

ORDINANCE NO. 2178

AN ORDINANCE amending Chapter 4 of the Sheridan City Code pertaining to Alcoholic Beverages.

WHEREAS, the public policy of the City of Sheridan requires that the use of alcoholic beverages be controlled in order to reduce associated problems affecting the welfare of the community and public safety; and,

WHEREAS, in response to 2017 changes made by the Wyoming Legislature to State of Wyoming Liquor License laws and in order to provide specific guidance to Licensees concerning certain operations, the City Council wishes to amend and clarify pertinent portions of the Sheridan City Code regarding Liquor;

WHEREAS, the public policy of the City of Sheridan requires that the use of alcoholic beverages be controlled in order to reduce associated problems affecting the welfare of the community and public safety. The following standards will be employed by the City Council to decide whether it is in the public interest to issue, renew, and/or transfer any license for a Licensee based upon such Licensee's adherence to the requirements set forth in this Chapter 4, and/or to revoke or suspend the liquor license of an establishment which is a danger to the public welfare; and,

WHEREAS, any establishment which has been issued a license to dispense alcohol or malt beverages in the City of Sheridan but violates City, State or Federal laws imposes unnecessary cost and expense upon the municipality and requires the expenditure of greater municipal resources to control and police than those licensees which are operated in accordance with the law. The City, therefore, deems it to be in the best interest of the public to and hold the licensees and their operators accountable for the failure to sell and dispense alcohol and malt beverage in violation of the requirements of this Chapter by charging administrative fees to pay for the additional burden on the municipality and to curb repeated violations through the additional criminal remedies set forth herein.

WHEREAS, the City Council has discussed and reviewed changes to the existing regulations, and considered public comment;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERIDAN, WYOMING THAT:

SECTION 1. AMENDMENT EXISTING CHAPTER 4 OF SHERIDAN CITY CODE: ALCOHOLIC BEVERAGES.

This ordinance hereby amends the Code of the City of Sheridan Wyoming as

follows:

**Chapter 4
ALCOHOLIC BEVERAGES**

- 4-1. Adoption of State alcohol beverage laws
- 4-2. Intoxication.
- 4-3. Purchase, etc., of intoxicating liquor by minor; penalty; suspension of imprisonment.
- 4-4. Licensed Building and Premises; Restrictions and Exceptions; Minors; Obviously intoxicated persons prohibited and server training requirements.
- 4-5. Mandatory Standards for the sale and possession of alcoholic beverages.
- 4-6. Hours of Sale for Liquor Licenses.
- 4-7. Endangering the Welfare of a Minor.
- 4-8. Catering, Malt Beverage and Open Container Permits.
- 4-9. Microbrewery and Winery and Distillery Permits; authorized
- 4-10. Inspection
- 4-11. Duty to Maintain Order
- 4-12. Minors Warning Notice
- 4-13. Plan of Operation Description
- 4-14. Administrative Fee
- 4-15. Liquor License Transfer
- 4-16. Liquor License Renewal, Suspension or Revocation
- 4-1. Adoption of state alcohol beverage laws.**

Except as otherwise provided in this Chapter or other city ordinances, the sale, possession, furnishing or use of alcoholic and malt liquors in the city shall be in compliance with Wyoming

Statute, 1977, Title 12, as of this date, with the exception of Chapters 2 and 3 of said Title and the same shall apply to the city. A copy of such laws and of any subsequent laws and amendments thereto shall be kept on file in the office of the City Clerk, and the same are made a part of this section by reference, as though incorporated herein at length.

4-2. Intoxication.

Any person drunk or under the influence of any intoxicating liquor, malt beverage or controlled substance, as defined by Wyoming State Statutes, in any public street, thoroughfare, or place, as defined by City of Sheridan Code 19-2(a), excepting highways as defined by W.S. § 31-1-101(a)(viii), or in any vehicle within the city to such an extent that his drunkenness or intoxication is manifest by inebriation to the extent that the person appears substantially impaired and the impairment is evident by actions such as slurred speech, uncoordinated physical actions or physical dysfunction which would be obvious to a reasonable person and such that his condition or actions create a nuisance or hazard or he is rendered by his condition unable to exercise care for himself or others or unable to provide for his own safety or the safety of others, he or she shall be guilty of a misdemeanor.

Any person guilty of violating Section 4-2 shall be guilty of a misdemeanor subject to the sentencing guidelines of City of Sheridan Ordinance 9-1 and shall be subject to a punishment of up to six (6) months of jail upon a third or subsequent conviction of violating this Section or a third commission of disorderly conduct public intoxication or similar charge in any jurisdiction.

