

Approved as to
form only:
[Signature]
Date: 6/16/17

ORDINANCE NO. 4186

ENTITLED: "AN ORDINANCE REPEALING CHAPTER 5.12, ALCOHOLIC BEVERAGES, IN ITS ENTIRETY AND CREATING A NEW CHAPTER 5.12, ALCOHOLIC LIQUOR AND MALT BEVERAGES, OF TITLE 5, BUSINESS LICENSES AND REGULATIONS, OF THE CODE OF THE CITY OF CHEYENNE, WYOMING."

BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE WYOMING:

Section 1. That Chapter 5.12, Alcoholic Beverages, is hereby repealed in its entirety and a new Chapter 5.12, Alcoholic Liquor and Malt Beverages, of Title 5, Business Licenses and Regulations, of the code of the City of Cheyenne, Wyoming, is hereby created as set out in this ordinance.

**CHAPTER 5.12
ALCOHOLIC LIQUOR AND MALT BEVERAGES**

5.12.010 Purpose – Authority – General provisions.

A. The purpose of this chapter is to establish regulations and procedures for the review, licensing, permitting, regulation and administration of alcoholic liquor and malt beverage sales, consumption and related activities within the city.

B. Pursuant to the authority granted cities and towns by Wyo. Stat. Section 15-1-101, *et seq.*, and Wyo. Stat. Title 12, Alcoholic Beverages, the sale, consumption, regulation and related activities pertaining to alcoholic liquor and malt beverages shall comply with city code and Wyo. Stat. Sections 12-1-101, *et seq.*, which is made a part of this chapter by reference, except as otherwise set forth in this chapter.

C. On behalf of the governing body (licensing authority), the city clerk is authorized to review and issue temporary catering, malt beverage, special event and consumption permits, and to request supporting documentation in conjunction with all applications filed with the city clerk for any type of license or permit identified in this chapter. Prior to issuance, review and approval of applications, including inspection of the proposed premises to be licensed or permitted, will be conducted by various city department representatives as determined by the city clerk.

1. The city clerk and chief of police are authorized to review and approve requests from licensees and permittees for certain special use areas and special event permits pursuant to Sections 5.12.110 and 5.12.120 of this chapter.

D. Representatives of law enforcement, health, building and fire departments may enter a licensed and permitted building and room to make reasonable inspections to enforce compliance.

5.12.020 Definitions.

The following definitions will apply in the interpretation and enforcement of this chapter:

“Building” means a roofed and walled structure built or set in place for permanent use.

“Delivery service” means the taking of orders and providing the transporting and delivery of alcoholic liquor and malt beverage products to patrons at a residence, organization or business for a fee in violation of the provisions of this chapter.

“Kitchen facilities” means a room or part of a building equipped for preparing and cooking food.

“Open container” means any bottle, can, container or other receptacle that contains any amount of alcoholic liquor or malt beverage that is open, has a broken or tampered seal, or the contents of which are partially removed. Wine which is resealed for a patron in compliance with the provisions of Wyo. Stat. Sections 12-4-410 (e) and 12-4-413 (f), and “slushies” which are securely sealed and are unopened or untampered with for a patron by a retail liquor licensee pursuant to Section 5.12.070 (B) (2) of this chapter. Licenses and permits issued with an approved waiver of open container do not constitute an “open container” violation.

“Operational” means offering for sale on an ongoing weekly basis to the general public alcoholic liquor and malt beverages as authorized under a license or permit issued under this chapter and Wyo. Stat. Section 12-1-101, *et seq.* For purposes of this chapter, “weekly” means at least one eight (8) hour day within a period of seven (7) consecutive calendar days beginning on Sunday.

“Room” means an enclosed and partitioned space within a building large enough for a person to enter but not a cabinet. Partitions may contain windows and doorways, but any partition shall extend from floor to ceiling.

“Sell” or “sale” includes offering for sale, trafficking in, bartering, delivering or dispensing and pouring for value, exchanging for goods, services or patronage or an exchange in any way other than purely gratuitously. Every delivery of any alcoholic liquor or malt beverage made otherwise than by gift constitutes a sale.

5.12.030 Licenses and permits – Types.

A. The city is authorized, pursuant to Wyo. Stat. Sections 12-1-101, *et seq.*, to issue the following types of alcohol, microbrewery, winery, satellite, special event and malt beverage licenses and permits:

1. Bar and Grill Liquor License. The governing body may authorize issuance of a bar and grill liquor license to an applicant pursuant to provisions of Wyo. Stat. Section 12-4-413.

