

ORDINANCE NO. _____

AN ORDINANCE amending and restating 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, the City Council wishes to organize, define, and clarify the the Sheridan City Code regarding Liquor and the corresponding state statute, for better community understanding and overall process efficiency

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. RESTATEMENT OF EXISTING CHAPTER 4 OF SHERIDAN CITY CODE: ALCOHOLIC BEVERAGES.

This ordinance hereby replaces and restates, in its entirety, the Code of the City of Sheridan Wyoming as follows:

**Chapter 4
ALCOHOLIC BEVERAGES**

- 4-1. Intoxication.
- 4-2. Purchase, etc., of intoxicating liquor by minor; penalty; suspension of imprisonment.
- 4-3. Licensed Building and Premises; Restrictions and Exceptions; Minors; Obviously intoxicated persons and incompetents prohibited and server training requirements.
- 4-4. Adoption or permit prerequisite to sale, etc.
- 4-5. Standards in association with 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 Permits; authorized
- 4-10. Right of Entry – Inspection
- 4-11. Duty to Maintain Order
- 4-12. Minors Warning Notice
- 4-13. Plan of Operation
- 4-14. Administrative Fee
- 4-15. Liquor License Transfer
- 4-16. Liquor License Renewal and Revocation

4-1. Intoxication.

If any person shall be 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 Ordinance 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 boisterous or by profane, vulgar language, or loud and violent discourse, or indecent conditions or actions which render that person incapable of caring for him or herself so as to create a nuisance or hazard, he or she shall be guilty of a misdemeanor.

4-2. Purchase, possession and consumption, of intoxicating liquor by minor.

It shall be unlawful for any person under the age of 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.

4-3. Licensed Building and Premises; Restrictions and Exceptions; Minors; Obviously intoxicated persons and incompetents 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 Wyoming Statutes as may be amended from time to time, which may be referred to as the licensed building or licensed premises hereinafter. Provided however, any licensee may propose a smaller area(s) within a licensed building 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: (i) 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, (ii) be clearly outlined in the licensee's Plan of Operation, and (iii) in a manner approved by City Council.

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 from, and is generally accessible to, 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 where alcoholic or malt beverages are being dispensed in an establishment that is primarily intended for on-premise consumption of alcoholic and malt beverages, unless:

(i) when the establishment operates a commercial kitchen, persons under the age of twenty-one (21) may enter and remain in a dining room or waiting area in a licensed building when accompanied by an adult and not later than 10:00 p.m., but not including seating at the bar itself;

(ii) In a restaurant covered by a liquor license, employees at least eighteen (18) years of age are permitted in the dispensing room 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 separated from the dispensing area by a 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.

B. Every liquor Licensee or his servant or employee who sells, gives or delivers alcoholic liquor or malt beverages to any obviously intoxicated person or any incompetent person or person under the age of 21 years, or who permits any person under the age of 21 years to enter or remain in the licensed building where intoxicating or malt beverages are dispensed, is guilty of a misdemeanor which is a violation of a Category 1 Standard.

C. A person who is at least 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.

D. All persons employed at any 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 90 days of the start of their employment, or the effective date of this ordinance, whichever is later. All Alcohol Server Staff shall complete any additional or further training to maintain their server training certification. Every License holder 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 License holder shall keep their server training records available for review and copying at any time when the licensed premises is open for business by the Sheridan Police Department at their licensed premises to insure compliance with the server training requirements of this ordinance.

4-4. 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.

4-5. Standards in association with the sale and possession of alcoholic beverages.

(a) Public policy.

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 or renew any licensee who does not adhere 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. Any person, including a liquor licensee and/or his employee, who violates any portion of Section 4-5, including the Standards listed in this ordinance, shall be guilty of a misdemeanor, punishable by a fine of not more than \$750.00 or other penalty per City of Sheridan Ordinance 9-1(a)(2). The performance record of a licensed establishment and its compliance with these standards will be considered in proceedings to renew liquor licenses as well as to request that one be revoked or suspended.

(b) *Standards.*

All establishments, by and through their agents, operating by virtue of a liquor license, shall meet the following Category 1 and Category 2 Standards:

(1) Category 1 Standards.