4-3. Purchase, possession and consumption, of intoxicating liquor by minor.

It shall be unlawful for any person under the age of twenty-one (21) years to buy, sell, possess, consume, solicit the sale or purchase of intoxicating liquor or be under the influence of an intoxicating liquor in the City.

4-4. Licensed building and premises; restrictions and exceptions; minors; obviously intoxicated persons prohibited and server training requirements.

A. The area in which alcoholic or malt beverages may be dispensed shall be anywhere within a licensed building or licensed premises, as defined in applicable Wyoming Statutes, which is referred to in this ordinance as the licensed building or licensed premises. A covered patio or porch which is significantly integrated into the use of the building may be approved by the City Council, in its discretion, as being a part of the licensed building or licensed premises.

Provided, however, any Licensee may propose a smaller dispensing area(s) within a licensed building or licensed premises in which alcoholic and malt beverages are dispensed which is partitioned off from the remainder of the licensed building using partition(s) that create

a physical separation between the dispensing area(s) from the remainder of the building. The partition will be constructed: (1) in a manner reasonably likely to physically define the separate dispensing area apart from the area in which minors may freely travel in the remainder of the building; (2) be clearly outlined in the Licensee's Plan of Operation; and, (3) in a manner and location approved by City Council consistent with this ordinance.

For all limited retail licenses, the licensed premises shall not include any parking lot or other area outside the licensed building which is not fenced off or physically separated from access by the general public.

B. Except as provided otherwise in this Chapter, no Licensee or agent, employee or server thereof shall permit any person under the age of twenty-one (21) years to enter or remain in the licensed building or dispensing area where alcoholic or malt beverages are being dispensed in an establishment that is primarily intended for on premises consumption of alcoholic and malt beverages, unless:

- (i) when the establishment includes a commercial kitchen approved as part of the Licensee's Plan of Operation that is in operation and serving meals, persons under the age of twenty-one (21) may enter and remain in a dining, seating or waiting areas of a licensed building when accompanied by an adult and not later than 10:00 p.m., but not including seating at the bar itself within the dispensing area;
- (ii) In a restaurant operated pursuant to a City liquor license, employees at least eighteen (18) years of age are permitted in the dispensing area in the course of their employment and may serve alcoholic or malt beverages;
- (iii) when in any area of a licensed building or licensed premises physically separated from the dispensing area by a City Council-approved partition.
- (iv) when in any other establishment and operation that is approved by the City Council for persons under twenty-one (21) years to be present.

C. Every Licensee or his employee who sells, gives or delivers alcoholic liquor or malt beverages to any obviously intoxicated person or person under the age of twenty-one (21) years, or who permits any person under the age of twenty-one (21) years to enter or remain in the licensed building, or in the dispensing area of a licensed building where intoxicating or malt beverages are dispensed, is guilty of a misdemeanor which is a violation of one or more of the relevant Standards set forth in Section 4-5(a).

D. A person who is at least nineteen (19) years of age and is either the holder of a liquor license or an owner of an entity which is the holder of a liquor license, may enter, remain

within the dispensing area and may dispense or serve alcoholic beverages and otherwise work within the dispensing area operated by virtue of that license.

E. All persons employed at any Licensee business operating with a liquor license issued by the City of Sheridan who are engaged in the selling or serving of alcoholic beverages or the managing thereof (hereinafter referred to as an “Alcohol Server Staff”), shall successfully complete an alcohol server training program as approved by Wyoming Statute §12-2-402, within ninety (90) days of the start of their employment, or the effective date of this ordinance, whichever is later, and shall keep the certification in good standing for so long as serving alcoholic beverages. All Alcohol Server Staff shall complete any additional or further training to maintain their server training certification. Every Licensee shall maintain a server training record for all Alcohol Server Staff, including their date of hire, and proof that each of them has successfully completed the alcohol server training required by this ordinance, and any additional or further training to maintain their server training certification. The City will furnish an appropriate server training record log to maintain the records required in this section. In addition, every Licensee shall keep their server training records available for review and copying at any time when the licensed premises is open for business by the City of Sheridan Police Department at their licensed premises to insure compliance with the server training requirements of this ordinance. Provided further, no Alcohol Server Staff shall consume alcohol while serving or selling alcohol to the public.

4-5. Mandatory standards for the sale and possession of alcoholic beverages.

Every liquor Licensee and/or his employees shall conform to the following mandatory standards when selling and serving alcoholic beverages in the city. Each violation of a standard set out in this Section 4-5 shall constitute a misdemeanor punishable by a fine of not more than \$750.00 or other penalty per City of Sheridan Ordinance 9-1.