2. Catering Permit. The city clerk may authorize issuance of a temporary catering permit to retail and resort liquor licensees authorizing off-premise sales of alcoholic liquor and malt beverages.

a. On behalf of the licensing authority, the city clerk is authorized to provide written approval to eligible city liquor licensees who wish to submit an application for a temporary catering permit within the jurisdiction of another liquor licensing authority within the state of Wyoming. Written request for approval must be submitted by the eligible licensee which contains information as required by the city clerk.

3. Consumption Permit. The city clerk, with approval by the chief of police, may issue a temporary permit to applicants under the provisions of this chapter.

4. Limited Retail Liquor License. The governing body may authorize issuance of a license to a club, as defined in Wyo. Stat. Section 12-1-101, to provide sales and service of alcoholic liquor and malt beverages within a licensed building to its members and their guests.

5. Malt Beverage Permit. The city clerk, with approval by the chief of police, may authorize issuance of a temporary permit to any responsible person or organization allowing malt beverages sales only at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering.

6. Malt Beverage Permit with Open Container Waiver. The city clerk, with approval by the chief of police, may authorize issuance of a temporary permit in conjunction with a special community-based event, waiving the city's open container restriction.

7. Microbrewery Permit. The governing body may authorize issuance of a microbrewery permit to an applicant to provide for brewing and dispensing of malt beverages.

8. Resort Liquor License. The governing body may authorize issuance of a license to an applicant for alcoholic liquor and malt beverage sales and service at a resort pursuant to provisions contained in Wyo. Stat. Sections 12-4-401 and 12-5-201.

9. Restaurant Liquor License. The governing body may authorize issuance of a license to an applicant for sales and service of alcoholic liquor and malt beverages, as prepared and dispensed from an approved licensed room within the building, at a restaurant as defined in Wyo. Stat. Section 12-1-101.

10. Retail Liquor License. The governing body may authorize issuance of a license to an applicant for direct sales and service of alcoholic liquor and malt beverages within a licensed building to patrons in a lounge or bar environment, which may include sales for off-premise consumption conducted through a separate room within the licensed building designated as a package store and/or through a drive-up facility adjoining the room as approved by the governing body.

11. Satellite Manufacturing Permit. The governing body, upon application, may authorize issuance of a permit to the holder of a manufacturer's license, as issued by the Wyoming Liquor Division, pursuant to provisions of Wyo. Stat. Section 12-2-203.

12. Satellite Winery Permit. The governing body, upon application, may authorize issuance of a permit to the holder of a winery permit pursuant to the provisions of Wyo. Stat. Section 12-4-412.

13. Special Event Permit. The city clerk, with approval by the chief of police, may authorize the issuance of a permit to a retail liquor licensee in conjunction with holding a special event in the licensed building of the licensee at which primarily persons under the age of twenty-one (21) years of age are permitted pursuant to the provisions of Wyo. Stat. Section 12-5-201 (k).

14. Special Malt Beverage Permit. The governing body may issue an annual special malt beverage permit to any reasonable person or organization for sales of malt beverages only at public auditoriums, civic centers or events centers.

a. The public auditorium, civic center or events center shall be an enclosed building and shall contain meeting rooms, kitchen facilities and an auditorium setting that seats at least 500 persons and is used for public gatherings, events or entertainment. Written confirmation by the applicant must be provided with the application stating that the owner of the building authorizes the sale and consumption of malt beverages within the building for which the permit will be effective. If the applicant is not the owner of the building, a written lease agreement between the applicant and building owner must be submitted containing the authorization.

b. Upon application and any renewal application, the person or organization holding a special malt beverage permit must provide written confirmation to the city clerk that the owner of the building authorizes the sale and consumption of malt beverages within the building for the term in which the permit will be effective.

c. No permittee shall sell any malt beverages for off-site consumption outside of the building, and it shall be the responsibility of the permittee to ensure that no sales are made to nor any consumption allowed by any person under the legal drinking age within the licensed building.

d. No transfer of permit ownership or building location shall be allowed.

15. Winery Permit. The governing body may authorize issuance of a permit to an applicant for the manufacturing and dispensing of wines.

