

CHAPTER 1

GENERAL LICENSING PROVISIONS

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2-1-1: APPLICATIONS:

Applications for all licenses and permits required by this code shall be made in writing to the town clerk-treasurer, unless otherwise specifically provided by law. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be required by the issuing official. (2003 Code)

2-1-2: PERSONS SUBJECT TO LICENSE:

Whenever in this code a license is required for the maintenance, operation or conduct of any business or establishment or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the town. (2003 Code)

2-1-3: FORMS:

Forms for all licenses and permits, and applications therefor, shall be prepared and kept on file by the town clerk-treasurer. (2003 Code)

2-1-4: SIGNATURES:

Each license or permit issued shall bear the signatures of the mayor and the town clerk-treasurer in absence of any provision to the contrary. (2003 Code)

2-1-5: INSPECTIONS OR INVESTIGATIONS:

Upon the receipt of an application for a license or permit where laws of the town necessitate an inspection or investigation before the issuance of such permit or license, the town clerk-treasurer shall refer such application to the proper officer for making such investigation within forty eight (48) hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof. For the protection of health, the building inspector shall make or cause to be made any such inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise provided, shall be made by the chief of police or by some other officer designated by the mayor. (2003 Code)

2-1-6: TERM OF LICENSE:

All annual licenses shall terminate on April 1 of each year where no provision to the contrary is made. (2003 Code)

2-1-7: BUILDING AND PREMISES:

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the town. (2003 Code)

2-1-8: CHANGE OF LOCATION:

In the absence of any provision to the contrary, the location of any licensed business or occupation or of any permitted act may be changed, provided ten (10) days' notice thereof is given to the town clerk-treasurer; provided, the building requirements of this code are complied with. (2003 Code)

2-1-9: NUISANCES:

No business, licensed or not, shall be conducted or operated as to amount to a nuisance in fact. (2003 Code)

2-1-10: POSTING OF LICENSE:

It shall be the duty of any person conducting a licensed business in the town to keep his license posted in a prominent place on the premises used for such business at all times. (2003 Code)

2-1-11: REVOCATION OF LICENSE OR PERMIT; HEARING:

Any license or permit, for a limited time, may be revoked by the mayor and town council during the life of such license or permit for the violation by the licensee or permittee of any provision relating to the license or permit, the subject of the license or permit, or the premises occupied; such revocation may be in addition to any fine imposed. The mayor and the town council shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any business license or permit for a period not to exceed fifteen (15) days.

- A. Hearing: Within ten (10) days after the town officials have so acted, the mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.
- B. Notice Of Hearing: Notice of hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be sent to the licensee or permittee by certified mail at his last known address or personally served at least five (5) days prior to the date of the hearing.
- C. Hearing Procedures: At the hearing, the licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The mayor shall preside and shall render the decision and recommendation.
- D. Causes For Revocation: Business licenses and permits issued under the ordinances of the town, unless otherwise provided, may be revoked by the mayor and town council after notice and hearing as provided in subsections B and C of this section for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the application for the license or permit;
2. Any violation by the licensee or permittee of ordinance provisions or state law relating to the license or permit, the subject matter of the license or permit, or the premises occupied;
3. Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;
4. Failure of the licensee or permittee to pay any fine or penalty owing to the town;
5. Refusal to permit an inspection or investigation or any interference with a duly authorized town officer or employee while in the performance of his duties in making such inspections, as provided in the town code. (2003 Code)

2-1-12: **APPEAL PROCEDURE:**

- A. Right To Appeal: Any applicant aggrieved by the refusal of the town to issue a license or permit or by the revocation of a license or permit shall have the right to appeal the town's decision to the town council. Such appeal shall be requested by submitting a written request to the mayor within five (5) days of the action of the town which is appealed.
- B. Council Consideration: The town council shall consider the appeal at its next regularly scheduled meeting, at which time the applicant shall be entitled to present his appeal orally or in writing. The council shall act on the appeal within seven (7) days of the hearing and shall either uphold the action of the town or shall direct the issuance of a license or permit which the town has denied or the reissuance of a license or permit which the town had revoked. (2003 Code)

CHAPTER 2

LIQUOR CONTROL

SECTION:

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2-2-1: **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 hereof, 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 hereby is, 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 Wyoming Statutes section 12-1-101 et seq., reserving certain powers to the state of Wyoming.

