

ORDINANCE NO. 04-O-2023-2024

AN ORDINANCE AMENDING TITLE IV OF THE STORM LAKE, IOWA CITY CODE BY ADDING NEW CHAPTER 4-11 REGULATING AFTER HOURS BUSINESSES

4-11-1: PURPOSE; FINDINGS:

The purpose of this chapter is to provide for the reasonable regulation of existing After Hours businesses within the city of Storm Lake. The city council finds that the existence of After Hours businesses, which allow the on-premises consumption of alcohol during early morning hours, in the city of Storm Lake has caused detrimental effects on the health, safety, welfare, and quality of life of residents, and visitors. Based on these findings and intentions, the city council has enacted the following regulations for After Hours businesses in the city of Storm Lake.

4-11-2: DEFINITIONS

AFTER HOURS BUSINESS. Any business open during any time between the hours of 2:00 a.m. to 6:00 a.m. any day of the week and where patrons are allowed to bring their own beer and wine onto the business premises. The term does not include events at hotels or motels or spontaneous social gatherings on residential properties.

APPLICANT. Any person, as defined by this Ordinance, applying for a license to operate an After Hours business.

BUSINESS PREMISES OR LICENSED PREMISES. All buildings and properties including parking lots owned or leased for the benefit of the operation of the after hours business.

HOTEL or MOTEL. Any building or structure, equipped, used, advertised as, or held out to the public to be an inn, hotel, motel, motor inn, or place where regular sleeping accommodations are furnished transient guests for hire, which is licensed by the Iowa Department of Inspections and Appeals.

PERSON. Any individual, association, partnership, corporation, club, or other legal entity.

4-11-3: LICENSE REQUIRED

(A) No person shall operate an After Hours business in the city without first applying for and paying the license fee to procure an After Hours business license.

(B) This Ordinance shall not apply to hotels or motels.

(C) A license to conduct an After Hours business may be issued by the City Clerk to a person who meets all requirements and conditions set forth in this Ordinance.

4-11-4: APPLICATION REQUIREMENTS

A person shall apply to the City Clerk for an original or renewal After Hours business license at least sixty (60) days prior to the date the person plans to begin operating an After Hours business.

The applicant shall provide information required by this Section upon a form to be provided by the City Clerk along with the documents specified below and payment of the application fee in the amount set in the Schedule of Fees adopted by the City Council.

- A. The Applicant's full legal name, and any other names used by the Applicant in the preceding five (5) years.
- B. The Applicant's current mailing address.
- C. Proof of the Individual's age completing the application on behalf of the Applicant. No Person under the age of twenty-one (21) years shall be eligible for a license.
- D. The business name, mailing address, location (if different from the mailing address), and phone number.
- E. The name and business address of the Applicant's registered agent (if applicable).
- F. A statement as to whether the Individual has ever had a license for an After Hours Business, or its equivalent as defined in this Ordinance, denied, revoked, or suspended in any other city, county, or state, and if so, the date(s) and jurisdiction(s) of the denial, revocation, or suspension.
- G. A statement as to whether the Applicant has ever owned a business that operated after hours that has been declared by a court of law to be a nuisance or was closed by order of a court of law.
- H. Personal injury coverage in the amount of \$1 million.
- I. General liability insurance in the amount of \$2 million.
- J. A copy of the Sales Tax Permit for the proposed business, from the Iowa Department of Revenue.
- K. Applicant shall provide a written consent for the City to conduct a background check on each Person who signed the application.
- L. Applicant shall provide a written consent for members of the Storm Lake Fire and Police Departments to enter the business premises without warrant at any time to inspect for violations of the provisions of state law and City ordinances, including, but not limited to, compliance with the laws of this Ordinance, Iowa Code chapter 123 alcoholic beverages licensing laws, and other applicable fire, building, and health code regulations.

After an Application is received, the City Clerk shall determine whether the application is complete. The City Clerk shall transmit the application to the Fire Department and Building Code Enforcement to conduct an inspection of the premises with the owner's cooperation. The Applicant shall permit the City's Fire Department and Building Code Compliance officers to enter and examine the premises to confirm compliance with City Code standards. The City Clerk shall also forward the Application to the Police Chief to conduct its review.

The Applicant shall immediately supplement any information provided in the application if any changes, errors, or omissions would cause the original application to be false or incomplete. This obligation to supplement continues after a license is issued.

4-11-5 POLICE DEPARTMENT REVIEW. Each application for an original or renewal After Hours Business license shall be provided to the Police Chief for review. Upon receipt, the Police Chief, or designee, shall conduct a background check and an investigation as to the truth of the

facts averred in the application documents. The Police Chief or designee shall forward the results to the City Clerk along with a recommendation for approval or disapproval. No approval of the license may occur until the City Clerk has received the results of the investigation.