5.12.040 License or permit required.

A license or permit is required to "sell" or conduct the "sale" of alcoholic liquor and malt beverages, or to meet compliance with this chapter pertaining to licenses and permits. A consumption permit is required pursuant to the provisions of this chapter.

5.12.050 Application – Fees – Procedures for issuance.

A. Pursuant to the provisions of Wyoming Statutes Sections 12-1-101, *et seq.* and this chapter, any person desiring a license or permit to sell, dispense, consume, or pertaining to alcoholic liquor and malt beverages within the city, shall file an application with the city clerk, including supporting documentation as required by the city clerk and payment of applicable fees as follows:

Type	Fee
Retail liquor license	\$ 1,500.00
Limited retail liquor license	625.00
Resort liquor license	1,500.00
Restaurant liquor license	1,050.00
Bar and grill liquor license	10,500.00 (initial/new) 1,500.00 (renewal)
Transfer of ownership/location	100.00*
Catering permit	100.00
Consumption permit	10.00
Malt beverage permit	100.00**
Malt beverage permit with open container waiver	100.00**
Microbrewery permit	500.00***
Satellite winery permit	100.00
Satellite manufacturer's permit	100.00
Special event permit (under 21 years of age attendees; retail liquor licensee only)	10.00
Special malt beverage permit (annual)	1,500.00
Winery permit	500.00***

* Transfer of ownership and/or location for certain types of licenses is not allowed pursuant to Wyoming Statutes, Title 12, or this chapter.

** The city clerk may grant a permit at a lower daily fee of not less than \$40.00 to a nonprofit organization classified as nonprofit under the federal IRS code.

***When dual holding of a microbrewery or winery permit with a retail, restaurant, resort or bar and grill liquor license exists, no additional fee other than the retail, restaurant, resort or bar and grill license fee is assessed.

B. In addition to paying an application fee at the time of filing, an applicant shall also pay, if applicable, a nonrefundable publication fee in an amount designated by the city clerk to cover the cost of publishing public hearing notices as required by Wyoming Statute, Title 12.

C. Annual licenses and permits. When filing new, renewal, or transfer of ownership or location applications for annual licenses or permits, the applicant shall submit a signed affidavit and authorization form, as provided by the city clerk, which includes the applicant's name, signature, address, and date of birth to assist with application processing by the city clerk and chief of police. The applicant shall agree to a background check conducted through the police department or as approved by the chief of police.

1. Applications for licenses and permits will be reviewed for approval and issuance pursuant to compliance with state law and city code. Upon issuance and prior to alcoholic liquor

and malt beverage sales and services being provided to patrons, the licensee or permittee shall display the license or permit in a conspicuous place within the licensed or permitted building for the term of the license or permit.

2. Any license or permit approved for issuance by the governing body shall not be issued by the city clerk until the license or permit can be posted and displayed in a physically functional building following any applicable approvals required by city law enforcement, development, zoning, health, building and fire representatives, and the city clerk.

D. The chief of police is authorized to assess a fee payable by licensees and permittees in conjunction with extra law enforcement resources as required by the chief in conjunction with events or activities in which the chief determines extra law enforcement presence is needed to monitor and enforce the provisions of this chapter or to provide for the health, safety and welfare of the public. The chief is authorized to establish and revise the fee schedule with said schedule on file in the office of the chief of police.

5.12.060 Transfer of ownership; Location.

An eligible licensee or permittee seeking to request a transfer of ownership and/or location of an existing annual license shall submit an application with the applicable fee, including a nonrefundable publication fee, pursuant to Section 5.12.050 of this chapter. The transfer application shall be set for public hearing and consideration by the governing body in a manner consistent with Wyo. Stat. Sections 12-4-104 and 12-4-601.

5.12.070 Restrictions upon license or permit applicants and holders.

A. Pursuant to Wyo. Stat. Section 12-4-104 (iv), a license or permit authorized by this title shall not be held by, issued or transferred to any annual licensee or permittee who fails to demonstrate that his licensed alcoholic or malt beverage enterprise will be operational in a planned but not physically functional building within one (1) year after a license or permit has been approved, issued or transferred, or if holding a license, fails to open his business in a functional building within one (1) year after license issuance or transfer and remain operational thereafter. Upon a showing of good cause by the licensee or permittee and for an additional period of not to exceed one (1) year, the governing body may extend the time period in which the business or enterprise of the licensee or permittee is required to become operational or open for business. Any license or permit in violation of this section shall not be renewed by the governing body and once the enterprise is operational or open for business, no licensee shall be eligible to repeat the grace periods made available by this section without the consent of the governing body due to extraordinary circumstances. For purposes of this section "remain operational" means operational consecutively, in any license or permit term year, for twelve (12) months or for not less than three (3) months if determined by the governing body to be a seasonal operation.