- B. Intent: It is the intent of this chapter to comply and coincide with provisions of Wyoming Statutes section 12-1-101 et seq., which regulate such substances. It is not the intent of the town to regulate, or interfere with the regulation by the state of limited transportation licenses issued in compliance with provisions of Wyoming Statutes section 12-2-202. However, nothing in this chapter shall be construed to limit or impair the authority of the town to enforce section 2-2-6-2 of this code, which is commonly known as the "open container ordinance". (Ord. 505, 7-1-1996)

2-2-2: DEFINITIONS:

Definitions used in this chapter shall be as found in Wyoming Statutes section 12-1-101. (2003 Code)

2-2-3: LICENSE APPLICATION:

2-2-3-1: APPLICATION FOR ANNUAL LICENSE:

- A. Form; Filing: Any person desiring an annual license as authorized by this chapter shall make application to the town by delivering to the town clerk-treasurer, on the form prepared by the attorney general pursuant to Wyoming Statutes section 12-4-701 and provided to the applicant by the clerk-treasurer, a completed, verified and signed form. The license fee, or any other fees related to a license shall be paid the clerk-treasurer at the time the application is filed or the clerk-treasurer shall not commence processing the application. Renewal of an annual license, application for transfer of ownership and transfer of 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 the application, the clerk-treasurer shall send one copy of the application to the 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 the notice in the Basin Republican Rustler 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; Inspections: On behalf of the licensing authority, the town clerk-treasurer 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 various town department representatives as required by the town clerk-treasurer. Representatives of town departments may enter licensed and permitted premises during regular business hours to make reasonable inspections. (Ord. 505, 7-1-1996)

2-2-3-2: POSTING OF LICENSE REQUIRED:

All permit and license recipients must post the license or permit in a conspicuous place within the licensed dispensing room described in the application. (Ord. 505, 7-1-1996; amd. 2003 Code)

2-2-3-3: GROUNDS FOR DENIAL OF LICENSE:

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 subsection 12-4-104(b), including:

- A. Preference Rights: 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 subsection 12-4-104(c). No other preference rights are authorized or recognized by the town. The preference right granted under this subsection shall expire thirty (30) days after the expiration date shown on the most recently issued license or permit.
- B. Code Or Statute Violations: Violations by the holder of any provision of this title or of title 12 of the Wyoming Statutes. A court conviction shall be presumptive evidence of such violation.

C. Scene Of Repeated Or Continued Violation: The premises, while licensed in the name of the holder, is the scene of repeated or continuing violation of any ordinance or law, and that the initial violation occurred while the premises was licensed in the name of the holder and the holder had knowledge of the first violation or delayed correcting a continuing violation. (Ord. 505, 7-1-1996)

2-2-3-4: TRANSFER OF ANNUAL LICENSE:

A person seeking to transfer an annual license shall submit a new application form and shall pay to the clerk-treasurer, 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. 505, 7-1-1996)

2-2-3-5: TERM OF ANNUAL LICENSE:

- A. Term; Personal Privilege: Annual licenses shall be for a period of not more than one year, expiring each year on April 1. Annual licenses shall be a personal privilege of the licensee.
- B. Deceased Licensee: The executor or administrator 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 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. 505, 7-1-1996)

2-2-4: LICENSES AND PERMITS:

2-2-4-1: ANNUAL LICENSES:

A. Types Of Licenses: The governing body is hereby authorized to issue the following annual licenses pursuant to state law and this chapter:

1. "Retail liquor license" as defined in Wyoming Statutes section 12-4-201.
 2. "Limited retail liquor (special club) license" as defined in Wyoming Statutes section 12-4-301.
 3. "Resort retail liquor license" as defined in Wyoming Statutes section 12-4-401.
 4. "Restaurant liquor license" as defined in Wyoming Statutes section 12-4-407.
 5. "Microbrewery permit" as defined in Wyoming Statutes section 12-4-412.
 6. "Winery permit" as defined in Wyoming Statutes section 12-4-412.
 7. "Special malt beverage permit for public auditoriums" as defined in Wyoming Statutes section 12-4-504.
 8. "Motel/hotel minibar license" as defined in Wyoming Statutes subsection 12-5-201(e). (Ord. 505, 7-1-1996)
- B. Annual Fee: The annual 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:
1. Retail Liquor License: For a retail liquor license, the annual fee shall be one thousand dollars (\$1,000.00).
 2. Limited Retail Liquor (Special Club) License: For a limited retail liquor (special club) license, the annual fee shall be five hundred dollars (\$500.00). (Ord. 573, 8-4-2008)
 3. Resort Retail Liquor License: For a resort retail liquor license, the annual fee shall be as set by the town council upon receiving its first application for same. (Ord. 505, 7-1-1996)
 4. Restaurant Liquor License: For a restaurant liquor license, the annual fee shall be one thousand dollars (\$1,000.00). (Ord. 573, 8-4-2008)
 5. Microbrewery Permit: For a microbrewery permit, the annual fee shall be as set by the town council upon receiving its first application for same.

6. Winery Permit: For a winery permit, the annual fee shall be as set by the town council upon receiving its first application for same.
 7. Special Malt Beverage Permit For Public Auditoriums: For a special malt beverage permit for "public auditoriums", as defined in Wyoming Statutes section 12-4-504, shall be as set by the town council upon receiving its first application for same.
 8. Motel/Hotel Minibar License: For a motel/hotel minibar license, the annual fee shall be one-half ($1/2$) of the fee paid for the original license.
- C. Refunds: No refund of all or any part of any license fee shall be made at any time following the issuance of the license.
- 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 town clerk-treasurer to cover the cost of publishing public hearing notices. (Ord. 505, 7-1-1996)

2-2-4-2: TEMPORARY LICENSES AND PERMITS:

- A. Types Of Temporary Permits: The governing body 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 subsection 12-4-502(a).
 2. "Catering permit" as defined in Wyoming Statutes subsection 12-4-502(b).
 3. "Temporary dispensing room permit" as defined in Wyoming Statutes section 12-4-504 and subsections 12-5-201(f), (g), (h), and (j).
 4. "Extended club hours permit" as defined in Wyoming Statutes subsection 12-5-101(b).
 5. "Open container waiver permit" as defined in subsection 2-2-6-2C of this chapter. (Ord. 505, 7-1-1996; amd. 2003 Code)

- 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:
1. Malt Beverage Permit: For a malt beverage permit, the fee shall be seventy five dollars (\$75.00), and twenty five dollars (\$25.00) refundable if the premises whereupon the fee applies are cleaned.
 2. Catering Permit: For a catering permit, the fee shall be seventy five dollars (\$75.00), and twenty five dollars (\$25.00) refundable if the premises whereupon the fee applies are cleaned.
 3. Temporary Dispensing Room Permit: For a temporary dispensing room permit, the fee shall be seventy five dollars (\$75.00), and twenty five dollars (\$25.00) refundable if the premises whereupon the fee applies are cleaned. (Ord. 573, 8-4-2008)
 4. Extended Club Hours Permit: For an extended club hours permit, there shall be no fee charged. (Ord. 505, 7-1-1996; amd. 2003 Code)
 5. Open Container Permit: For an open container permit, there shall be a fee of fifty dollars (\$50.00) charged. (Ord. 573, 8-4-2008)
 6. Street Closure Permit: For a street closure permit, there shall be no fee charged.
- C. Refunds: Refunds of part of the temporary license or permit may be made following the issuance of the permit, in accordance with the set fees.
- D. Publication Fee: In addition to paying an application fee at the time of application, the applicant shall also pay a nonrefundable fee in an amount designated by the town clerk-treasurer to cover the cost of publishing public hearing notices.
- E. Golf Clubs: Upon application, in writing, to the town clerk-treasurer and upon approval of the governing body, persons holding an operating limited retail (club) or restaurant liquor license who are operating golf clubs may sell and dispense alcoholic beverages within the boundaries of the golf club premises. Club members and their guests possessing alcoholic liquors and malt beverages purchased from the approved licensee are exempt from section 2-2-6-2 of this chapter (open container ordinance) when within the boundaries of the golf club premises. (Ord. 505, 7-1-1996; amd. 2003 Code)

