

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Action by Council

120.04 Prohibited Sales and Acts
120.05 Outdoor Service
120.06 Small Open Air Service and Consumption

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 for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 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])

120.04 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. *(Ord. 745 - Nov. 04 Supp.)*

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

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. (Repealed by Ordinance No. 647 - Nov. 99 Supp.)

6. 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])

7. 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])

8. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

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

9. 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])

10. 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])

11. 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])

12. 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.

(Ord 625)

13. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Ord. 787 – Nov. 06 Supp.)

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

120.05 OUTDOOR SERVICE. Any licensee or permittee may serve the type of alcoholic liquor, beer or wine permitted by the license or permit in an outdoor area only after complying with the following conditions:

1. The outdoor area must be enclosed by a permanent or temporary retainer which clearly encloses the outdoor area contiguous to the licensed establishment. The retainer must either be:

A. At least seventy-two (72) inches in height and constructed in a manner that prevents the passage of beverage containers outside of the enclosed area;

B. Or consist of two (2) barriers, both of which must be at least forty-two (42) inches in height, and spaced at least six (6) feet apart to prevent the passage of beverage containers outside

- the enclosed area. No persons shall be allowed within the six (6) foot space between the barriers.
2. Emergency exits must be provided with a clean and unobstructed access to a public way.
 3. The outdoor service area must have adequate lighting to allow for the easy identification of individuals within that area.
 4. The licensee or permittee must provide adequate staff in order to have all entrances and exits between the enclosed area and the public way staffed to prevent the transfer of open beverage containers beyond the enclosed service area and to prevent entrance to the service area by individuals which have not presented valid identification and verification of being legal drinking age.
 5. All alcoholic liquor, beer or wine shall be served in paper or plastic containers; however, should the licensee or permittee maintain an outdoor service area in compliance with the City of Glenwood's ordinances and such outdoor service area is used in the licensee's or permittee's normal business operations on a continuous or seasonally continuous basis, the limitation of using only paper or plastic containers shall not apply. *(Ord. 844 – Jun. 11 Supp.)*
 6. Any outdoor service area which exceeds twelve hundred (1200) square feet must have at least two (2) bathrooms or portable bathrooms provided within that outdoor service area.
 7. A diagram showing the outdoor area and describing how it will be enclosed shall be submitted to the Clerk.
 8. An endorsement from the insurance company acknowledging that the outdoor area is covered by the dram shop insurance policy shall be submitted to the Clerk.
 9. An application from the licensee or permittee telling what dates the outdoor area will be used shall be submitted to the Clerk.

After compliance with the above listed requirements, the Clerk shall forward the appropriate information to the Council which may approve the outdoor service area and authorize the Clerk to forward the information to the Iowa Alcoholic Beverages Division.

120.06 SMALL OPEN AIR SERVICE AND CONSUMPTION. In areas not zoned residential or which otherwise do not prohibit the sale of alcohol, a liquor licensed establishment may utilize an open air area and serve liquor for

consumption provided that the maximum open air area does not exceed four hundred (400) square feet, and it meets the conditions set forth herein:

1. The open air area shall securely attach to the licensed structure and shall not protrude into the public right of way, and shall be constructed and maintained so that it may only be entered and exited from the portion of the premises which is not part of the open air area and which is part of the licensed establishment. The open air area shall be enclosed by a wrought iron or similar type of fence approved by the City and structurally sufficient, in the sole discretion of the City of Glenwood, to prevent uncontrolled entrance or exit from the licensed area. The fence shall not be less than 36 inches in height and shall so be constructed and maintained to restrict access from below the top height of the fence.
2. All exits from such area shall be for emergency use only and shall be equipped with the appropriate hardware to ensure such limited use.
3. No open containers of alcohol or consumption of alcohol are permitted in the open air area between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday, or 12 midnight and 7:00 a.m. Fridays and Saturdays. For special occasions or events, the liquor licensee for the open air area may seek prior City Council approval in the event the licensee desires to serve liquor and/or operate the open air area for hours longer than established herein.
4. Amplified music and sound will be permitted in the open area during the hours that consumption is permitted, but will be subject to the City of Glenwood's noise ordinance.
5. The outdoor service area must have adequate lighting to allow for the easy identification of individuals within that area.
6. The licensee or permitted must provide adequate staff in order to have all entrances and exits between the enclosed area and the public way staffed to prevent the transfer of open beverage containers beyond the enclosed service area. For special events as from time to time deemed by the Mayor or designee, including Glenwood's annual Homecoming celebration date and RAGBRAI, the liquor licensee shall provide its own security personnel to maintain and enforce the provisions of this chapter and of the Code of Ordinances.
7. All alcoholic liquor, beer or wine shall be served in paper or plastic containers; however, should the licensee or permittee maintain an outdoor service area in compliance with the City of Glenwood's ordinances and such outdoor service area is used in the licensee's or

permittee's normal business operations on a continuous or seasonally continuous basis, the limitation of using only paper or plastic containers shall not apply.

8. A diagram showing the outdoor area and describing how it will be enclosed shall be submitted to the City Clerk.

9. An endorsement from the insurance company acknowledging that the outdoor area is covered by the dram shop insurance policy shall be submitted to the Clerk.

10. If two violations of State law or the Glenwood Municipal Code occur in the open air area within a twelve-month period that result in the conviction of the owner liquor licensee and/or his/her employees or agents, the use of the outdoor area as part of the liquor license premises will cease for a period of twelve (12) months, starting on the date of the second conviction. The same penalty will occur if four different incidents occur in the outdoor area within a twelve-month period that result in at least one conviction of persons other than the owner or his/her employees or agents.

(Section 120.06 added by Ord. 856 – Jul. 13 Supp.)

[The next page is 499]