(a) Standards.

All establishments, by and through their agents or employees, operating by virtue of a liquor license or temporary permit issued pursuant to this Chapter, shall meet and conform to the following standards of conduct:

- (1) Refuse to serve any patron who is obviously intoxicated, or is obviously physically endangering people or property in the licensed premises or dispensing area or in an area approved for temporary service pursuant to a permit issued under Section 4-8. For the purposes of this section, “obviously intoxicated” shall mean an individual who is inebriated to the extent that the person appears substantially impaired and the impairment is evident by actions such as slurred speech, uncoordinated physical actions or physical dysfunction which would be obvious to a reasonable person.

- (2) Order any patron to leave and depart who is endangering people or property in the licensed establishment and notify the Sheridan Police Department of any criminal incident as soon as reasonably possible.
- (3) Refuse to sell, give, or deliver alcoholic liquor or malt beverage to any person under the age of twenty-one (21) years.
- (4) Report other criminal activity in the licensed building, dispensing area or on the licensed premises as established by local, state or federal law, as soon as reasonably possible.
- (4) Clearly post occupancy limits and limit access so as not to exceed the occupancy limit as established by the International Fire Code as adopted by the City.
- (5) 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.
- (6) No person shall engage in the business of making deliveries of alcoholic or malt beverages from the place of any retail Licensee in the city.
- (7) Post in a prominent location, a conspicuous notice to the public required in Section 4-12.
- (8) Comply with the training and records maintenance requirements of Section 4-4.E.

(b) Public Responsibility.

(1) No person shall consume or carry in open containers alcoholic liquor or malt beverages, inside or outside of any motor vehicles on any street or highway, except within a commercial limousine as described in Section 4-5(e), or in any restaurant, hotel dining room or any other public place whatsoever within the City, except places where the sale or service of alcoholic liquor or malt beverages is authorized by the Wyoming State Law or City Ordinance, or as permitted by a catering, malt beverage or open container permit, issued pursuant to section 4-8.

(2) It is unlawful to remain in an establishment operated under a liquor license after a lawful request to leave is made by an agent, employee, or owner of the establishment.

(c) Chartered Vehicles

Alcoholic liquor or malt beverages may be consumed by adult passengers within (i) commercial limousines, being defined for purposes herein as a passenger car pursuant to W. S. §31-1-101, with a closed passenger compartment seating three or more passengers which is separated from the driver's seat with a partition which may be of glass, (ii) horse-drawn vehicle, or (iii) a chartered bus, trolley or similar vehicle designed to carry ten or more persons when the vehicle is being used for transportation of passengers. The driver of any such vehicle is prohibited from consuming, possessing, or having an alcoholic beverage in or about the driving area of the vehicle. No fee may be charged for any alcoholic liquor or malt beverage consumed in such vehicles.

(d) *Bottle Clubs*

(1) "bottle club" is an operation or enterprise whereby space is given or rented to any person or persons upon the premises of such operation or enterprise for a primary purpose of keeping or storage of alcoholic or malt beverages for consumption upon such premises or in other rooms nearby, used for consumption by the owner of the beverages or guests, the income, profits or fees of the operator of the bottle club being secured from sales or furnishing mixes, ice, food or glasses or from dues, charges, contributions, membership cards or assessments including charges for the rental of storage space for the alcoholic or malt beverages.

(2) It is unlawful to operate a bottle club in the city, and any person who operates a bottle club shall be deemed guilty of a misdemeanor. Each day of operation shall be deemed a separate offense.

(f) *Penalty.*

A violation of this Chapter that results in a conviction is punishable by a fine of not more than Seven Hundred Fifty Dollars (\$750), or other penalties per City of Sheridan Ordinance 9-1. Evidence that the Licensee or his employee summoned police to deal with activity within the establishment that is prohibited by the preceding Section 4.5 (a) may be considered in mitigation of the penalty that may be imposed for a conviction.

4-6. Hours of Sale for Liquor Licenses.

All Licensees may open the dispensing room at 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 2:00 a.m. the following day, and shall clear the dispensing room, and any other area in which dispensing alcoholic and malt beverages is authorized, of all persons other than employees by 2:30 a.m. Provided however, with the prior approval of the City Council, a Licensee may be permitted to sell alcoholic and malt beverages until 4:00 a.m. on nights of New Year's Eve/Day and Saturday night/Sunday morning of the Sheridan Wyo Rodeo street dance each year.

