

CHAPTER 1

ALCOHOLIC BEVERAGES

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2-1-1: **PURPOSE; INTENT:**

- A. Purpose: For the protection of the health, safety and welfare of the residents, citizens and guests of the town, it is hereby declared to be in the best interest of the town, and the residents, citizens and guests thereof, that the sale, distribution, possession and traffic of alcoholic liquor and malt beverages shall be regulated to the extent that all such activity be, and the same is hereby, prohibited, except

as provided in this chapter, and that no sale at retail or possession of such substances shall occur within the jurisdictional limits of the town except as authorized herein and the exceptions provided in the foregoing Wyoming Statutes sections 12-1-101 through 12-8-301 reserving certain powers to the state of Wyoming. It is the intent of this chapter to comply and coincide with provisions of the foregoing state statutes, which regulate such substances.

- B. Intent: It is not the intent of the town to regulate or interfere with the regulation by the state of Wyoming of limited transportation licenses issued in compliance with provisions of Wyoming Statutes section 12-2-202. (Ord. 43, 11-6-2003)

2-1-2: **DEFINITIONS:** Except as otherwise noted herein, definitions used in this chapter shall be as are set forth in Wyoming Statutes of 1977, sections 12-1-101 through 12-8-301, as may be amended from time to time. (Ord. 43, 11-6-2003; amd. 2011 Code)

2-1-3: **ANNUAL LICENSES:** The governing body of the town is hereby authorized to issue the following annual licenses pursuant to state law and this chapter:

- A. Retail liquor license as defined in Wyoming Statutes section 12-4-201.
- B. Limited retail liquor license (special club) as defined in Wyoming Statutes section 12-4-301.
- C. Restaurant liquor license as defined in Wyoming Statutes section 12-4-407. (Ord. 43, 11-6-2003)

2-1-4: **LICENSE APPLICATION:**

- A. Application For Annual License: Any person desiring an annual license as authorized by this chapter shall make application to the town by delivering to the town clerk, on the form prepared by the attorney general pursuant to Wyoming Statutes section 12-4-102 and provided to the applicant by the clerk, a completed, verified and signed form. The license fee, the cost of publication of the notice and any other fees related to a license, shall be paid to the clerk at the time that the application is filed or the clerk shall not commence

processing the application. Renewal of any annual license or application for transfer of ownership or location shall be made upon the same form and in the same manner. The information contained in the application shall conform to the requirements of Wyoming Statutes section 12-4-102.

- B. Forwarding To Department Of Revenue; Notice Of Application: Upon receipt of an application, the clerk shall send one copy of the application to the Wyoming department of revenue by certified mail, return receipt requested, and shall promptly prepare a notice of application, place a copy of the notice in a conspicuous place at the location shown in the application and publish this notice in the Torrington Telegram newspaper once a week for four (4) consecutive weeks. The notice shall comply with the provisions of Wyoming Statutes section 12-4-104.
- C. Supporting Documentation; Review And Inspection Of Premises: On behalf of the licensing authority, the clerk is authorized to request supporting documentation in conjunction with applications filed for a license or permit. Prior to issuance, review and inspections of the proposed premises may be conducted by an appropriate representative or representatives of the town, as authorized by the governing body. The representative or representatives may enter licensed premises and permitted premises or premises proposed to be licensed or permitted to make reasonable inspections. (Ord. 43, 11-6-2003)

2-1-5: **LICENSE FEES:**

- A. Annual Fee: The annual fee for each license shall be payable at the time of application in cash or certified check and shall be in the full amount as shown for each class of license listed below:
1. Retail Liquor License: For a retail liquor license, the annual fee shall be the sum of five hundred dollars (\$500.00).
 2. Limited Retail Liquor (Special Club) License: For a limited retail liquor (special club) license, the annual fee shall be the sum of one hundred dollars (\$100.00).
 3. Restaurant Liquor License: For a restaurant liquor license, the annual fee shall be the sum of five hundred dollars (\$500.00).