4-11-6 LICENSE ISSUANCE

The City Clerk shall issue a license under the following conditions:

- A. The application is complete and all information and documents required in section 4-11-3 have been provided.
- B. The application fee is paid.
- C. The Police Chief or designee has recommended approval.
- D. The premises for which an after hours business license is sought must be located within an area where such business is permitted and conforms to City zoning requirements.
- E. The premises for which an after hours business license is sought meets all applicable laws, ordinances, resolutions, and health and fire regulations.
- F. No license shall be approved for any Applicant that has previously had a liquor license revoked or suspended for any reason within one (1) year of the date of application for After Hours business license.
- G. No license shall be approved for a period of one (1) year from the date on which any Applicant has had any premises or business found to be a nuisance under Chapter 8-1.
- H. No license shall be approved to any applicant who:
 - a. Within one (1) year of the date of application, has violated the state alcoholic beverages laws and regulations for which corrective action has been taken, including suspension or revocation of liquor licenses;
 - b. Within five (5) years of the date of application, has been convicted of crimes relating to illegal drug use, possession or sale;
 - c. Within five (5) years of the date of application, has been convicted of a felony or serious misdemeanor.
 - d. Within one (1) year of the date of application, has had an After Hours business license or renewal license revoked, suspended, or denied.

These requirements apply to all of the following:

- a. Each of the officers, directors and partners of the person;
- b. Tenants operating the premises on behalf of the Applicant;
- c. A person who directly or indirectly owns or controls 10% or more of any class of stock of the person;
- d. A person who directly or indirectly has an interest of 10% or more in the ownership or profits of the person.

4-11-7 RENEWAL.

- A. A license shall remain valid for a period of one (1) year from the date of issuance, unless the license has otherwise been suspended or revoked. A license may be renewed only by making application as provided in this Ordinance and paying the applicable renewal fee.

- B. An application for renewal shall be filed at least ninety (90) days before the expiration date.
- C. Renewal license applications are evaluated and granted upon the same standards, conditions, and requirements as original applications.
- D. After Hours Business licenses are not transferrable.

4-11-8 GROUNDS FOR REVOCATION, SUSPENSION, OR CIVIL PENALTY.

- A. An After Hours Business licensee may be required to pay a civil penalty and/or have the license suspended for a period not to exceed one year, or revoked, for violations of this Ordinance.
- B. Upon complaint or a reasonable suspicion that there are grounds for revocation or suspension, the City Manager may cause the matter to be investigated. If the city Manager finds that a violation has occurred, the City Manager shall give notice to the licensee of intent to suspend or revoke the license.
- C. Notice of the City's intent to suspend, revoke, or deny renewal of a license shall be served upon the licensee by personal service or by certified mail, return receipt requested. The suspension or revocation shall become effective seven (7) days after notice is served or mailed, unless an appeal is timely filed.
- D. Grounds for suspension, revocation, or civil penalty, are as follows:
 - a. Misrepresentation of any material fact in the license application by the applicant/licensee or their respective employees or agents;
 - b. Violation of any provision of state law or city ordinance pertaining to the operation of the business by the licensee or their employees or agents;
 - c. Failure to pass any health, fire, or safety code inspections;
 - d. Any change in ownership or interest in the business which was not previously reported and approved by the City;
 - e. Any event which would have resulted in disqualification from approval of license when originally issued or renewed; or
 - f. Any sale or other purported transfer of the license.

4-11-9 APPEAL. Any applicant or licensee aggrieved by the refusal of the City Clerk to Issue or renew a license, or by suspension or revocation of a license by the City Manager, has the right to appeal the decision to the City Council of the City of Storm Lake, Iowa. Such appeal shall be requested by submitting a written request to the City Clerk within ten (10) days of the action which is appealed. The City Council shall consider the appeal at the first regularly scheduled meeting following the filing of the appeal before which meeting sufficient time exists to give the public the required notice of the existence of the appeal hearing on the agenda. At the appeal hearing, the appellant shall be entitled to present their appeal orally or in writing. The City Council shall act on the appeal within twenty-one (21) days of the hearing and shall either uphold or reverse the action of the City Clerk or City Manager, and direct any further action from staff as is necessary to implement the order.

4-11-10 EFFECT OF REVOCATION

- A. Any licensee whose license is revoked shall not thereafter be permitted to hold a license in the city for a period of one (1) year from the date of revocation.
- B. A spouse or business associate holding 10% or more of the capital stock or ownership interest in the business of a person whose license has been revoked shall not be issued a license and no license shall be issued which covers any business s in which the person ahs a financial interest for a period of two years form the date of revocation.
- C. If a license is revoked, the premises covered by the license shall not be re-licensed as an after hours business for one year from the date of revocation.

4-11-11 MUNICIPAL INFRACTION. A violation of any provision of this Chapter shall constitute a Municipal Infraction subject to the penalties and alternative relief authorized by Title I, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

4-11-12 APPLICATION TO EXISTING BUSINESSES

All businesses meeting the definition of After Hours Business herein as of the effective date of this Ordinance are granted a temporary license to continue operation for a period of one-hundred and eighty (180) days following the Ordinance’s effective date. All After Hours Businesses shall be subject to the requirements of this Ordinance following expiration of the temporary license period.

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. This ordinance shall be in effect following its final passage, approval and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2024.

Michael Porsch, Mayor

ATTEST:

Mayra A. Martinez, City Clerk

Read First Time: _____

Read Second Time: _____

Read Third Time: _____

PASSED AND APPROVED JUNE , 2024.

Michael Porsch, Mayor

ATTEST:

Mayra A. Martinez, City Clerk

I, _____, City Clerk of the City of Storm Lake, State of Iowa, hereby certify that the above and foregoing is a true copy of Ordinance No. _____ passed and approved by the City Council of the City at a meeting held _____, 2024, signed by the Mayor on _____, 2024, and published in the Storm Lake Times Pilot on _____, 2024.

Mayra A. Martinez, City Clerk
City of Storm Lake, State of Iowa