2-2-4-3: TWENTY FOUR HOUR MALT BEVERAGE PERMIT AND CATERING PERMIT:

- A. **Special Event:** A malt beverage permit authorizing the sale of malt beverages only may be issued by the governing body to any responsible person or organization for sales at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No person or organization holding the special permit shall sell any alcoholic liquor other than malt beverages on the premises described on the permit, nor shall any malt beverage be sold or consumed off the premises authorized by the permit. Wyoming Statutes section 12-5-201 does not apply to this subsection.
- B. **Catering Permit:** A catering permit authorizing the sale of alcoholic and malt beverages may be issued by the governing body to any person holding retail liquor license authorizing the off premises sale of both alcoholic and malt beverages, for sales at meetings, conventions, private parties and dinners or at other similar gatherings not capable of being held within the licensee's licensed premises. No licensee holding a catering permit shall sell or permit consumption of any alcoholic or malt beverage off the premises described in the permit. Notwithstanding any other provision of this subsection, closed container items sold at auction for the benefit of a nonprofit organization may be taken off premises.
- C. **Term; Number Allowed Annually:** The permits authorized by this section shall be issued for one 24-hour period, subject to the schedule of operating hours provided by Wyoming Statutes section 12-5-101. No person or organization shall receive more than a total of six (6) malt beverage and catering permits for sales at the same premises in any one year, except that this limitation shall not be applicable to malt beverage permits issued for sales at any fair, rodeo, pari-mutuel event or other similar public event conducted by a public entity upon public premises.
- D. **Issuance; Licensed Premises In Other Jurisdiction:** The malt beverage permit and the catering permit shall be issued on application to the town clerk-treasurer without public notice or hearing. Any applicant applying for a permit authorized by this section and having licensed premises located within a jurisdiction other than that jurisdiction to which application is made, shall secure the written approval of the licensing authority of that jurisdiction in which the licensed premises are located prior to filing an application for a permit. (Ord. 505, 7-1-1996)

2-2-5: RESTRICTIONS:**2-2-5-1: HOURS OF OPERATION:**

- A. Annual Or Temporary License: All licensees and permittees holding an annual or temporary license under this chapter shall be controlled by the schedule of hours set forth in subsection C of this section.
- B. Limited Retail Liquor (Special Club) License: This section shall not apply to licensees holding limited retail liquor (special club) license who have been authorized by the governing body under Wyoming Statutes subsection 12-5-101(b) to have hours of operation other than those authorized by this section.
- C. Hours: The hours of operation for all licensees and permittees, subject to the exceptions in subsection B of this section, shall be as follows:
1. Monday Through Saturday: On all days except Sunday, a licensee may open the dispensing room no earlier than six o'clock (6:00) A.M. and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than two o'clock (2:00) A.M. the following day, and the licensee shall clear the dispensing room of all persons other than employees no later than two thirty o'clock (2:30) A.M.
 2. Sundays: On Sundays, licensees may open the dispensing room no earlier than ten o'clock (10:00) A.M. and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than two o'clock (2:00) A.M on the following Monday, and the licensee shall clear the dispensing room of all persons other than employees no later than two thirty o'clock (2:30) A.M. (Ord. 595, 5-19-11)
 3. Modified Hours: The hours of operation designated above may be modified on no more than four (4) days each calendar year by resolution or agreement made each year between the town council and the licensee, designating those dates during city or county fairs, rodeos, pageants, jubilees or similar gatherings when all licensees may operate their dispensing rooms different from the regular opening and closing times, for a period of twenty four (24) hours. The requests by the licensees shall be made to the council at regular council meetings at least one month prior to the event for which the licensee seeks to have this special privilege. (Ord. 521, 4-2-2001)

D. Bottle Club:

1. Definition: 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 liquor and malt beverages is provided for individual club members who bring alcoholic liquor and 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.
2. Prohibited: It is unlawful for any person to operate a bottle club in the town.