- B. Refund: No refund of all or any part of any license fee shall be made at any time following the issuance of the license.
- C. Publication Fee: In addition to paying the annual license fee in advance at the time filing the application, the applicant shall also pay a nonrefundable publication fee in an amount designated by the clerk to cover the cost of publishing the public hearing notices. (Ord. 43, 11-6-2003)

2-1-6: **TERM OF ANNUAL LICENSE:**

- A. Term: Annual licenses shall be for a period of not more than one year, expiring each year on July 31. Annual licenses shall be a personal privilege of the licensee.
- B. Deceased Licensee: The personal representative of the estate of a deceased licensee, when the estate consists in whole or in part of a business selling alcoholic or malt beverages under an annual license issued by the town, may exercise the personal privilege of the deceased licensee under the terms of the license until the expiration date of the license. If the license of the deceased licensee has not been transferred prior to the annual expiration date, the governing body shall consider the license of the deceased licensee as an unissued license. (Ord. 43, 11-6-2003)

2-1-7: **GROUND FOR DENIAL; PREFERENCE RIGHT:** A license shall not be issued, renewed or transferred if the governing body finds, from evidence presented at the hearing required under Wyoming Statutes section 12-4-104, any of the conditions found under Wyoming Statutes section 12-4-104(b); however, the holder of an expired annual license, or one due for expiration, has a preference right to a renewal of that license for the same location, but such preference exists only to the extent explicitly authorized under Wyoming Statutes section 12-4-104(c). No other preference rights are authorized or recognized by the town. The preference right granted under this section shall expire thirty (30) days after the expiration date shown on the most recently issued license or permit. (Ord. 43, 11-6-2003)

2-1-8: **RESTRICTIONS UPON APPLICANTS AND LICENSE:**

- A. Posting Of License: Except as provided in subsection B of this section, all permit and license recipients must post the license or permit in a conspicuous place within the licensed dispensing room described in the application. The same shall remain so posted during the effective term of the license or permit.
- B. License Held By Clerk: Any license issued pursuant to Wyoming Statutes section 12-4-103(a)(iv) shall be held by the clerk in the clerk's office, or other location as designated by the clerk until the license can be posted in a physically functional building. (Ord. 43, 11-6-2003)

2-1-8-1: **LOCATION RESTRICTIONS:**

A. Definitions:

ALCOHOLIC As those terms are defined under Wyoming
LIQUOR AND Statutes section 12-1-101(a)(i) and (x).
MALT
BEVERAGE:

CHILDCARE Any building or home used for the purpose of
FACILITY: providing childcare, said facility being recog-
nized by the state of Wyoming to the extent
required by law.

CHURCH: A building used for the regularly scheduled
purpose of religious worship.

SCHOOL: Any building or campus used for the purpose of
educating students at the primary, secondary
and postsecondary levels, public or private.

B. Restrictions On Sale Of Liquor:

1. No license shall be granted for the sale or manufacture of any alcoholic liquor or malt beverage, as defined above, within three hundred feet (300') of any school, childcare facility, church or other building regularly used as a place of religious worship, except that when a school, childcare facility, church or place of worship shall hereafter be established within three hundred feet (300') of any place

of business licensed to sell alcoholic liquors or malt beverages, the license shall not be denied for this reason.