The Chief of Police or his designee may order any Licensee establishment operating with a City liquor license closed until the following 6 A.M when the Licensee or person in charge is convicted of having violated Section 4-5 or creates an emergency which constitutes an actual and immediate threat to the peace, bodily security and/or property of any member of the general public.

4-7 Endangering the welfare of a minor.

(a) A person, who is not the parent, or legal guardian of a minor commits the offense of endangering the welfare of a minor under this Chapter if the person knowingly allows or permits a minor to:

- (i) Enter and remain in a place under the person's control in which unlawful activities involving controlled substances or alcohol are maintained or conducted; or,
- (ii) consume alcohol or controlled substances in violation of the law in a place under the person's control.

(b) A person is considered to be "in control" of a place or property when that person is the owner, renter, tenant, keeper, caretaker or in fact has control over the persons allowed on the premises.

(c) Any person convicted of this offense is guilty of a misdemeanor punishable by a fine of not more than \$750.00, and up to six (6) months in jail, or both.

4-8. Catering, malt beverage and open container permits.

(a) Applications.

Applications for catering permits authorized by W.S. § 12-4-502(b), malt beverage permits authorized by W.S. § 12-4-502(a) and open container permits according to this section of the SCC, shall be made by completing an application form specific to the size and character of the event for which the permit is sought; such forms shall be available from the City Clerk.

(b) Application Contents.

Applicants for catering or malt beverage permits will complete and submit an appropriate application form provided by the City Clerk, no less than three (3) weeks prior to the event, in which the applicant shall provide his/her name, address and phone number, the name, date, time(s) and location of the event, an operation plan for the event applied for, which includes a short summary of the reason for the request and the activities proposed for the event, a description or drawing of the area(s) in which the possession and consumption of alcoholic beverages will occur and what safeguards will be in place at the desired location to ensure that minors will neither possess nor consume alcoholic or malt beverages, and the names and ages of the qualified persons, or the likely qualified persons, who are known by the applicant Licensee at the time of application and who are planned to dispense malt beverages or liquor. In addition, if the applicant is not the owner of the location where the event is proposed, the applicant shall attach a written statement from the landowner permitting the proposed activity including the consumption and possession of alcoholic or malt beverages, as described in the application. Catering permits can only be issued to Retail and Resort Licensees; the applicant name for each such permit shall be the Licensee's name as set forth on the Licensee's license. A catering, malt beverage, or open container permit shall authorize possession and consumption of alcoholic or malt beverages in open containers only for the specific time period and within the area described in the permit application according to the operation plan.

(c) City Consideration -- Administrative and City Council.

Applications will be reviewed by and approved or denied by the City Administrator or his designee in consultation with the Chief of Police or the Chief's designee.

In the case of catering or malt beverage permit applications, information supplied by the applicant will be reviewed to determine if the event/activity to be permitted will not cause a material adverse impact beyond the area described in the application. Upon submission of a complete application, the City Administrator, in consultation with the Chief of Police, shall determine whether the proposed event/activity will have a material adverse impact beyond the proposed area described in the application. If no such material adverse impact is identified, then the permit will be issued by the City Clerk. A proposed event/activity may be determined to have a material adverse impact beyond the area described in the application if it includes or will cause an unreasonable noise and/or traffic disruption (by way of illustration only, an outdoor dance, band(s) or amplified sound or music using loudspeakers or a P.A. system, parking or vehicle traffic beyond existing capacity, or the closure of a public street). Upon a determination of a material impact beyond the area proposed in the permit, the permit application will be promptly presented to the City Council for review and approval at the next scheduled regular City Council meeting no sooner than two (2) weeks from the date of submission of the application and fee. If the permit is otherwise denied by the City Administrator, the denial may be appealed by the applicant to the City Council whose determination is final.

Upon request, the City Administrator may authorize an expedited schedule of review and schedule the matter for City Council consideration of a new permit or an appeal, within two (2) weeks of the submission of an application when good cause for filing the application less than three (3) weeks before the event applied for is shown.

(d) Fees

Catering/malt beverage permit fees shall be based on when the permit application is submitted and the proposed date of the event/activity. If the permit application is submitted at least three (3) weeks before the proposed date of the event/activity, the fee is \$50. If the permit application is submitted less than three (3) weeks before the proposed date of the event/activity, the fee is \$100.

(e) Open Container Permits.

