



City of Des Moines

21630 11th Avenue South
Des Moines, WA 98198
206-878-4595

CABARET LICENSE APPLICATION

DMMC 5.20

APPLICANT'S FULL NAME: _____
LEGAL NAME, INCLUDING MIDDLE INITIAL

Home Address: _____

Home Phone No. _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: _____

BUSINESS NAME: _____

Business Location: _____

Business Phone Number: _____ Business UBI Number: _____

Hours & Days of Operation: _____

If this application is a partnership, or any other type of business entity, then the following information must be completed. Please attach a separate sheet if more room is needed.

Full Name: _____

Home Address: _____

Home Phone No.: _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: _____

Full Name: _____

Home Address: _____

Home Phone No.: _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: _____

ON SITE MANAGERS

Full Name: _____

Home Address: _____

Home Phone No.: _____

Full Name: _____

Home Address: _____

Home Phone No.: _____

PROPERTY OWNERS

Full Name: _____

Home Address: _____

Home Phone No.: _____

Fees are as follows:

- \$150.00 - One Year for One Entertainer
- \$325.00 - One Year for More than One Entertainer
- \$ 40.00 - One Quarter for One Entertainer
- \$ 85.00 - One Quarter for More than One Entertainer

Note: License runs from January 1st to December 31st of each year and is NON-TRANSFERABLE.

I, the undersigned, hereby certify under penalty of perjury that I have personal knowledge of all matters asserted in this application and that the statements contained herein are true and complete. I also understand that in the event that any information on this application becomes outdated or otherwise inaccurate, I will promptly notify the City Clerk in writing and provide current information.

APPLICANT SIGNATURE

DATE

=====

OFFICE USE ONLY per DMMC 5.20.025(3)(a)(b)(c)

Application is: ☐ Approved ☐ Approved with Conditions ☐ Denied

Comments/Conditions: _____

Department

Signature

Date

Chapter 5.20

CABARET LICENSES – TAX

Sections

- 5.20.010 Cabaret defined.**
- 5.20.020 Cabaret license – Fee.**
- 5.20.025 License application procedure.**
- 5.20.026 Approval or denial of application.**
- 5.20.027 Revocation or suspension of licenses.**
- 5.20.028 Appeals and hearing.**
- 5.20.030 Expiration – Transferability.**
- 5.20.040 Inspection of cabaret.**
- 5.20.050 Cabarets must have floor manager.**
- 5.20.060 Power of police.**
- 5.20.070 Closing hours of cabarets.**
- 5.20.075 Maximum environmental noise levels.**
- 5.20.077 Noise measurement.**
- 5.20.080 Admission charge defined.**
- 5.20.090 Tax rate.**
- 5.20.100 Collection of tax.**
- 5.20.110 Enforcement.**
- 5.20.120 Tax levy – Deposit.**
- 5.20.130 Revocation of license.**
- 5.20.140 Violation of maximum environmental noise levels – Penalty.**

5.20.010 Cabaret defined.

“Cabaret” means a hotel, restaurant, cafe, lunchroom, tavern, or any other place of public resort open for service to the public and operated for gain or profit where food and/or refreshments are regularly served and where theatrical performances, exhibitions, shows, exhibition dances, dancing, vaudeville shows, or vocal or other music produced by persons present are maintained or permitted; provided, this chapter shall not apply to Karaoke entertainment, which is defined as vocal music produced by persons present who are patrons of the establishment. [Ord. 976 § 1, 1992: Ord. 291 § 1, 1970: Ord. 99 § 1, 1961.]

5.20.020 Cabaret license – Fee.

(1) It is unlawful for anyone to conduct, manage, or operate a cabaret without having a valid and subsisting license so to do to be known as a cabaret license. An annual and a quarterly fee for such a license shall be set by administrative order of the city manager.

(2) Where vocal or other music is produced by a single person, a reduced annual and quarterly cabaret license fee shall be set by the administrative order of the city manager. [Ord. 454 § 1(F), 1979: Ord. 291 § 2, 1970: Ord. 99 § 2, 1961.]

5.20.025 License application procedure.

(1) Cabaret License. An applicant for a cabaret license shall make application therefor on the application forms provided by the city clerk. Each such application form shall require the following information:

(a) The name, home address, home telephone number, date and place of birth, and Social Security number of the applicant, if the applicant is an individual;

(b) The names, home addresses, home telephone numbers, dates and places of birth, and Social Security numbers of the officers and directors of the applicant, if the applicant is a partnership. If the applicant is any other type of business entity, then the applicant shall provide the same information requested in this subsection for all managers or other persons who control the business decisions of that entity;

(c) The name, address, and telephone number of the cabaret, and the names of all on-site managers of the cabaret; and

(d) The name, address, and telephone number of the owner of the property on which the cabaret is located.

Each application must be completed in full and signed by the applicant in affidavit or declaration form wherein the applicant certifies under penalty of perjury that the applicant has personal knowledge of all matters asserted in said application and that the statements contained therein are true and complete.