2. This section shall not apply to any premises holding a license issued prior to the enactment of this section. (Ord. 54, 1-10-2013)

2-1-9: **TRANSFER OF ANNUAL LICENSE; FEE:** A person seeking to transfer an annual license shall submit a new application form and shall pay to the clerk at the time of such application a nonrefundable additional license fee of one hundred dollars (\$100.00). The transfer application shall be set for public hearing and otherwise considered by the governing body in a manner consistent with Wyoming Statutes section 12-4-601. (Ord. 43, 11-6-2003)

2-1-10: **TEMPORARY LICENSES AND PERMITS; FEES:**

A. Licenses Authorized To Issue: The governing body of the town is hereby authorized to issue the following temporary licenses pursuant to state law and this chapter:

1. Malt beverage permit as defined in Wyoming Statutes section 12-4-502(a).

2. Catering permit as defined in Wyoming Statutes section 12-4-502(b).

3. Temporary dispensing room permit as defined in Wyoming Statutes sections 12-4-504 and 12-5-201(f), (g), (h) and (j).

4. Extended club hours permit as defined in Wyoming Statutes section 12-5-101(b). (Ord. 43, 11-6-2003)

B. Fee: The fee for each license shall be payable at the time of application, shall be paid in cash or certified check, and shall be in the full amount as shown for each class of license below: (Ord. 43, 11-6-2003; amd. 2011 Code)

1. For a malt beverage permit, the fee shall not exceed one hundred dollars (\$100.00) per each twenty four (24) hour period.

2. For a catering permit, the fee shall not exceed one hundred dollars (\$100.00) per each twenty four (24) hour period.

3. For a temporary dispensing room permit, the fee shall not exceed one hundred dollars (\$100.00).
 4. For an extended club hours permit, there shall be no fee.
- C. Refund: No refund of all or any part of any temporary license or permit fee shall be made at any time following the issuance of the license or permit.
- D. Publication Fee: In addition to paying an application fee at the time of application, the applicant shall also pay a nonrefundable publication fee in an amount designated by the clerk to cover the cost of publishing public hearing notices. (Ord. 43, 11-6-2003)

2-1-11: **HOURS OF OPERATION:**

- A. Applicability: All licensees and permittees holding an annual or temporary license under this chapter shall be controlled by the schedule of hours set forth in subsections B and C of this section.
- B. Hours: The hours of operation for all licensees and permittees shall be as follows:
1. All licensees and permittees may open the dispensing room at six o'clock (6:00) A.M. and shall close the dispensing room and cease the sale of both alcoholic and malt beverages promptly at the hour of two o'clock (2:00) A.M. the following day. In addition, licensees and permittees shall clear the dispensing room of all persons other than employees by two thirty o'clock (2:30) A.M.
 2. The hours of operation designated in subsection B1 of this section may be modified on no more than four (4) days each calendar year by a resolution or agreement made by the appropriate licensing authority designating those dates during city or county fairs, rodeos, pageants, jubilees, special holidays or other similar public gatherings



when all licensees and permittees may operate their dispensing rooms for a period of twenty four (24) hours beginning at six o'clock (6:00) A.M.

- C. Sunday Sales: No licensee or permittee shall sell any alcoholic or malt beverage on Sundays, except from one minute after twelve o'clock (12:01) A.M. until two o'clock (2:00) A.M. (Ord. 43A, 12-13-2007)

2-1-12: **BOTTLE CLUB:**

- A. Definition: As used herein, "bottle club" is defined as an operation or enterprise in which no alcoholic liquor or malt beverages are sold, but where food, soft drinks and mixes are sold, and the safekeeping of alcoholic and/or malt beverages are provided for individual club members who bring alcoholic liquor and/or malt beverages upon the premises for their own use and consumption. Income, profits or fees of the operator of a bottle club are typically derived from sales or furnishing of mixes, ice, food or glasses, or from dues, charges, contributions, membership cards or assessments.
- B. Prohibited: It is unlawful for any person to operate a bottle club in the town. (Ord. 43, 11-6-2003)

2-1-13: **DRIVE-IN FACILITIES:** Upon approval of the original application by the governing body, or the renewal thereof, a drive-in area adjacent to or contiguous with the licensed room, may be used by the holders of a retail liquor license for taking orders, making delivery of, and receiving payment for alcoholic or malt beverages under the terms and conditions found in Wyoming Statutes section 12-5-301. (Ord. 43, 11-6-2003)