E. 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 code or state law, excessive drinking or disorderly conduct may be cause for the initiation of suspension and/or revocation procedures. (Ord. 505, 7-1-1996)

2-2-5-2: 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 holder 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. 505, 7-1-1996)

2-2-6: PROHIBITED ACTS:

2-2-6-1: FALSIFICATION OF APPLICATION:

A. Prohibited; Information To Be Sworn: It is unlawful for any person or organization to knowingly submit false information or false facts as true, or to submit a fact or piece of information without knowing such to be true or false on an application for any license or permit authorized by this chapter; and that each application that is being

submitted shall be sworn to be true to the best of the knowledge of the person submitting such application. (Ord. 505, 7-1-1996)

- B. Action Seeking Revocation: If, in the opinion of the town attorney, a liquor license holder has acted in violation of this section, the town attorney shall, upon action of the licensing authority, take action on behalf of the licensing authority pursuant to Wyoming Statutes sections 12-7-101 through 12-7-103 and section 12-7-201, seeking 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 section. (Ord. 505, 7-1-1996; amd. 2003 Code)

2-2-6-2: PUBLIC CONSUMPTION OR POSSESSION; OPEN CONTAINER ORDINANCE:

- A. Definition: For purposes of this section "public place" is defined as any place within the jurisdictional limits of the town which is owned by the town or any other governmental entity, or has been dedicated to the town, another government entity or the public, or private property upon which the public has been invited for vehicular traffic.

- B. Prohibited: It is unlawful for any person to consume or have in his possession any alcoholic liquor or malt beverage in a container that has been opened or unsealed from the original factory closure or sealing while in or upon any public place within the town, or while in any vehicle upon the public streets, highways, roads, alleys or places open to the public for vehicular traffic, except as follows:

1. Within the confines of such places where the sale, dispensing or consumption of alcoholic liquors or malt beverages has been licensed or permitted pursuant to Wyoming Statutes section 12-2-201 or this chapter;

2. At such places and times as may be licensed by the governing body pursuant to this chapter. (Ord. 505, 7-1-1996)

- C. Waiver:

1. Permit: No person shall consume any alcoholic beverage or exhibit any open container thereof in any public place other than a restaurant or on premises covered by an alcoholic beverage license or malt beverage permit without obtaining written permission from the mayor, the assistant mayor, or upon resolution passed by the town council.

2. Special Days Designated: The town council may, by resolution, designate special days during which subsection C1 of this section shall not apply, or be limited in application, it being the policy of the town that the restrictions should not be in effect on certain holidays and days of public celebration¹. (Ord. 458, 8-5-1985)

2-2-6-3: POSSESSION BY UNDERAGE PERSONS:

It is 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 at the time of detention. (Ord. 505, 7-1-1996)

2-2-6-4: SALES TO UNDERAGE PERSONS:

It is 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. 505, 7-1-1996)

2-2-6-5: USE OF FALSE PROOF OF AGE OR IDENTITY:

It is 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 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. (Ord. 505, 7-1-1996)

2-2-6-6: DISPENSING ROOM RESTRICTIONS:

A. Minors Not Allowed: It is unlawful for any person under the age of twenty one (21) years to enter or remain in the dispensing room or brewing area of any premises licensed or permitted under this chapter to dispense or brew alcoholic liquor or malt beverages, except as provided for in this section.

B. Minor Employees Prohibited: No licensee, permittee or agent, employees or servant of a licensee or permittee shall permit any person under the age of twenty one (21) years to enter or remain in

1. See subsection 2-2-4-2B5 of this chapter for the fee for an open container permit.

a dispensing room or brewing area of a licensed premises owned, operated, leased or managed by them. (Ord. 505, 7-1-1996)

C. Exceptions:

1. When Operation Closed To Patrons: This section shall not apply to a licensee's employee under the age of twenty one (21) years when, in the course of his employment, the employee is in the dispensing room and the dispensing room or brewing area is not open for the sale or dispensing of alcoholic beverages or brewing of malt beverages.

