

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

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

120.05 Prohibited Sales and Acts
120.06 Minors in Establishments Serving Alcohol
120.07 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

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

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises 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 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a 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 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on

Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

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. 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.

(Code of Iowa, Sec. 123.49[21])

120.06 MINORS IN ESTABLISHMENTS SERVING ALCOHOL.

1. Between the hours of 9:00 p.m. and closing, no person who has not yet attained 21 years of age may enter or remain in the licensed or permitted establishment that serves alcoholic beverages on the premises. No person holding a liquor control license or wine and beer permit

that authorizes consumption of alcoholic beverages on the premises may allow a person who is not yet 21 years old to remain at the premises. However, the provisions of this subsection do not apply when:

A. The person under 21 years of age is an employee of the license or permit holder, or performing a contracted service for the license or permit holder on the premises, and is on the premises during his or her scheduled work hours.

B. The licensee or permittee applies for and qualifies for an exception certificate from the Mayor as follows:

(1) A licensee or permittee whose primary business purpose is not the sale of alcoholic beverages, wine, or beer may qualify for an exception. The licensee or permittee must file with the Clerk a verified statement from a certified public accountant or an accountant which establishes that on average over a calendar year more than 50% of the licensee's or permittee's gross sales on the premises are from the sale of goods or services other than alcoholic beverages, wine, or beer. Those sales must not include income from fees charged to gain entry to or remain on the premises, such as cover charges, drink mixes, or any part of an alcoholic beverage as defined in Chapter 123 of the *Code of Iowa*. The statement must state the actual percentage of the sales and be based on records made in the regular course of the licensee's or permittee's business.

(2) In addition to the aforementioned statement, proof of qualification for the exception may include the business records on which the statement is based, such as State and Federal tax records, applications for dram shop insurance, audits performed to determine dram shop insurance premiums, and receipts from vendors for goods purchased. The records must be provided to the Mayor for review upon request.

(3) The Mayor will issue an exception certificate if the licensee has satisfied the above requirements.

(4) An exception certificate will be effective for the duration of the alcoholic liquor control license or wine or beer permit.

(5) A new licensee or permittee who has not previously applied for a renewal of an existing license or permit, and whose primary business purpose is not the sale of alcoholic beverages, wine, or beer may obtain a temporary six-month exception certificate if the licensee's or permittee's business plan anticipates sales as required by subsection B(1) of this subsection. The licensee or permittee must submit an affidavit that details the nature of the new establishment and the anticipated percentage of sales of food and nonalcoholic beverages. At the end of the six-month period, the licensee or permittee may obtain an exception certificate for the remainder of the duration of the license or permit in accordance with subsections B(1) through B(3) of this subsection if sales during the six-month period support an exception.

(6) To be effective in excepting the licensee or permittee from the prohibition in this subsection, the exception certificate issued by the Mayor must be posted at every entrance to the licensed or permitted establishment in view of patrons of the licensed or permitted establishments.

C. The person under 21 years of age is on the premises during a time that the licensee or permittee has, in accordance with a written notice and plan given in advance

to and approved by the Mayor, suspended dispensing alcoholic beverages on the licensed premises. A plan must provide a method by which alcoholic beverages will be out of sight and reach of patrons. If the plan receives approval, the Mayor will issue a certificate approving the event. The certificate must be posted at every entrance to the licensed establishment in view of patrons of the licensed or permitted establishment. The licensee or permittee permitting persons under 21 years of age onto the licensed premises pursuant to such a plan must take the necessary steps to prevent persons under the legal age from consuming or possessing alcoholic beverages on the premises.

D. The person under 21 years of age is a patron of an “authorized entity” that has entered into an agreement with the City for use of an “authorized site” in a City park.

2. Between 9:00 p.m. and closing, no person under 21 years of age may enter into or remain on the premises of a licensed or permitted establishment that authorizes on-premises consumption unless:

A. The person is an employee of the licensee or permittee or performing a contracted service for the license or permit holder on the premises, and is on the premises during his or her scheduled work hours;

B. A valid exception certificate is posted pursuant to subsection 1(B) of this section or a valid certificate approving a nonalcoholic event is posted pursuant to subsection 1(C) of this section;

C. The person under 21 years of age is a patron of an “authorized entity” which has entered into an agreement with the City for use of an “authorized site” in a City park.

3. Unless a valid exception certificate under the provisions of subsection 1(B) of this section has been obtained and posted, or a certificate approving a nonalcoholic event under the provisions of subsection 1(C) of this section has been obtained and posted, for the duration of the event, the licensed premises is an “authorized entity.” As an “authorized entity” that has entered into an agreement with the City for use of an “authorized site” in a City park, the holder of a liquor control license or wine or beer permit that authorizes on-premises consumption, must obtain a notice from the Clerk. The licensee or permittee must post a notice at every entrance to the licensed or permitted establishment in view of patrons of the establishment, stating:

Notice to Persons Under 21 Years of Age.

You are subject to a fine of \$250.00 for being on these premises between the hours of 9:00 p.m. and closing unless you are an employee of this establishment or performing a contracted service with respect to this establishment and are on the premises during your scheduled work hours.

The notice will be prepared by the Clerk and available at no charge.

4. A person under 21 years of age who violates the provisions of subsection 2 of this section is guilty of a simple misdemeanor punishable by a penalty of two hundred fifty dollars (\$250.00). Violation of the provisions of subsection 1 or 4 of this section may be charged as a municipal infraction or a simple misdemeanor.

5. The City may elect, at its sole discretion, to prosecute any violation either as simple misdemeanor or a municipal infraction.

120.07 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

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

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, or an employee of a 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.