Iowa Code and the Iowa Administrative Code.
- (4) In the event an application for a mobile vendor license is denied, the city administrator or the city administrator's designee shall cause notice of such denial to be promptly communicated to the applicant or the applicant's representative by phone at the phone number provided in the application. Written notice shall also be sent to the applicant at the business address identified in the application informing the applicant of the denial, the reasons therefore, and the applicant's right to appeal the denial to an administrative hearing officer by filing a written notice of appeal with the city administrator within ten business days after the date of such notice.
- (5) If no appeal from the denial of a license is timely filed, or if the denial is not reversed upon final disposition of any appeal, the city administrator shall promptly refund the refundable portion of the application fee, as set in the schedule of fees adopted by the city council by resolution.
- (6) A mobile vendor license shall be effective for one calendar year, or the portion thereof remaining after issuance of the license.

125.08 APPEAL OF DENIAL

The denial of an application for a mobile vendor license may be appealed pursuant to the administrative appeal process set forth in Chapter 122 of this Code.

125.09 TRANSFERABILITY OF LICENSE

- (1) Mobile vendor licenses issued under this article are not transferable between individuals or businesses.
- (2) A mobile vendor may apply to transfer their mobile vendor license to another mobile vendor vehicle as follows:
 - (a) The mobile vendor shall file an amended application meeting the requirements of section 125.05 for the new mobile vendor vehicle and shall return the mobile vendor license previously issued for the original mobile vendor vehicle.
 - (b) The mobile vendor shall pay the transfer fee in the amount set forth in the schedule of fees adopted by the city council by resolution.
- (3) The city administrator or the city administrator's designee shall, upon satisfaction that the information provided in the amended application for a mobile vendor license is true and correct, and that the requirements of this article for issuance of the amended license have been satisfied, issue the new license.

125.10 SUSPENSION OR REVOCATION OF LICENSE

- (1) Upon complaint or reasonable suspicion that a licensee or the licensee's employees or agents has furnished any false information required under this article or has violated or failed to comply with any of the requirements of this article or any other chapter of this Code, the city administrator or the city administrator's designee may cause the matter to be investigated. If the city administrator or the city administrator's designee finds that the licensee or the licensee's employees or agents has furnished any false information required under this article or has violated or failed to comply with any of the requirements of this article or any other chapter of this Code, the city administrator or the city administrator's designee may give notice to the licensee of the city's intent to suspend or revoke the license, or to deny its renewal.
- (2) Notice of the city's intent to suspend, revoke, or deny the renewal of a license and a brief summary of the factual basis for such remedial action shall be served upon the licensee. Such notice shall inform the licensee of the time, date and place of a meeting where the licensee may meet with the city administrator or the city administrator's designee for the purpose of presenting additional information regarding the intended remedial action and the factual basis therefore, and that a final decision on appropriate remedial action will be made after the scheduled time for such meeting. Such notice shall be served upon the licensee by personal service or by service upon a cashier for the business at a licensed premises, or by regular mail addressed to the licensee at the licensee's business address as shown on the application a minimum of five business days prior to the date set for the meeting.
- (3) If, after the scheduled meeting and after consideration of all the available information including any information provided at the meeting by the licensee, the city administrator or the city administrator's designee makes a finding based on substantial evidence that a violation of this article or another chapter of this Code did in fact take place as alleged, the

city administrator or the city administrator's designee may suspend or revoke the license or deny its renewal; the determination of whether to so suspend or revoke the license or deny its renewal shall be in the discretion of the city administrator or the city administrator's designee and shall be dependent upon the circumstances surrounding the violation and its severity. The decision to suspend, revoke or deny renewal of a license shall be in writing and shall identify the basis for such action. The decision shall be promptly served in the same manner as required for the service of the notice required under subsection (b), and shall not be effective until ten days after so served. The decision shall also give notice that it may be appealed to an administrative hearing officer by filing a notice of appeal with the city administrator within ten business days of the date of the decision.

- (4) The decision of the city administrator or the city administrator's designee to suspend, revoke or deny renewal of a license pursuant to this section may be appealed pursuant to the administrative appeal process set forth in chapter 122 of this Code.
- (5) A licensee whose license has been revoked or denied for renewal shall not be eligible for another such license for a period of 180 days after such revocation or denial of renewal.

125.11 GENERAL REGULATIONS

- (1) Hours of operation. Between 10:00 p.m. and 6:30 a.m., no mobile vendor vehicle shall be open for business, and no mobile vendor shall be parked in contravention to any applicable restrictions contained in their license.
- (2) Allowed locations.
 - (a) No mobile vendor shall conduct any sale from a mobile vendor vehicle which is not lawfully parked.
 - (b) No mobile vendor shall conduct any sale from a parking space which is designated as a handicap parking space, or designated as restricted for residential permit parking only.
 - (c) No mobile vendor shall conduct any sale from a mobile vendor vehicle located within 100 feet of any public entrance into the waiting or service area of any street level restaurant then open for business.
 - (d) The mobile vendor shall strictly comply with any restriction(s) given by the City, in writing, as far as where the mobile vendor may operate his mobile vendor while conducting business via the mobile vendor unit.
 - (e) During the time that any part of a street is closed for an event for which a street use permit has been issued, and except as allowed within the event area by the party holding the street use permit, no mobile vendor shall conduct any sale within the affected blocks or within one block of the affected block(s). For purposes of this section:
 - i. A "block" is the entire right-of-way of a public street extending from the centerline of an intersecting street or the lateral centerline of any river bridge, to the centerline of the next intersecting street or the lateral centerline of any river bridge, whichever is closer; and,
 - ii. The "affected blocks" are any blocks containing any portion of the street closure for which the street use event has been issued.