- (A.) Refuse to serve any patron who is obviously intoxicated, or is endangering people or property in the licensed establishment.
- (B.) Order any patron to leave and depart who is endangering people or property in the licensed establishment and immediately notify the Sheridan Police Department of the incident.
- (C.) Notify the Sheridan Police Department by telephone immediately when an assault, aggravated assault or assault and battery occurs on or in the establishment's property.
- (D.) Report all physical fights to the Sheridan Police Department immediately and cooperate fully in the Police investigation of the incident.
- (E.) Refuse to sell, give, or deliver alcoholic liquor or malt beverage to any person under the age of 21 years.
- (F.) Refuse admittance to any person under the age of 21 years, except as otherwise allowed by in this Chapter, to any bar or package liquor store that dispenses alcoholic or malt beverages.
- (G.) Prohibit any person from illegally using or distributing controlled substances as defined in W.S.§. 35-7-1001 to 1059 on the licensed premises.
- (H.) Prohibit other criminal activity on the licensed premises as established by local, state or federal law.
- (I.) 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.
- (J.) A Licensee has a duty to maintain peace and order in and around the licensed premises including any adjacent parking lots owned by the Licensee or under his control.
- (K.) 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.
- (L.) 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.

(2) Category 2 Standards.

- (A.) Immediately notify the Sheridan Police Department of any attempts by a person under the age of 21 years to acquire alcoholic liquor or malt beverages in violation of this ordinance.
- (B.) Immediately notify the Sheridan Police Department of any attempts by any person under the age of 21 years to enter any bar or package liquor store that

dispenses alcoholic or malt beverages.

- (C.) Prohibit any person from leaving the licensed establishment with an open container of alcoholic liquor or malt beverage in violation of City Code Section _____.
- (D.) Gambling will be authorized pursuant to W.S. §6-7-101, et seq. of the Wyoming Statutes. The Licensee shall prohibit public indecency as defined in W.S. §6-4-201 of the Wyoming Statutes.
- (E.) Post in a prominent location, a conspicuous notice to the public required in Section 4-12.
- (F.) Comply with the training and records maintenance requirements of Section 4-3D.

(c) *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.

(d) *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, or (ii) 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 the limousine.

(e) *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.*

Violations of these Sections are punishable by a fine of not more than Seven Hundred Fifty Dollars (\$750) or other penalty per City of Sheridan Ordinance 9-1(a)(2). Evidence that the Licensee or his employee summoned police to deal with activity within the establishment that is prohibited by the preceding Section (b) may be considered in mitigation of a charge that the Licensee or its employee violated that Section of the ordinance.

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.

4-7 Endangering The Welfare of A Minor.

(a) A person, who is not the parent, legal guardian or equivalent of the minor, commits the offense of endangering the welfare of a minor if the person knowingly allows or permits a person under the age of twenty-one (21) years of age to:

- (i) Enter or 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 found guilty of this offense may be punished by a fine up to \$750.00 and six 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 a form available from the City Clerk.

(b) *Application Contents.*

Applicants for catering or malt beverage permits will complete and submit an application, 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 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 persons who will 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 Liquor License holders and so the name in which the license was issued must be listed as the name of the applicant. A catering, malt beverage, or open container permit shall authorize possession and consumption of alcoholic or malt beverages in open containers for the time period and within the area described in the permit application according to the operation plan. Applications will be reviewed by: the City Administrator or designee, Chief of Police or designee and the City Clerk or designee.

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

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 is routine in that it will not cause an impact beyond the area described in the application. If the City Administrator or the Chief of Police determines that the proposed event/activity will not have a material impact beyond the proposed area, the permit will be issued by the City Clerk or designee, upon successful submission of the application. A proposed event/activity may be determined to have a material impact beyond the area described in the application if it includes a 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 presented to the City Council for review and approval at the next scheduled regular City Council meeting no sooner than two weeks from the date of submission of the application and fee.

If the permit is denied by the City Administrator, the denial may be appealed by the applicant to the City Council whose determination is final.

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 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.

4-9. Microbrewery and Winery permits; authorized.

(a) Definitions. As used in this section:

(1) “Microbrewery” means a commercial enterprise at a single location producing malt beverage in quantities not to exceed fifteen thousand barrels per year and no less than one hundred barrels per year.

(2) “Person” means and includes an individual person, partnership, corporation or association. 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 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 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 governing body. The application shall be made under oath upon a form to be furnished by the municipal clerk. The application 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 governing body on a form furnished by the municipal clerk. The annual permit fee shall be one hundred dollars. W.S. 12-4-412(d).