Applicants for open container permits will complete and submit an application in which the applicant shall provide their name, address and phone number, the date, time(s) and location of the event, and a short summary of the reason for the permit request and the activities proposed for the event. Open container permits may be issued to allow the possession and consumption of alcoholic or malt beverages in open containers on public property, such as parks in conjunction with a park permit issued by the City, on city streets in conjunction with a street closure permit, and at other areas, in which open containers would not otherwise be permitted. Applications will be reviewed by the Chief of Police or designee and the City Clerk or designee. Upon approval of the application and the payment of the \$50 permit fee, the permit will be issued to applicant by the City Clerk. The City Clerk will issue an Open Container Sign, to be posted at the location of the event described in the application, which sign must be displayed during the event to allow the

consumption of alcoholic beverages at that location.

(f) The Chief of Police or his designee may suspend or revoke any catering, malt beverage or open container permit, issued pursuant to Section 4-8 when the Licensee, permittee, or person in charge is convicted of having violated Section 4-5, or is shown by clear and convincing evidence to have knowingly failed to follow the operation plan as outlined in the permit application, or creates an emergency which constitutes an actual and immediate threat to the peace, bodily security and/or property of any member of the general public.

4-9. Microbrewery, winery and distillery permits; authorized.

(a) Definitions. As used in this section:

(1) “Microbrewery” means a commercial enterprise at a single location producing not more than fifty thousand (50,000) barrels per year and no less than fifty (50) barrels per year of malt beverages.

(2) “Person” means and includes an individual person, partnership, corporation, limited liability company or any other association or entity, public or private. W.S. 12-1-101 (xii).

(3) “Malt beverage” means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substitute therefor, containing at least one-half of one percent (.5%) of alcohol by volume. W.S. 12-1-101(x).

(4) “Winery” means a commercial enterprise manufacturing wine at a single location in Wyoming. W.S. 12-1-101(xx).

(b) Microbrewery Permit – Required. It shall be unlawful for any person to brew a malt beverage or otherwise operate a microbrewery within the City of Sheridan without first obtaining a permit to do so and paying the license fees therefor.

(1) Winery Permit – Required. A winery permit is required authorizing a permit holder to manufacture wine and dispense the manufactured wine for on-premises and limited off-premises personal consumption. W.S. 12-4-412(a)(ii).

(c) Microbrewery or Winery Permit – Issuance. Any person desiring a permit authorized by this section shall apply to the City of Sheridan. The application shall be made under oath upon a form to be furnished by the City Clerk and shall be filed in the office of the Clerk. The permit shall be subject to the restrictions in W.S. 12-4-103, except W.S. 12-4-103(a)(vi).

(1) Satellite Winery Permit. A holder of a winery permit may sell its manufactured wine at up to three satellite location within Wyoming, separate from its licensed manufacturing site. Application shall be made to the City of Sheridan on a form furnished by the municipal clerk. The annual permit fee shall be one hundred dollars. W.S. 12-4-412(d).

(d) Distillery Permit – Issuance. Any person desiring a permit authorized by W.S. 12-2-203 for the manufacture and rectifying of alcoholic liquor shall apply to the City of Sheridan. The application shall be made under oath upon a form to be furnished by the clerk and shall be filed in the office of the clerk. The permit shall be subject to the restrictions in W.S. 12-4-203 (a) through (f).

(1) Satellite Distillery Permit. A holder of a manufacturer’s permit may sell its product at one (1) satellite location within Wyoming, separate from its licensed manufacturing site, in accord with W.S. 12-4-203(f). Application shall be made to the City of Sheridan on a form furnished by the clerk. The annual permit fee shall be one hundred dollars. W.S. 12-4-203(f).

(e) Permit Fees – Annual. The following annual permit fees are established, and shall be charged and collected, prior to the issuance of a microbrewery or winery permit by the city:

(1) Microbrewery permit together with sale of other malt beverages when obtained through licensed wholesale malt beverage distributors, or winery permit together with sale of other wines when obtained from the commission, the annual permit fee shall be five hundred dollars. W.S. 12-4-412(b)(1);

(2) Dual holding of a microbrewery or winery permit and retail liquor license, no additional fee shall be assessed other than the retail, restaurant or resort license fee. W.S. 12-4-412(b)(ii), (vi);

(3) Microbrewery permit to brew a malt beverage and dispense the brewed malt beverage on-premises and for off-premises personal consumption, not for retail sale, in packaging of bottles, cans or packs of an aggregate volume not to exceed two thousand ounces per sale, or winery permit to sell its manufactured wine on site for off-premises personal consumption, not for retail sale, in packaging of bottles of an aggregate volume not to exceed two thousand twenty-eight ounces per sale, the annual permit fee shall be five hundred dollars. W.S. 12-4-412(b)(iii).