(2) Duty to Supplement Application. In the event that any information on any application for a license under this chapter becomes outdated or otherwise inaccurate, an applicant or license holder promptly shall notify the clerk in writing and provide current information.

(3) Process for Completed Applications. A completed application shall be submitted to the city clerk. An application shall not be considered to be completed unless accompanied by a receipt or other notation from the city showing payment of the required license fee. The city clerk shall refer a completed application to the following city department heads for investigation and report as follows:

(a) The chief of police shall provide a criminal history record of the applicant;

(b) The director of the department of community development shall provide a report stating whether or not the application or premises of the business reflect any actual or potential violations of the city zoning code; and

(c) The building official shall provide a report indicating whether or not said premises are in compliance with all applicable health, safety and building statutes and regulations. [Ord. 1295 § 1(part), 2001: Ord. 589 § 1, 1984.]

5.20.026 Approval or denial of application.

Upon receipt of a completed application and reports from the above-named officials, a license application shall be approved by the city manager, except that said application shall be denied for any one or more of the following reasons:

(1) Application form is incomplete; or

(2) Purpose of business sought to be licensed does not comply with the requirements of any city ordinance(s) relating to fire, buildings, health and sanitation or is, or will be if licensed, in

violation of the city zoning code as determined by the reports from the above-named officials; or

(3) The license was procured by fraud or any false statement or misrepresentation of fact in the application or in any report or record filed with the clerk.

In all events, the city manager shall issue the license, or the reason(s) for non-issuance as soon as possible, but in no event more than 30 days after receipt of a completed application. [Ord. 1295 § 1(part), 2001.]

5.20.027 Revocation or suspension of licenses.

(1) The city manager may revoke any license under this chapter, or may suspend any such license for a period of time not to exceed one year, where one or more of the following conditions exist:

(a) The license was procured by fraud or by any false statement or misrepresentation of fact in the application or in any report or record required to be filed with the clerk;

(b) The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or standards of this code; or

(c) The license holder, his or her employee, agent, partner, director, officer or manager has violated or permitted violation of any of the provisions of this chapter.

(2) Upon determination that grounds for revocation or suspension of a license exist, the city manager or designee shall send by first class mail, postage prepaid, to the license holder a notice of revocation or suspension. The notice shall set forth the grounds for revocation or suspension. [Ord. 1295 § 1(part), 2001.]

5.20.028 Appeals and hearing.

(1) Any person aggrieved by the action of the city manager in refusing to issue or renew any license under this chapter or in suspending or revoking any license under this chapter shall have the right to appeal such action to the city hearing examiner, or to such other hearing body as may hereafter be established by the city council for the hearing of such appeals, by filing a notice of appeal with the clerk within 10 days of receiving notice of the action from which appeal is taken.

(2) The hearing examiner, upon receipt of a timely notice of appeal, shall set a date for a hearing of such appeal within 20 days from the date of such receipt, except when extenuating circumstances exist. The hearing shall be de novo. The hearing examiner shall hear testimony, take evidence and may hear oral argument and receive written briefs. The filing of such appeal shall stay the action of the city manager, pending the decision of the hearing body.

(3) The decision of the hearing examiner on an appeal from a decision of the city manager shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant.

(4) The decision of the hearing examiner shall be final unless appealed to the superior court within 20 days of the date the decision is entered. [Ord. 1295 § 1(part), 2001.]

5.20.030 Expiration – Transferability.

Licenses provided for in this chapter shall expire at midnight one year from date of issue and no license shall be transferable from one person to another or rebates of license fees shall be paid, and no cabaret license shall be granted to any location within 500 feet of any playground or

park or grade or high school or the grounds thereof. [Ord. 99 § 3, 1961.]

5.20.040 Inspection of cabaret.

It shall be the duty of the chief of police to investigate and report on cabaret licenses, and to determine whether the applicant has complied with all the regulations, ordinances, and laws applicable thereto, and to make an investigation as to the character and fitness of the applicant and as to the person or persons who shall have the general management or supervision of such cabarets. He shall file a written report of such investigations with the city manager, with recommendations as to whether a license applied for shall be granted or refused. The chief of police or some officer specifically designated by him shall investigate all complaints filed against a cabaret. The chief of police or some officer specifically designated by him shall inspect each cabaret at least once each year. [Ord. 99 § 4, 1961.]

5.20.050 Cabarets must have floor manager.

Every person conducting a cabaret shall have an operator in control of the premises continuously from one-half hour before dancing begins therein until the cabaret is closed. It shall be the duty of the operator to see that standards of decency and good taste are maintained and that drunk, disorderly, familiar, or objectionable conduct is not tolerated, and to take effective steps promptly to remove objectionable persons and stop objectionable practices, and to preserve order and good conduct on the part of the patrons and employees of the premises. Such operator must report the number of persons in attendance in accordance with DMMC 5.20.090. The floor manager must be of good moral character and must have been approved by the chief of police after investigation has been made to determine his moral fitness for the position. For purposes of investigation, the chief of police is entitled to inquire into the floor manager's record as regards arrests and for any convictions for offenses against public morals and decency. [Ord. 99 § 5, 1961.]