(d) 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 sell on-site only its product 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).

(e) 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(iv).

(f) Transfer. A microbrewery, or winery, permit shall not be transferred to another location, but ownership of the microbrewery, or winery, may be transferred upon the approval by the governing body. W.S. 12-4-412(v).

(g) Expiration and Renewal. All microbrewery, winery and satellite winery 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.

(h) Microbrewery, Winery and Satellite Winery Permit – Compliance with State Law. All microbrewery, winery and satellite winery 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.

(i) 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 and costs of not more than ten dollars, or by imprisonment in the city jail for a period not exceeding six months, or both. 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 Right of Entry – Inspection

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.

Entry for purposes of inspection pursuant to this Section is authorized only during open business hours unless it is in the presence of the Licensee or his agent, employee or representative.

The purpose of the inspection authorized by this Section shall be to ascertain if the business to be inspected and its operation is in compliance with Sheridan City Ordinances and Wyoming State Statutes or other laws applicable to businesses selling, storing, or keeping malt or alcoholic beverages under license issued by the city.

A refusal to permit entry or inspection pursuant to this Section will result in a hearing before the City Council and may result in the revocation of the liquor license.

4-11 Duty to Maintain Order

The Chief of Police or his designee may order any establishment operating with a City liquor license closed until the following 6 A.M., or may revoke any catering, malt beverage or open container permit, issued pursuant to Section 4-8 when the Licensee, permittee, or person in charge fails to follow the operation plan as outlined in the permit application and/or maintain peace and order which creates an emergency and immediate threat to the bodily security, property, or peaceful repose of any member of the general public.

4-12 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 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

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

4-13. Plan of Operation

A. Plan Of Operation Required

Any license authorized under this act shall not be issued, renewed or transferred until the applicant has submitted a Plan of Operation acceptable to the City. A Plan of Operation shall contain an operational statement outlining the proposed manner in which the establishment will be operated, including but not limited to, schedule of hours of operation, intended uses of the facility, alcohol management, crowd control, security, and any other pertinent information as requested by the City Council. The licensee may propose amendment(s) to their Plan of Operation during the term of its license, which may be approved by the City Administrator if not

a material deviation from the plan last approved by City Council.

B. Any deviation which is deemed by the City Administrator to be a material deviation from the approved Plan of Operation requires a special permit as authorized in SCC 4-8 or City Council's approval of a modified Plan of Operation.

4-14 Administrative Fee

A. Any licensed establishment in which violations of City, State or Federal laws occur requires the expenditure of greater municipal resources to control and police than establishments which are operated in accordance with the law. Those extra enforcement and other social costs include police, judicial and prosecutor salaries, victim impacts and depressed neighborhood real estate values as well as lost sales in surrounding businesses. The regulation of establishments which possess liquor licenses by the City of Sheridan should include holding the owners and operators accountable for the conduct of their businesses by charging administrative fees to pay for the external costs of poor management.

In addition to any other penalty, sanction or fee authorized by law, if a liquor license holder, or its employees or agents, is convicted of a violation of any Section of Sheridan Municipal Code Chapter 4 that is applicable to Licensees or their employees, the Licensee shall upon 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 ten 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 year.

B. (1) Upon first conviction of a violation of either a Category 1 or 2 Standard, 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 either a Category 1 or 2 Standard, 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 (\$1000).

(3) Upon a third conviction of a violation of a Category 1 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, specifically addressing the conviction including actions they will take to prevent further violations.

(4) Upon a fourth conviction of a violation of a Category 1 Standard arising within a thirty-six-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, specifically addressing the conviction including actions they will take to prevent further violations.

(5) Upon a fifth or subsequent conviction of a violation of a Category 1 Standard arising within a thirty-six-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, specifically addressing the conviction including actions they will take to prevent further violations.

(6) Convictions of violations of Category 1 or Category 2 standards which violations occur before April 1, 2008, shall not apply after that date.

C. For first and second convictions of violations occurring within one year this fee shall be waived if the Licensee takes training or preventive measures approved by the City such as acquisition of identification card readers, security devices such as cameras or additional assignment of security personnel as described in this Section. For convictions of violations of Section 4-3B, this fee will 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 two years. The Licensee shall notify the City Clerk of their intent to substitute the training within ten days of notification and submit proof of the training to the City Clerk within three months of the notification or pay the administrative fee by that day. The Licensee shall also submit a revised Plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.