B. Retail liquor licensees.

1. A licensee offering the sale of alcoholic liquor and/or malt beverages from a package store for off-premise consumption must designate a room within the licensed building for this

purpose, and shall submit a suitable drawing of the building, including a depiction of the room, to the city clerk in conjunction with any new or renewal application.

2. A licensee may offer pre-mixed alcoholic drinks known as “slushies” within their licensed building that may be removed from the building for off-premise consumption. The drink(s) shall be securely sealed by the licensee, or their employees or agents, in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises. The drinks sealed in accordance with the provisions of this section, when unopened or untampered with, shall not be deemed an open container under this chapter.

3. A licensee shall not provide any alcoholic liquor or malt beverage delivery services in conjunction with the licensee’s business operations.

5.12.080 Term – Renewal of annual licenses and permits.

A. Licenses and permits renewed on an annual basis (i.e. retail, limited retail, resort, restaurant, and bar and grill licenses, and microbrewery, winery, satellite and special malt beverage permits) are effective for a period of not more than one year, expiring each year on March 31. A license or permit is considered a personal privilege to the holder and the term of the license or permit will be for one year unless sooner revoked or suspended. The term of a license or permit may be less than one year if specified by the governing body to coincide with the annual dates of license or permit renewal. The city clerk shall pro-rate the annual application fee accordingly for any initial license or permit issued for less than one year.

1. Any licensee or permittee not attempting to renew a newly issued pro-rated license or permit valid for one year shall not be eligible for any annual license or permit authorized under this chapter for a period of two years after the expiration date of the pro-rated license or permit.

B. Applications for renewal of an annual license or permit, together with applicable fees, must be submitted by the date and time established annually by the city clerk. An annual report of licensees and permittees shall be submitted to the governing body and city clerk by the chief of police and will include information on compliance, noncompliance and any violations resulting in convictions imputed to the licensee or permittee, during the previous licensing term, with state law, city code, and review compliance criteria. The report will be evaluated by the governing body during the renewal process. Any violation or noncompliance with state law or city code will be considered by the governing body in its decision to renew, or not renew, an annual license or permit.

5.12.090 Annual review compliance criteria.

A. The provisions in this section constitute the governing body’s annual licensee and permittee review compliance criteria. Licensees and permittees shall:

1. Provide initial orientation training on alcohol and malt beverage related sales and service for new employees and all volunteers who will be selling or furnishing alcohol or malt

beverages, and on-site managers and persons who may provide on-site security services on behalf of the licensee or permittee upon the premises.

a. Provide training prior to any duties being performed that relate to alcohol and malt beverage sales and service. Orientation training materials must be approved by the chief of police.

b. Ensure that persons who physically sell, serve or deliver alcoholic liquor or malt beverages at retail on or off the premises of a licensee or permittee, and on-site managers and any persons providing on-site security services successfully complete an alcohol training program as approved by the Wyoming Liquor Division pursuant to state law and the division's rules and regulations. Program participants must successfully complete the program within ninety (90) days of employment or initial date of providing services. Licensees and permittees must maintain, upon the business premises, a current list of bona fide employees, volunteers, on-site managers and any persons providing on-site security services; date of hire/service; dates of orientation training and successful completion of the approved training program, including any required continuing training. The list shall be available for inspection by law enforcement personnel.

2. Prohibit sales to and consumption by persons under the legal drinking age within the licensed or permitted building or authorized areas of service.

3. Report to local law enforcement by the licensee, permittee, employee, volunteer, on-site manager, agents or any persons providing on-site security services, any incidents upon the premises requiring law enforcement response services. Immediate notification to the police department shall be provided when any criminal or illegal activity occurs or is observed in or upon the licensee's or permittee's property involving the licensed building and adjoining property affiliated with the sale or consumption of alcoholic liquor and malt beverages, including the reporting of any assault, aggravated assault, or assault and battery.