5.20.060 Power of police.

It is unlawful for a person to whom a cabaret license is issued to allow or permit in a cabaret an indecent act to be committed or any disorder or conduct of a gross, violent, or vulgar character, or to permit in any such cabaret a prostitute, pimp, or procurer. A member of the police department shall have the power, and it shall be the duty of each of them to cause a cabaret to be vacated whenever a provision of this chapter is being violated or wherever indecent acts are committed, or when any disorder or conduct of a gross, violent, or vulgar character takes place therein. [Ord. 99 § 6, 1961.]

5.20.070 Closing hours of cabarets.

It is unlawful for a person to permit dancing in a cabaret, restaurant, cafe, lunchroom, or tavern, or to permit or furnish entertainment therein between the hours of 4:30 a.m. and 11:00 a.m. of any day. [Ord. 99 § 7, 1961.]

5.20.075 Maximum environmental noise levels.

WAC 173-60-020, 173-60-030, 173-60-040(1)(2)(a) and (b), 173-60-050, and 173-60-090

are adopted by reference. It is unlawful for a cabaret to produce noise in excess of the maximum environmental noise levels contained therein. The owner of a cabaret shall be strictly liable for all noise produced within the cabaret. [Ord. 578 § 1, 1983.]

5.20.077 Noise measurement.

Noise measurement for the purpose of enforcing the provisions of DMMC 5.20.075 and 5.20.140 shall be measured in dBA with a sound level meter with a point of measurement being at any point within the receiving property. [Ord. 578 § 3, 1983.]

5.20.080 Admission charge defined.

For purposes of this chapter, the words "admission charge" mean a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations. [Ord. 99 § 8, 1961.]

5.20.090 Tax rate.

The tax is to be remitted to the city on the basis of \$.25 per admission charge; provided, that such tax shall not apply to a cabaret or a place of entertainment in which music other than vocal produced by persons present is maintained or permitted and where no theatrical performances, exhibitions, shows, exhibition dances, dances, or dancing are maintained or permitted, unless the place of entertainment makes a separate charge for admission, or a cover charge or a charge for use of seats and tables. [Ord. 99 § 9, 1961.]

5.20.100 Collection of tax.

(1) A person who receives payment for an admission charge on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment and shall remit the same as provided in this chapter. The tax required to be collected under this chapter shall be deemed to be held in trust by the one required to collect the same until paid to the finance director as provided in this chapter.

(2) Anyone required to collect the tax imposed under this chapter who fails to collect same, or, having collected the same, fails to remit the same to the finance director in the manner prescribed by this chapter, whether such failure is the result of his or its own act or the result of acts or conditions beyond his or its control, shall nevertheless be liable to the city for the amount of such tax, and shall, unless the remittance is made as required in this chapter, be guilty of a violation of this chapter.

(3) The tax imposed under this chapter shall be collected at the time the admission charge is paid by the person seeking admission to a place and shall be reported and remitted by the one receiving the tax to the finance director in monthly installments and remittances therefor on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax is collected or received.

(4) Payment or remittance of the tax collected may be made by check unless payment or remittance is otherwise required by the finance director, but payment by check shall not relieve the one collecting the tax from liability for payment and remittance of the tax to the finance director unless the check is honored and is in the full and correct amount.

(5) Anyone receiving payment for admissions shall make out a return upon such forms and setting forth such information as the finance director may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the finance director with a remittance for the amount; provided, that the finance director may in his discretion require verified annual returns from anyone receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable. If the return provided for in this chapter is not made and the tax is not collected and paid within 10 days after the time required, the finance director may add a penalty of 10 percent of the tax per month or fraction thereof for each month overdue, which shall be added to the amount of the tax due, and collected in the same manner.

(6) The books, records, and accounts of anyone collecting a tax levied in this chapter shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the finance director. [Ord. 99 § 10, 1961.]

5.20.110 Enforcement.

The finance director shall have power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection, and remittance of the tax levied in this chapter; and a copy of the rules and regulations shall be on file and available for public examination in the finance director's office. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter. [Ord. 99 § 11, 1961.]

5.20.120 Tax levy – Deposit.

The tax levied and imposed shall be collected and paid on and after September 1, 1961, and shall be deposited to the current expense fund by the finance director. [Ord. 99 § 12, 1961.]

5.20.130 Revocation of license.

The violation of any of the provisions of this chapter by the operator of a cabaret as defined in DMMC 5.20.010 shall be grounds for revocation of the licenses issued under this chapter and that in the event of such revocation, the fees paid shall be forfeited. [Ord. 99 § 13, 1961.]

5.20.140 Violation of maximum environmental noise levels – Penalty.

(1) No person shall violate or fail to comply with this chapter.

(2) A violation of or failure to comply with this section is a class 3 civil infraction. [Ord. 1009 § 37, 1993. Prior: Ord. 770 § 38, 1988; Ord. 578 § 2, 1983.]