2-1-14: **DISPENSING ROOM RESTRICTIONS:**

- A. Minors Entering And Remaining: It shall be unlawful for any person under the age of twenty one (21) years to enter or remain in the dispensing room of any licensed premises. (Ord. 43, 11-6-2003; amd. 2011 Code)
- B. Allowing Minors To Enter And Remain: No licensee, permittee or agent, employee or servant of a licensee or permittee shall permit

any person under the age of twenty one (21) years to enter or remain in a dispensing room of a licensed premises, owned, operated, leased or managed by them.

- C. Exception: This section shall not apply to a licensee's employee under the age of twenty one (21) years, when in the course of his or her employment, the employee is in the dispensing room and the dispensing room is not open for the sale or dispensing of alcoholic or malt beverages. (Ord. 43, 11-6-2003)

2-1-15: **MINORS:**

- A. Use Of False Proof Of Age Or Identity: It shall be unlawful for any person under the age of twenty one (21) years to make, use or possess any identification which falsely indicates the person's age as being greater than twenty one (21) years, whether in the person's correct name or not, or to attempt to obtain any alcoholic liquor or malt beverage using any false identification.
- B. Possession By Underage Persons: It shall be unlawful for any person under the age of twenty one (21) years to possess, buy, sell, drink, consume or otherwise solicit the sale or purchase of alcoholic liquor or malt beverages in the town. As used in this section, possession shall also include alcohol which has been consumed and is present within the body of the person at the time of determination.
- C. Sales To Underage Persons: It shall be unlawful for any person to sell, give or deliver any alcoholic liquor or malt beverage to any person under the age of twenty one (21) years; provided, however, that such prohibition shall not apply to any parent or guardian providing such to his or her child in the confines of their home. (Ord. 43, 11-6-2003)

2-1-16: **DELIVERY OF ALCOHOLIC LIQUOR AND MALT BEVERAGES:**

- A. No retail liquor licensee shall deliver or cause to be delivered any alcoholic or malt beverage to any person whomsoever, except at the licensed premises.
- B. No person shall engage in the business of making deliveries of alcoholic liquor or malt beverages from the licensed or permitted premises within the town. (Ord. 43, 11-6-2003)

2-1-17: EXCESSIVE DRINKING OR DISORDERLY CONDUCT:

Excessive drinking of alcoholic liquor and malt beverages or disorderly conduct in any place licensed under this chapter shall not be permitted by the licensee. In addition to any penalty provided by the terms of this chapter or state law, excessive drinking or disorderly conduct may be cause for the initiation of suspension and/or revocation procedures. (Ord. 43, 11-6-2003)

2-1-18: DRINKING IN PUBLIC: The drinking of alcoholic or malt beverages in public, except in the place of business of a retail liquor dealer licensed under the provisions of this chapter or in a dining room or restaurant operated in connection therewith, is hereby prohibited and declared a misdemeanor. (Ord. 2, 6-1-1938)

2-1-19: FALSIFICATION OF APPLICATION:

- A. Prohibited: It is unlawful for any person or organization to knowingly submit false information as true, or to submit as fact a piece of information without knowing such to be true or false, on any application or permit authorized by this chapter. Each application which is submitted shall be sworn to be true to the best of the knowledge of the person submitting such application.
- B. Action By Town Attorney: If, in the opinion of the town attorney, a liquor license holder has acted in violation of this section, the town attorney, upon the authorization and direction of the governing body, shall take action on behalf of the town pursuant to Wyoming Statutes section 12-7-201 seeking the revocation of the license or permit. Such action shall be in addition to any other penalties which may accrue to the license holder for violation of this chapter. (Ord. 43, 11-6-2003)

2-1-20: POWER TO MAINTAIN ORDER; INSPECTIONS BY GOVERNING BODY:

The police officers of the town are hereby authorized, empowered, and directed to maintain order in the place of business of any and all retail liquor dealers licensed under the provisions of this chapter and may enter said places of business for the purpose of enforcing the provisions of this chapter, and the mayor and the members of the town council may enter said places of business at any time during the business hours to inspect the same and to ascertain whether or not said

licensees are complying with the provisions of this chapter and said act of the legislature. (Ord. 2, 6-1-1938)

2-1-21: SUSPENSION FOR FAILURE TO PAY SALES TAX:

- A. **Power To Suspend:** The governing body may suspend any license or permit issued under this chapter if the licensee or permittee fails to pay sales taxes and the Wyoming liquor division has ceased sales of alcoholic liquor to the licensee or permittee pursuant to Wyoming Statutes section 12-2-306.
- B. **Notice Of Hearing:** Upon receipt by the clerk of a certified notice from the state of Wyoming issued pursuant to Wyoming Statutes section 12-2-306, and upon order of the governing body, the clerk shall notify the licensee or permittee, by certified mail, that the town intends to hold a hearing on the issue as to whether or not the license or permit should be suspended.
- C. **Suspension Hearing:** The suspension hearing shall be conducted in accordance with the provisions of the Wyoming administrative procedure act¹ and the rules adopted by the governing body.
- D. **Prima Facie Evidence:** The certified notice from the state of Wyoming and all evidence presented to the state of Wyoming in support of the issuance of the certified notice shall be admitted and considered prima facie evidence of the licensee's or permittee's tax delinquency.
- E. **Right Of Appeal:** In the event that a license or permit is suspended in accordance with this section, the holder of the license or permit may appeal the suspension in accordance with the provisions of Wyoming Statutes section 12-7-201.
- F. **Duration Of Suspension:** The suspension of the license or permit shall remain in effect until either the governing body lifts the suspension, a court of competent jurisdiction lifts the suspension, or the clerk receives a certified notice from the state of Wyoming that the sales tax liability has been satisfied.
- G. **Notice Of Suspension:** In the event a suspension occurs, the clerk shall send, by certified mail, one copy each of the suspension notice

1. WS § 16-3-101 et seq.

to the last known address of the license or permit holder and to the director of the Wyoming liquor division for the state of Wyoming. Additionally, the clerk shall post one copy of the suspension notice on the licensed or permitted premises.

- H. Further Sales Prohibited; Securing Of Alcoholic Liquor And Malt Beverages: Immediately upon the posting of the suspension notice, the subsequent sale, subsequent offering to sell, or the subsequent distribution or traffic in alcoholic liquor or malt beverages shall be unlawful. Further, the licensee or permittee shall either remove all of the alcoholic liquor and malt beverages from the licensed premises or secure the alcoholic liquor and malt beverages in a manner approved, in writing, by mayor of the town or his designee. (Ord. 43, 11-6-2003)

2-1-22: **REVOCATION:**

- A. Grounds For Revocation: Any violation of the terms and provisions of this chapter or any violation of any of the provisions of Wyoming Statutes sections 12-7-101 through 12-7-103 shall be grounds for the suspension of the license or permit as specifically set forth in Wyoming Statutes section 12-7-102.
- B. Gross Violation: Any gross violation of the terms and provisions of this chapter or any gross violation of any of the provisions of Wyoming Statutes sections 12-7-101 and 12-7-201 shall be grounds for the revocation of the license or permit.
- C. Suspension Or Revocation Procedure: The suspension or revocation procedure shall conform to that set forth in Wyoming Statutes section 12-7-201. (Ord. 43, 11-6-2003)

2-1-23: **PENALTY:** In addition to the suspension and/or revocation of a license or permit as heretofore set forth, any person or entity violating any of the provisions of this chapter shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. Each violation shall constitute a separate offense and shall subject the person or entity to a separate penalty hereunder. (Ord. 43, 11-6-2003; amd. 2011 Code)