B. The governing body shall use the annual review compliance criteria to assist with identifying licensees, permittees and their agents who repeatedly violate any applicable provisions of law. Violations by persons, while acting in the service of the licensee or permittee, shall be imputed to the licensee or permittee for purposes of this section. A licensee or permittee may also be reviewed at any time during the licensing or permitting term upon the conviction of the licensee, permittee, its employees and/or agents for violations of this section.

C. The provisions contained in Sections 5.12.170 and 5.12.180 of this chapter shall apply to any violation of this section pertaining to annual review compliance criteria.

5.12.100 Temporary permits.

A. Temporary permits, such as catering, consumption, malt beverage, malt beverage with open container waiver, and special events involving under 21 years of age attendees, are effective only for the term listed upon the permit issued by the city clerk. The permittee shall display the permit in a conspicuous place upon the premises, as disclosed in the application submitted to the city clerk, for the term of the permit.

B. All permittees and individuals, including volunteers, who will be selling, serving or delivering alcohol liquors and/or malt beverages pursuant to issuance of a temporary catering, malt beverage or malt beverage with open container waiver permit must complete initial orientation training as set forth in subsections 5.12.090 (A) (1) and (A) (1) (a) of this chapter.

C. Applicants for a catering, malt beverage or malt beverage with open container waiver permit must agree to and provide written signature of agreement on a conditions of approval form, as provided by the chief of police through the city clerk. The form, in addition to the permit, must be prominently posted upon the permitted premises for the term of the permit.

D. The chief of police, or authorized designee, may revoke any temporary permit issued under this chapter to maintain peace and order; health, safety and welfare of the public; for situations in which an emergency arises, or where there is an immediate threat to the security, property and welfare of any member of the public.

5.12.110 Open container – Sales and consumption -- Exceptions.

A. Except in compliance with Wyo. Stat. Sections 12-4-410 (e) and 12-4-413 (f) and provisions of this chapter, no person shall consume or carry in their immediate possession an alcoholic liquor or malt beverage in an open container, either on foot, within a motor vehicle or other means of conveyance, upon city streets, sidewalks, parks, public parking lots, public school property, or without the consent of the owner upon any private parking lot or any private areas that are open to the public, except:

1. The chief of police may authorize the city clerk to issue a consumption permit to applicable applicants requesting to consume or carry an alcoholic liquor or malt beverage in an open container on foot or within a motor vehicle or other means of conveyance as part of a ceremony, show, theatre, parade, or similar public event. A consumption permit does not allow the “sell” or “sale” of alcoholic liquor or malt beverages.

2. The chief of police may authorize the city clerk to issue a consumption permit to applicants requesting to consume or carry malt beverages only in the following public parks: Lions Park, Holliday Park, Mylar Park, Smalley Park, David R. Romero South Cheyenne Community Park; and in Brimmer Park, the Pioneer Park Softball Complex and the Converse Softball Complex in conjunction with softball/baseball games and tournaments approved by the city’s department director, or authorized representative, overseeing the grounds or responsible for reserving the grounds for applicant use in accordance with facility reservation policies.

3. The chief of police may authorize the city clerk to issue a consumption permit to applicants to consume or carry champagne and/or wine in designated areas in Lions Park, Holliday Park, Mylar Park, Smalley Park, and David R. Romero South Cheyenne Community Park, and at the Cheyenne Botanic Gardens and affiliated facilities, Cheyenne Civic Center and the city-owned ice and events center complex, when under lease, in conjunction with a private ceremony, reception or similar event. The designated park areas allowed are those which can be reserved through city staff overseeing the grounds or responsible for reserving the grounds for applicant use in accordance with facility reservation policies.

4. Prior to consumption permits being issued, an applicant shall provide the city clerk with a written release, indemnification and hold harmless agreement and agree to assume responsibility relative to liquor liability coverage as approved by the city risk manager or city attorney.

B. The city clerk, with approval by the chief of police, may issue a catering or malt beverage permit, including waiver of open container, to:

1. Applicants requesting to sell alcoholic liquor and/or malt beverages at the Cheyenne-Kiwanis Community House, Cheyenne Botanic Gardens and affiliated facilities, located within Lions Park; the community center located within the David R. Romero South Cheyenne Community Park; Cheyenne Civic Center, and the city-owned ice and events center, when under lease, as authorized by city staff responsible for reserving the facility for applicant use in accordance with facility reservation policies.