(4) Distillery permit for the manufacturing and rectifying of alcoholic liquor annual permit fee shall be two hundred fifty dollars (\$250.00). W.S. 12-2-203(a);

(f) Permits – Number of. The number of microbreweries shall be limited to no more than those allowed in W.S. 12-4-201(d). W.S. 12-4-412(b)(vi).

(g) Transfer. A microbrewery, winery or distillery permit may be transferred to another location and ownership of the microbrewery, winery, or distillery may be transferred upon the approval by the local licensing authority. W.S. 12-4-412(b)(vii).

(h) Expiration and Renewal. All microbrewery, winery and satellite winery and distillery permits issued by the city shall have a common expiration and renewal date of the first day of January of each year; and the permit fee for all microbrewery, winery and satellite winery permits which, because of said common expiration and renewal date, are issued for a period of less than one year shall be prorated on a monthly basis, commencing with the month in which such license is issued.

(i) Microbrewery, Winery and Satellite Winery and Distillery Permit – Compliance with State Law. All microbrewery, winery and satellite winery and distillery permits issued pursuant to this section shall be subject to all requirements, regulations, and limitations prescribed by the

laws of the state of Wyoming relating to alcoholic beverages. W.S. 1977, Title 12.

(j) General Penalty. Any person, firm or corporation who shall violate, neglect or refuse to comply with the provisions of this section, shall upon conviction, be fined not more than seven hundred fifty dollars (\$750.00) and costs of not more than ten dollars. Each day a violation is committed, caused or continued to exist shall constitute a separate offense. (Ord. No. 1706, § 1, 12-21-92; Ord. No. 1910 § 1, 10-4-02.)

4-10. Walk-Throughs.

In addition to all other rights of inspection which the City may now or hereafter possess, the Chief of Police or the designees of the Chief of Police are empowered to enter and inspect every place of business which is licensed by the city to sell alcoholic liquor or malt beverages pursuant to a City liquor license. The purpose of such a walk-through authorized by this Section shall be limited to ascertaining if the licensed building, licensed premises or dispensing area to be inspected is in compliance with this Chapter and applicable Wyoming State Statutes applicable to businesses selling, storing, or keeping malt or alcoholic beverages under license issued by the City. Every such inspection must be reasonably limited and tailored in scope and duration, so that such inspection is limited to the public areas and areas in which alcohol and malt beverages are stored in the licensed building. This Section does not authorize any City Police inspection to be conducted as any pretense or other effort to evade or to circumvent constitutional requirements that apply to criminal search and seizure.

Entry for inspection for the purpose of confirming compliance with this Chapter is authorized only during open business hours unless it is in the preauthorized presence of the Licensee or his authorized agent, employee or representative or in an emergency.

A Licensee's refusal to permit entry or inspection pursuant to this Section shall result in a due process hearing before the City Council who then can order a suspension or the revocation of the liquor license if grounds to do so are established by clear and convincing evidence. However, a refusal of inspection by a Licensee justified on legitimate constitutional grounds shall not serve as the sole basis for a hearing request or as the basis for any City effort to deny issuance, renewal or transfer of a license.

4-11 Minors warning notice.

A. Every Licensee, other than those operating under a license for a restaurant, bar and grill or package store that does not dispense alcohol or malt beverages, shall display at all times in a prominent place at each public entrance either: the signs approved and provided by the City Administrator, or a printed card with a minimum height of eleven (11) inches and a width of seventeen (17) inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21

YOU ARE SUBJECT TO A FINE
OF UP TO \$750
IF YOU ARE UNDER 21 AND YOU
ATTEMPT TO PURCHASE, PURCHASE, CONSUME, OR HAVE IN
YOUR POSSESSION ALCOHOLIC LIQUOR OR MALT BEVERAGE

OR

ENTER OR ATTEMPT TO ENTER A LIQUOR ESTABLISHMENT

WARNING TO ADULTS

YOU ARE SUBJECT TO A FINE
OF UP TO \$750
IF YOU PURCHASE OR PROVIDE ALCOHOL OR MALT BEVERAGE
FOR A PERSON UNDER 21

B. Every Licensee operating under a license for a restaurant, bar and grill or a package store that does not dispense alcoholic or malt beverages shall display at all times in a prominent place at each public entrance a printed card with a minimum height of 11 inches and a width of 17 inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21

YOU ARE SUBJECT TO A FINE
OF UP TO \$750
IF YOU ARE UNDER 21 AND YOU
ATTEMPT TO PURCHASE, PURCHASE, CONSUME, OR HAVE IN
YOUR POSSESSION ALCOHOLIC LIQUOR OR MALT BEVERAGE

WARNING TO ADULTS

YOU ARE SUBJECT TO A FINE
OF UP TO \$750
IF YOU PURCHASE OR PROVIDE ALCOHOL OR MALT BEVERAGE
FOR A PERSON UNDER 21

4-12. Plan of operation.