2. Minor In Company Of Adult:

a. Definitions: As used in this subsection, the following words and terms shall have the meanings ascribed to them in this subsection:

ADULT: A person over the age of twenty one (21) who is the parent or legal guardian of the person under the age of twenty one (21).

DINING OR
WAITING AREA: A specifically delineated area which has been submitted with the licensee's application and has been approved by the governing body.

3. Presence Allowed: This subsection does apply to a person under the age of twenty one (21) years if the underage person is in a dining or waiting area within the dispensing room with an adult not later than ten o'clock (10:00) P.M. (Ord. 505, 7-1-1996)

2-2-6-7: DELIVERY OF ALCOHOLIC LIQUORS AND MALT BEVERAGES:

A. No retail liquor licensee shall deliver or cause to be delivered any alcoholic or malt beverage to any person whatsoever, except at the licensed premises.

B. No person shall engage in the business of making deliveries of alcoholic liquor or malt beverages from the place of any retail liquor licensee in the town. (Ord. 505, 7-1-1996)

2-2-7: SUSPENSION OF LICENSE OR PERMIT:

- A. **Failure To Pay Sales Tax; Suspension Hearing:** 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 permit pursuant to Wyoming Statutes section 12-2-306. Upon receipt by the clerk-treasurer 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-treasurer shall notify the licensee or permittee, by certified mail that the town intends to hold a hearing on whether the license or permit should be suspended. The suspension hearing shall be conducted under the Wyoming administrative procedures act² and rules adopted by the governing body. The certified notice from the state of Wyoming and all evidence presented to the state of Wyoming in support of the certified notice will be admitted and considered prima facie evidence of the licensee's or permittee's tax delinquency.
- B. **Appeal:** In the event 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 12-7-103.
- C. **Term 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-treasurer receives notice from the state of Wyoming that the sales tax liability has been satisfied.
- D. **Suspension Notice; Removal Of Liquor Or Malt Beverage From Premises:** In the event a suspension occurs, the clerk-treasurer shall send by certified mail one copy each of the suspension notice to the last known addresses of the license or permit holder and to the director of the Wyoming liquor division for the state of Wyoming. Additionally, the clerk-treasurer shall post one copy of the suspension notice on the licensed or permitted premises. Immediately upon the posting of the suspension notice, the sale, offering to sell, distribute, or traffic of 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

2. WS " 16-3-101 through 16-3-115.

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in a manner approved, in writing, by the chief of police or his designee. (Ord. 505, 7-1-1996)

2-2-8: **PENALTY:**

Any violation of this chapter is a misdemeanor and shall be punishable as provided in section 1-4-1 of this code. Each day of a continuing violation shall be deemed a separate offense. (Ord. 458, 8-5-1985; amd. 2003 Code)

CHAPTER 3

SALE OF TOBACCO

SECTION:

- 2-3-1: Definitions
- 2-3-2: Prohibited Sales Or Delivery
- 2-3-3: Posted Notice; Location Of Vending Machines
- 2-3-4: Purchase By Minors
- 2-3-5: Possession Or Use By Minors

2-3-1: **DEFINITIONS:**

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

TOBACCO PRODUCTS: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco;

VENDING MACHINE: Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens, or other form of payment, dispenses tobacco products. (Ord. 485, 9-6-1991, eff. 9-6-1991)

2-3-2: **PROHIBITED SALES OR DELIVERY:**

- A. **Prohibited:** No person shall sell, offer for sale, give away or deliver tobacco products to any person under the age of eighteen (18) years.
- B. **Violation; Penalty:** Any person violating subsection A of this section is guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 485, 9-6-1991, eff. 9-6-1991; amd. 2003 Code)

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C. Affirmative Defense: It is an affirmative defense to a prosecution under subsection A of this section that:

1. In the case of a sale, the person who sold the tobacco product was presented with, and reasonably relied upon, an identification card which identified the person buying or receiving the tobacco product as being over eighteen (18) years of age; or
2. The tobacco product was given or delivered to the person under eighteen (18) years of age by his parent or guardian and the tobacco product was given or delivered to the person for use in the privacy of his parent's or guardian's home or under the direct supervision of the parent or guardian. (Ord. 485, 9-6-1991, eff. 9-6-1991)

2-3-3: **POSTED NOTICE; LOCATION OF VENDING MACHINES:**

- A. Posting Required: Any person who sells tobacco products shall post signs informing the public of the age restrictions provided by this chapter at or near every display of tobacco products and on or upon every vending machine which offers tobacco products for sale. Each sign shall be plainly visible and shall contain a statement communicating that the sale of tobacco products to persons under eighteen (18) years of age is prohibited by law.
- B. Vending Machines: No person shall sell or offer tobacco products through a vending machine unless the vending machine is located in:
 1. Businesses, factories, offices or other places not open to the general public;
 2. Places to which persons under the age of eighteen (18) years of age are not permitted access; or
 3. Business premises where alcoholic or malt beverages are sold or dispensed and where entry by persons under eighteen (18) years of age is prohibited.
- C. Violation; Penalty: Any person violating subsection A or B of this section is guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. Each day of continued violation shall be deemed a separate offense. (Ord. 485, 9-6-1991, eff. 9-6-1991; amd. 2003 Code)

2-3-4: PURCHASE BY MINORS:

- A. Prohibited: No person under the age of eighteen (18) years shall purchase tobacco products, or misrepresent his identity or age, or use any false or altered identification for the purpose of purchasing tobacco products.
- B. Violation; Penalty: Any person violating subsection A of this section is guilty of a misdemeanor punishable by a fine of not more than twenty five dollars (\$25.00).
- C. Community Service: Upon a conviction for violation of subsection A of this section, the municipal court may allow the defendant to perform community service and be granted credit against his fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed. (Ord. 485, 9-6-1991, eff. 9-6-1991)

2-3-5: POSSESSION OR USE BY MINORS:

- A. Prohibited: It is unlawful for any person under the age of eighteen (18) years to possess or use any tobacco products.
- B. Violation; Penalty: Any person violating subsection A of this section is guilty of a misdemeanor punishable by a fine of not more than twenty five dollars (\$25.00).
- C. Community Service: Upon a conviction for violation of subsection A of this section, the municipal court may allow the defendant to perform community service and be granted credit against his fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed.
- D. Affirmative Defense: It is an affirmative defense to a prosecution under subsection A of this section that the defendant possessed or used the tobacco product in the home of, or under the direct supervision of, his parent or guardian. (Ord. 485, 9-6-1991, eff. 9-6-1991)

CHAPTER 4

PEDDLERS, ITINERANT VENDORS AND ITINERANT MERCHANTS

SECTION:

2-4-1: License Required

2-4-2: Uninvited Solicitation

2-4-1: **LICENSE REQUIRED:**

- A. License Required; Exception: It shall be unlawful for any peddlers, itinerant vendor, or itinerant merchant to carry on said trade, business or calling, or to sell or offer for sale any merchandise, within the limits of the town without having first paid into the treasury of said town the sum of twenty five dollars (\$25.00) and obtaining a license to carry on said trade, business or calling for the period of three (3) months. Provided, however, that this section shall not apply to the vendors of farm products produced in Big Horn County.
- B. Violation; Penalty: Any person violating this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 216, 3-26-1931; amd. 2003 Code)

2-4-2: **UNINVITED SOLICITATION:**

- A. Declared Nuisance: The practice of being in and upon private residences in the town by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited so to do by the owner or occupant of such private residences, for the purpose of soliciting orders for the sale of goods, wares, and merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same, is hereby declared to be a nuisance and punishable as such nuisance as a misdemeanor.

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- B. Suppression; Abatement: The chief of police and police force of the town are hereby required and directed to suppress the same, and abate any such nuisance as is described in subsection A of this section.

- C. Violation; Penalty: Any person convicted of perpetrating a nuisance, as described and prohibited in subsection A of this section, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 249, 6-6-1938; amd. 2003 Code)