4-15 Liquor License Transfer

Wyoming Statute establishes the City Council as the licensing authority to issue liquor licenses within its corporate limits; Subsection (b) of W.S. §12-4-104 provides the criteria under which an application for an original, renewal or transfer license is reviewed and subsequently approved or denied. A license or permit shall not be issued, renewed or transferred if the licensing authority finds from the evidence presented at the hearing that:

- (i) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously affected;
- (ii) The purpose of this title shall not be carried out by the issuance, renewal or transfer of the license or permit;
- (iii) The number, type and location of existing licenses or permits meet the needs of the vicinity under consideration;
- (iv) 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
- (v) 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.

To the extent not inconsistent with W.S. § 12-4-104(b), the City Council may require and consider the following information prior to approving or denying of either the issuance of new and the transfer of existing retail and bar and grill liquor licenses:

- (a) The applicant's Plan of Operation for use of the license, which includes but is not limited to representations of the following:
 1. Location of operation and use of the license;
 2. Whether the license will be used to attract other businesses and how;
 3. Renovation of historic buildings or areas being underserved;
 4. Create a business anchor;
 5. Hours of operation and date when sales will commence;
 6. Customer offerings;
 7. Building design; and
 8. Franchise or chain affiliation
- (b) Three years of financial projections so that the projected sales tax revenues to the City can be evaluated.
- (c) The potential increase in employment opportunity should they be issued the retail liquor license.
- (d) The potential increase to the establishment's total aggregate payroll should it be issued the retail liquor license.
- (e) The potential economic impact to the vicinity of the proposed location, including the number and amount of liquor licenses in the area in proportion to the population it would serve.
- (f) Establish that the business plan of the licensee will contribute to the goals of the City of Sheridan's strategic plans.
- (g) Whether location of the establishment meets current zoning requirements, is compliant with City Code (or will be made compliant with City code).
- (h) Whether the location of the establishment is part of any portion of the city that would be not be beneficial for liquor sales.
- (i) How the welfare of the citizens of the City of Sheridan, particularly those residing in the vicinity of proposed location, would be impacted.
- (j) Location of License is at least 100 feet removed from a pari-mutuel betting establishment,
- (k) The license is not part of a grocery type establishment. Strip mall type building configuration with no internal doorways between the establishments is acceptable.
- (l) Any other documents or information that may be requested by the City Council as being beneficial to their review and approval or denial of the issuance of the retail liquor license.
- (m) Implementation of Wyoming Liquor Division suggested MAPP policies and other "best practices" as adopted by resolution of the City Council from time to time
- (n) Whether the applicant will confirm participation in the Sheridan County Liquor Association's "Tipsy Taxi" program.
- (o) The applicant (or if an entity, a holder of not more than 49% interest therein) has: no felony convictions within the 3 years prior to application; and no criminal history that establishes prior conduct of the illegal sale or distribution of narcotics or schedule I, II, III or IV substances; and no violent history.

(p) During the five (5) years prior to the application, the applicant has not been convicted of a felony and has not established a pattern of conduct that shows the applicant chronically or habitually uses alcohol or other substances to the extent that their normal faculties are impaired. If the applicant is an entity, this criteria shall apply to any person owning a controlling interest in the entity.

4-16 Liquor License Revocation and Renewal

If any administrative fee is not paid, or if the Plan of Operation is not timely submitted for issuance or renewal of the license, as required pursuant to Sections 4-13 and 4-14, then the Licensee shall appear before the City Council at the meeting at which its license is scheduled for renewal. The City Council shall receive evidence of the convictions and charges pursuant to which the Administrative Fees have been assessed and their nonpayment and the failure of the Licensee to submit appropriate Plans of Operation and may, on that record, vote to deny renewal of the Licensee's Liquor License.

As an additional remedy, in the case of gross violations of this chapter, the Licensee may be directed 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 hearing to review the evidence of violations of this chapter, and based upon that review the City Council may authorize revocation proceedings in the District Court be pursued to. revoke the Liquor License.

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. All 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 _____,
2017.

Mayor Roger Miller

ATTEST:

Jim Harmon, City Clerk/Financial
Service Director

DRAFT