A. Plan of Operation description.

Any license authorized under this ordinance shall not be issued, renewed or transferred until the applicant has submitted a Plan of Operation that meets the requirements of this ordinance. A Plan of Operation shall contain and shall set forth in simple narrative form the following:

- (1) An operational statement describing the location and layout of the licensed building, licensed premises and/or dispensing area;
- (2) Schedule of all days and hours of operation;
- (3) Description of the character and use of the facility (i.e. bar, restaurant, brewery, etc.);
- (4) Description of specific alcohol inventory management practices that are relevant to the license at issue;
- (5) Description of specific crowd control and security practices that are relevant to the license at issue; and,
- (6) Description of other information that is relevant and pertinent to the operation of the Licensee's licensed premises and dispensing area that is reasonably available to the Licensee and that is specifically requested by the City Council at the time or renewal, transfer or issuance of the license.

The Licensee may propose amendment(s) to an existing approved Plan of Operation for an issued license during the term of its license. Such an amendment may be approved by the City Administrator if it is not a material deviation from the Licensee's existing approved plan.

B. Any material deviation from the approved Plan of Operation requires a special permit as authorized in Section 4-8 or pursuant to the City Council's approval of a modified Plan of Operation.

4-13. Administrative fee.

A. In addition to any other penalty, sanction or fee authorized under this Chapter 4 or applicable State law, if a Licensee, or its employee(s), is convicted of a criminal violation of this Chapter 4 that is applicable to Licensees or Licensee employees, the Licensee shall, upon actual notice, pay to the City Clerk, an administrative fee. The notice to pay shall be issued by the City Clerk upon notification of the relevant conviction. Said fee shall be paid within twenty (20) days of the notice to pay, unless the Licensee completes additional training and established preventative measures according to Section C, below, for first and second violations occurring within one (1) year.

B. Payment on Conviction:

- (1) Upon first conviction of a violation of any Standard set out in Section 4-5(a)(1-8) (inclusive), the Licensee shall pay to the City Clerk, an administrative fee in the amount of Five Hundred Dollars (\$500).
- (2) Upon a second conviction of a violation of any Standard set out in Section

4-5(a)(1-8) (inclusive), arising within a twelve (12) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of One Thousand Dollars (\$1,000).

- (3) Upon a third conviction of a violation of a any Standard arising within a twenty four (24) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of One Thousand Dollars (\$1,000). The Licensee shall also submit a revised Plan of Operation, acceptable to the City Council, specifically addressing the conviction including actions they will take to prevent further violations.
- (4) Upon a fourth conviction of a violation of any Standard arising within a thirty-six (36) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of One Thousand Five Hundred Dollars (\$1,500). The Licensee shall also submit a revised Plan of Operation, acceptable to the City Council, specifically addressing the conviction including actions they will take to prevent further violations.
- (5) Upon a fifth or subsequent conviction of a violation of any Standard arising within a thirty-six (36) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of Two Thousand Dollars (\$2,000). The Licensee shall also submit a revised Plan of Operation, acceptable to the City Council, specifically addressing the conviction including actions they will take to prevent further violations.
- (6) Convictions of violations of any Standard(s) which violations occur before June 30, 2017, shall not apply after that date.

C. For first and second convictions of violations occurring within one (1) year, this fee shall be waived if within sixty (60) days immediately following such a first or second conviction, the Licensee applies to the City Council for amelioration of such convictions and then completes training or other preventative measures approved by the City Council. In this regard, the City Council may require additional preventative measures such as additional Licensee or Licensee employee training or a modification of the Licensee's existing Plan of Operation reasonably designed to address the circumstances that led to the conviction(s) at issue.

For first and second convictions of violations of Section 4-4B, this fee shall be waived if the person who committed the violation attends an alcohol server training program as approved by Wyoming Statute § 12-2-402 (whether or not that person has previously attended such training) if the person is still employed by the Licensee, and if the Licensee and all employees authorized to serve alcoholic liquor or malt beverage have been to an alcohol server training program within the previous three (3) years. The Licensee shall notify the City Clerk of their intent to substitute the training within ten (10) calendar days of notification and submit proof of the training to the City Clerk within three (3) calendar months of the notification. The Licensee shall also submit a revised Plan of Operation, acceptable to the City Council that specifically addresses the actions they will take to prevent a similar conviction.