2. Applicants requesting to sell malt beverages in conjunction with adult softball/baseball games and tournaments held at the Pioneer Park Baseball Complex, as authorized by city staff responsible for reserving the facility for applicant use in accordance with facility reservation policies. Sales provided under a catering permit shall be restricted to malt beverages only.

3. The chief of police, city clerk and city risk manager may approve catering permits and malt beverage permits for sales, and to consume and carry, in conjunction with events and activities held within Frontier Park. Unless approved by the chief of police and city clerk, catering permits will be restricted to the sale and consumption of wine, including champagne, and malt beverages only.

4. Permits issued under Section 5.12.110 of this chapter shall not be issued unless:

a. The applicant submits proof of general liability coverage, including liquor liability, as approved and in an amount determined by the city risk manager or city attorney. Proof of coverage document must name the city of Cheyenne as an additional insured and certificate holder for the date and location of the event or activities for which the permit will be issued;

b. The applicant provides the city clerk with a written release, indemnification and hold harmless agreement as stated upon the permit application form; and

c. Sales, dispensing and consumption boundaries are approved by the chief of police and city clerk.

C. The city clerk, with approval by the chief of police, may issue a catering or malt beverage permit with waiver of open container for community-based events and activities proposed to be held upon city-owned property, including the Depot Plaza; streets; sidewalks and rights-of-way. A catering permit may be restricted to sales of wine and/or champagne only.

D. Exceptions.

1. It shall not be unlawful for any person to consume or have in his or her possession any alcoholic liquor or malt beverage in a container that has been open or unsealed where a state limited transportation liquor license has been issued by the Wyoming Liquor Division. While traveling within the city, each vehicle operating under a state limited transportation liquor license must have a copy of the license conspicuously displayed in the rear window of the vehicle.

2. Alcoholic liquor or malt beverages may be consumed by those who are of legal drinking age within a limousine or horse-drawn carriage traveling within the city for the purposes of special private activities, as approved by the chief of police, in which there is no fee for the alcoholic liquor or malt beverages assessed by the owner or operator of the limousine or horse-drawn carriage.

5.12.120 Special use areas – Special event permit.

A. Club premises. Pursuant to Wyo. Stat. Section 12-4-301 (c), a club, as defined in Wyo. Stat. Section 12-1-101, holding a limited retail liquor license may sell alcoholic or malt beverages for consumption by its members and guests from adjoining premises, which are owned or leased by the licensee, of the licensed building as approved by the chief of police and city clerk in conjunction with special events and activities sponsored or hosted by the licensee. The adjoining premises shall not be a separate building.

B. Golf club premises. Pursuant to Wyo. Stat. Sections 12-5-201 (g) and (h) and upon written request to the city clerk and approval by the chief of police, retail, limited retail or restaurant liquor licensees operating golf clubs, as defined in Wyo. Stat. Section 12-1-101, may sell, dispense and allow consumption of alcoholic liquor and malt beverages from any location within the boundaries of the golf club premises. Following initial approval by the chief of police, unless a licensee submits written notification to the city clerk that the sale, dispensing and/or consumption of alcoholic liquor and malt beverages is being discontinued by the licensee, approval will remain effective unless the holder of the license changes or the chief of police rescinds his or her approval.

C. Hotel or motel premises. Pursuant to Wyo. Stat. Section 12-5-201 (e) and upon approval by the governing body, holders of a resort, retail or bar and grill liquor license, who are engaged in a business operation with motel or hotel sleeping room accommodations at the same premises, may sell alcoholic liquor and malt beverages in sealed containers from a minibar located in a sleeping room of the licensee's hotel or motel premises.

D. Resort premises. Pursuant to Wyo. Stat. Section 12-5-201 (f) and upon approval by the governing body, a resort liquor licensee may dispense alcoholic liquor and malt beverages from any location within the boundaries of the resort premises. The resort premises shall be a single property within a contiguous boundary upon which the resort is located and which is identified in the liquor license.

E. Special event premises. Pursuant to Wyo. Stat. Section 12-5-201 (k) and upon application to the city clerk and approval by the chief of police, the city clerk is authorized to issue

a special event permit to a retail licensee in conjunction with holding an event in the licensed building at which primarily persons under the age of twenty-one (21) are permitted if:

1. No alcoholic liquor or malt beverages are sold, served, consumed or possessed by any person attending the event;
2. No alcoholic liquor or malt beverages are accessible to persons attending the event;
and
3. The licensee complies with any additional conditions imposed through administrative procedures on file with the office of city clerk.
4. The chief of police shall have the authority to revoke a special event permit issued pursuant to this section for good cause or for the health, safety and welfare of the community or event participants.