- (3) Mobile vendor vehicle.
 - (a) Any motorized vehicle used as a mobile vendor vehicle shall be no larger than 25 feet long, 10½ feet tall and eight and one-half feet wide. Any trailer used as a mobile vendor vehicle together with the tow vehicle shall be no larger than 35 feet long, 10½ feet tall and eight and one-half feet wide.
 - (b) Except for the storage and preparation of food and beverages at a separate kitchen or commissary kitchen, all storage and preparation of food and beverages offered for sale by a mobile vendor shall occur within a fully enclosed space within the mobile vendor vehicle.
 - (c) A trailer used as a mobile vendor vehicle must remain attached to the tow vehicle at all times while parked in any location where it is allowed by the terms of its license to do business.
- (4) Display of license. The license required by this article and a valid sales tax permit for such business shall be displayed within the mobile vendor vehicle a manner such that it is readily visible to all persons seeking to conduct business with the mobile vendor.
- (5) Sale of merchandise. No mobile vendor shall offer any merchandise or wares for sale other than food and beverages for immediate consumption.
- (6) Food safety. Any mobile vendor who offers food or beverages for sale, other than prepackaged items that do not require hot or cold handling procedures, shall be subject to the following additional requirements:
 - (a) A valid mobile food unit license for the mobile vendor vehicle shall be displayed within the mobile vendor vehicle in a location that is readily visible to all customers.
 - (b) Any such mobile vendor who is not a certified food protection manager shall employ at least one certified food protection manager; shall maintain a copy of their certification(s) as a certified food protection manager in the mobile vending vehicle; and shall produce the certification documents for inspection upon request by any police officer or community development department inspector.
 - (c) No mobile vendor shall operate the business in a manner that violates any applicable food and sanitation laws.
- (7) Noise. No mobile vendor shall operate the business in a manner that violates the Noise Control Ordinance of the City of Bondurant set forth in Chapter 53 of this Code. No person shall offer for sale or sell anything from a mobile vending vehicle by shouting.
- (8) Use of street and sidewalk. No mobile vendor shall place any tables, chairs, furniture, equipment, signage or other material on the ground, streets or sidewalks. No mobile vendor shall place any food, materials or equipment on the ground or on tables, chairs, or shelves that are not incorporated into the mobile vending vehicle.
- (9) Trash receptacles. A mobile vendor shall provide one or more trash receptacles readily accessible to its customers either in or attached to the mobile vendor vehicle. All such trash receptacles and all accumulations of trash and litter shall be removed from the site by the mobile vendor before departing.

- (10) All sales from sidewalk side. No mobile food vendor shall conduct any sales from outside the mobile vendor vehicle. All sales activities and the transfer of food and beverages to the customer shall occur only on the sidewalk side of the mobile vendor vehicle. No mobile vendor shall sell to any person situated in a motor vehicle. However, nothing in this paragraph shall be interpreted to prohibit such reasonable accommodation as may be needed to serve a customer with a disability.
- (11) The City Administrator or City Council shall retain the discretion to waive any or none of the requirements required for Mobile Food Vendors under this Ordinance if said Mobile Food Vendor is affiliated with a Not for Profit Venture; except that Not for Profit Venture Mobile Food Vendor shall still be required to obtain a Mobile Food Vendor License as required under 125.03 above.
- (12) The City Administrator or City Council shall retain the discretion to waive any or none of the requirements required for Mobile Food Vendors under this Ordinance if said Mobile Food Vendor is affiliated or participating as a mobile food vendor as part of a City sponsored event or other public event operating in the City that has been approved and been granted permission by the City to hold such an event.
- (13) Grease disposal.
 - (a) All fat, oil and grease generated in the operation of a mobile vendor business shall be disposed of at the business or facility identified in the mobile vendor's application for a license. Any change in the businesses or facilities used for the disposal of such fat, oil and grease shall be reported to the city administrator in writing by the mobile vendor within three business days of the first use of a the new business or facility.
 - (b) All fat, oil and grease generated in the operation of a mobile vendor business shall be disposed of in compliance with the requirements of division 5, of chapter 100 regarding the discharge of fat, oil and grease by food service establishments.

125.12 MUNICIPAL INFRACTIONS

- (1) Any person who violates this article shall be guilty of a municipal infraction punishable pursuant to City Code section 1.14. Any person who violates a section of this article after having previously been found guilty of violating the same section of this article shall be guilty of a repeat offense.
- (2) Relief under this section shall be in addition to the remedies set forth above in section 125.10.

(Ordinance No. 16-211)