4-14. Liquor license original issuance, renewal and transfer.

- A. All applications to renew, transfer or for a new license issued pursuant to this Chapter, shall be made on forms provided by the City Clerk and shall provide the information required to be provided by W.S. § 12-4-102. In addition to the statutorily required information, but only when the application for the issuance of a new license or for the transfer of an existing license which would change the location of the licensed premises or dispensing area, or would change the persons owning or controlling the business operation, or would otherwise materially change the existing Plan of Operation for the license sought to be transferred, the City may require additional information, including:
- (1) The Applicant's business plan, which confirms applicant's good faith projection of sales, number of employees and payroll and describes how its use of the newly-issued license is likely to contribute to the best interest of the public.
 - (2) Whether location of the establishment meets current zoning requirements, is compliant with City Code (or will be made compliant with City Code).
 - (3) Whether the location of the establishment is physically located such that it would not be beneficial for liquor or malt beverage sales.
 - (4) How the welfare of the citizens of the City of Sheridan, particularly those residing in the vicinity of proposed location, would be impacted.
 - (5) The proximity of the licensed premises from a pari-mutuel betting establishment,
 - (6) The license is not part of a grocery type establishment. Strip mall type building configuration with no internal doorways between the establishments may be acceptable.
 - (7) Confirmation that the applicant will comply with the Alcohol Service Policies adopted by the Sheridan County Retail Liquor Dealer Association, as may be amended from time to time.
 - (8) Confirmation that the applicant will participate in the Sheridan County Retail Liquor Dealer Association's "Safe Rides" program or an equivalent City sponsored program.
 - (9) In addition to the criminal records to be disclosed pursuant to W.S. 12-4-102(a), the applicant shall also confirm for the five (5) years immediately before the application that they have: (a) no criminal history that establishes prior conduct of illegal sale or distribution of narcotics or Schedule I, II, III or IV substances, and (b) no convictions for violent offenses or financial crimes including fraud, embezzlement and/or tax evasion, (c) no established pattern of conduct that shows the applicant chronically or habitually abuses alcohol or other illegal substances to the extent their normal faculties are impaired. If the applicant is an entity, the information required in (a) through (c) shall apply to each person owning any controlling interest in the entity.

B. As the licensing authority to issue liquor licenses within its corporate limits, the City Council shall review and act upon all such applications made to it pursuant to W.S. §12-4-102 consistent with W.S. §12-4-104(b), which provides the following criteria for such review and for issuance, renewal or transfer of City liquor licenses issued pursuant to this Chapter:

- (1) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously affected;
- (2) The purpose of this title shall not be carried out by the issuance, renewal or transfer of the license or permit;
- (3) The number, type and location of existing licenses or permits meet the needs of the vicinity under consideration;
- (4) The desires of the residents of the county, city or town will not be met or satisfied by the issuance, renewal or transfer of the license or permit; or
- (5) Any other reasonable restrictions or standards which may be imposed by the licensing authority shall not be carried out by the issuance, renewal or transfer of the license or permit.

4-15. Liquor license renewal, suspension or revocation.

The performance record of a Licensee and its compliance with the Standards in this Chapter will be considered by the City Council in proceedings to renew, suspend, or revoke liquor licenses.

If a Licensee's application, application fee and/or Plan of Operation is not timely submitted for renewal of the license or if a Licensee's renewal application is otherwise materially incomplete as required in this Chapter, then the Licensee shall appear before the City Council at the meeting at which its license is scheduled for hearing on renewal. The City Council shall receive evidence concerning the renewal and may, on that record, vote to grant or deny renewal of the Licensee's Liquor License.

As an additional remedy, in the case of gross violations of this Chapter that are supported by evidence, the Licensee may be required to appear before the City Council at a time set by City Council with at least thirty (30) days written notice to the Licensee for a due process hearing to review evidence of convictions or relevant civil violations under this Chapter and based upon that review the City Council may authorize suspension, revocation or non-renewal proceedings in the District Court or may refuse to approve a transfer of the license under this Chapter and otherwise according to applicable law.

SECTION 2. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or

unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance, the intention being that the various provisions hereof are severable.

SECTION 3. REPEALER. Excepting Resolution 41-14 and Resolution 12-08 relating to the issuance of new retail liquor licenses and new bar and grill licenses, respectively, all other orders, resolutions and ordinances, or parts thereof, which are in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect immediately upon its passage and publication as by law provided.

PASSED, APPROVED, AND ADOPTED this day of June, 2017.

Mayor Roger Miller

ATTEST:

**Jim Harmon, City Clerk/Financial
Service Director**