5.12.130 Hours of operation.

A. The hours of operation allowed for sales by any annual licensee and permittee shall be daily from 6:00 a.m. to 2:00 a.m. the following day. Licensees and permittees shall clear the licensed building of all persons other than bona fide employees, who are providing clerical, janitorial, inventory stocking or similar work-related services, by 2:30 a.m.

B. Hours of operation allowed for sales, dispensing and/or consumption pursuant to temporary permits issued under the provisions of this chapter shall be determined by the chief of police and city clerk. If a temporary permit is issued in conjunction with an event or activity to be held within or upon a city-owned park, grounds or building, a representative of the city's staff overseeing the park, grounds or building who has responsibility for reserving the same for use by the permittee, in accordance with facility reservation policies, shall also approve the hours of operation.

5.12.140 Persons under the age of twenty-one (21) years – Restrictions – Provisions.

A. Except as provided in this section, no licensee or permittee, employee, server or agent thereof shall knowingly permit any person under the age of twenty-one (21) years to enter or remain in a licensed building:

1. Where alcoholic liquor and malt beverages being sold, dispensed and consumed are the primary source of revenue for the licensee's or permittee's business operation unless the licensee or permittee also provides a full-service restaurant, as defined in Wyo. Stat. Section 12-1-101(a)(xiv), operation within the building, and the restaurant is consistently open to the public;

- a. If a licensed building contains a separate room designated for the sale of alcoholic liquor and malt beverages for off-premise consumption, commonly referred to as a package store, an underage person may temporarily be allowed within the room but must be accompanied by his or her parent, spouse or legal guardian who is at least twenty-one (21) years of age.

2. Where alcoholic liquor and malt beverages are sold, dispensed and/or consumed in a business establishment that provides adult entertainment, exotic dancing or similar venues;

3. Unless the person is a license or permit holder, pursuant to provisions of Wyo. Stat. Section 12-1-101, *et seq.*, and city code, or

4. Unless the primary purpose of the business operation within the licensed building is operation as a bowling center business and commercially provided food services.

B. Restaurant and bar and grill licensees may permit a bona fide employee who is at least eighteen (18) years of age to serve alcoholic liquor and malt beverages to patrons in designated dining areas which are open to the public.

C. No person under the legal drinking age may buy, sell, possess, consume or otherwise solicit the sale or purchase of alcoholic liquor or malt beverages except as provided in Wyo. Stat. Section 12-6-101.

1. It is unlawful for any person, including licensees, permittees or their employees and agents, to sell, give or deliver any alcoholic liquor or malt beverages to any person under the legal drinking age as defined by state law, except in compliance with Wyo. Stat. Section 12-6-101.

D. No person under the legal drinking age shall be allowed to be seated at a bar at which alcoholic liquor and malt beverages are directly sold, dispensed and consumed by patrons seated at the bar.

5.12.150 Suspension or revocation of license; Denial of permit.

A. Wyo. Stat. Section 12-7-103 authorizes the governing body to suspend a liquor license or permit if the licensee or permittee has not paid state sales taxes and the Wyoming Liquor Division has ceased sales of alcoholic liquor to the licensee or permittee. The determination that sales taxes have not been paid will be made by the liquor division, upon notification from the Wyoming Department of Revenue and Sales Tax, with a notice of delinquency being provided to the city clerk.

B. After receiving notification of a sales tax delinquency, the city clerk will notify the licensee or permittee by certified mail if the city intends to hold a hearing on whether the license or permit should be suspended. Any suspension hearing will be conducted pursuant to the provisions of the Wyoming Administrative Procedure Act and any rules adopted by the city. The liquor division's notice of delinquency to the city clerk and all evidence presented at the hearing will be admitted and considered prima facie evidence of the licensee's or permittee's sales tax delinquency. The liquor division may conduct a suspension hearing pursuant to Wyo. Stat. Section 12-7-201.

C. Any revocation procedures of a license or permit will be in accordance with Wyo. Stat. Sections 12-7-101 through 12-7-201.

D. Upon recommendation by any of the reviewing agencies pursuant to Section 5.12.010 (C) of this chapter, if an application for any temporary permit authorized under the provisions of this chapter is denied by the city clerk, the applicant may appeal the decision to the mayor. If the mayor supports denial of the application, the applicant may request a hearing before the governing body by following the provisions set forth in Chapter 5.04.100 of city code.

5.12.160 Violations.

A. It shall be unlawful for any person to knowingly submit false information on an application for any license or permit authorized under this chapter. Each application submitted shall be affirmed as being true and correct to the best of the applicant's knowledge. If, in the opinion of the city attorney, a licensee or permittee has violated this subsection, the city attorney may request the governing body initiate or take action pursuant to Wyo. Stat. Section 12-7-101 through 12-7-201, to suspend or revoke the applicable license or permit.

B. It shall be unlawful for any person to operate a bottle club within the city. Used herein, "bottle club" means an operation or enterprise in which no alcoholic liquors are sold, but where food, soft drinks and mixes are sold, and the safekeeping of liquors is provided for individual club members who bring liquors upon the premises for their own use and consumption. Income, profits or fees of the operator of a bottle club are typically derived from the sales or furnishing of mixes, ice, food or glasses, or from dues, charges, contributions, membership cards or assessments.

C. It shall be unlawful for any licensee, permittee or their employees or agents to serve alcoholic liquor or malt beverages to a person who is excessively intoxicated, displays impaired coordination and signs of being a danger to self or others.

1. A licensee, permittee or their employees or agents shall not allow an excessively intoxicated person, who is a danger to self or others, to frequent or loiter on the licensed premises except where the intoxicated person has been refused service of further alcoholic liquor or malt beverages and the licensee, permittee or their employees or agents allows the person to remain on the premises for the purpose of eating food, seeking medical attention, arranging transportation that does not involve the person operating a motor vehicle, or any other circumstances where requiring the person to vacate the premises immediately would be considered dangerous to that person or to the public.

D. It shall be unlawful for any person to consume or carry any open container of alcoholic liquor or malt beverages upon the private business premises of another without permission of the owner, manager or person in control of such private premises.

E. No person may engage in the business of a delivery service involving alcoholic liquor and malt beverages.

5.12.170 Monitoring of violations -- Administrative fee -- Hearings.

A. Convictions of any violations of this chapter shall be monitored by the chief of police. In addition to any other penalty, sanction or fee authorized by law, if a license holder, permit holder, or its employees or agents, is convicted of a violation, the licensee shall, upon written notice issued by the chief of police, pay an administrative fee to the city as a means to assist with municipal costs involving law enforcement and repeat offenders. Based upon the number of convictions imputed to the license holder within each twelve (12) month licensing year term, the administrative fee will be as follows:

1st conviction	\$ 100.00
2nd conviction	250.00
3rd conviction	500.00
4th conviction	750.00
5th and any following convictions	1,000.00

B. The chief of police shall waive the first administrative fee if the licensee or permittee has not had any violations within the previous twelve (12) months. Additional administrative fees may be waived by the chief of police if the licensee or permittee provides a written cooperative plan designed to prevent future violations.

C. Within thirty (30) days of a licensee's, permittee's, employee and/or agent's conviction resulting in the licensee or permittee receiving more than five (5) convictions within the twelve (12) month period, the chief of police will report the violations to the governing body and city clerk. Upon direction, by resolution, by the governing body, the city clerk will provide the licensee, permittee or their agent with a notice and an opportunity for public hearing. Date of the notice shall precede any hearing by at least ten (10) days. The notice shall be served by personal service or by certified, return receipt requested, and first class mail.

D. In the event a public hearing is conducted and the governing body concludes there is substantial evidence that a licensee, permittee, their employee and/or agent has routinely failed to correct areas or change their plans of operation where violations have occurred, the governing body may request action be taken to suspend or revoke the license or permit pursuant to Wyo. Stat. Section 12-7-101, *et seq.*

5.12.180 Penalty.

A. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable pursuant to the general penalty provisions set forth in Chapter 1.24.010 of city code.

Section 2. That this ordinance shall be in full force and effect upon its approval and publication but not sooner than July 1, 2017.

FIRST READING:

May 22, 2017

SECOND READING:

June 12, 2017

THIRD AND FINAL READING:

June 26, 2017



MARIAN J. ORR, MAYOR

(S E A L)

ATTEST:



CAROL INTLEKOFER, CITY CLERK

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