

## TITLE 2

### SALE, LICENSING AND USE OF ALCOHOLIC AND MALT BEVERAGES

#### Section

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*Title 2 was enacted by Ordinance 687, effective 11-22-79.*

**2-1-1. Maximum Term of Licenses.** - No license or permit for the carrying on or conducting of any business or employment shall be in force for any period longer than one year from the time of its issue.

**2-1-2. Licenses Subject to Review.** -

(a) All licenses or permits issued by the City are subject to review at any time by the City Council. At any time the Council has reason to believe that grounds for suspension, revocation, or refusal to renew exist with respect to any license or permit

holder, it may summon the holder and his agents to appear and answer questions relevant to such grounds.

**2-1-3. Hearing.** - If the Council determines that cause exists to suspend, revoke, or not renew any license or permit, it shall give the holder of the permit reasonable notification of his right to request a hearing on the matter. Or the Council may likewise notify the holder that a hearing will be held on the matter at a specified time, date and place. If the holder fails to request a hearing upon notification or fails to appear at a scheduled hearing, the Council may immediately suspend or revoke the permit or license. Otherwise, the Council shall proceed to determine whether the permit or license should be suspended or revoked. Suspension or revocation shall not constitute a bar to other proceedings, whether civil, criminal, or administrative in nature.

**2-1-4. Fee Upon Transfer of License** - Upon approval by the Lander City Council of a transfer of license to either a different location or different licensee, the following fees shall be paid prior to the transfer becoming effective:

a) one hundred dollar (\$100.00) fee for a transfer of a liquor license to a different premises.

b) One hundred dollar (\$100.00) fee for a transfer from a license, or executor or administrator of the estate of a deceased licensee, to a different licensee. (*Section 2-1-4 created by Ordinance 971, effective 8-19-96*)

**2-2-1. General.** - For the protection of the health, safety and welfare of the citizens of Lander, it is the policy of the City of Lander to strictly regulate the traffic of alcoholic and malt beverages. Therefore, no traffic in such beverages is permitted except in accordance with this Title.

**2-2-2. Definitions.** -

(a) The words and phrases used in this Title shall be as defined in Title 12 of the Wyoming Statutes.

(b) "Public place" as used in this Title shall include private business premises open to the public and includes private vehicles operating or parked in public places.

(c) "Minor" as used in Title 2 shall mean any person who has not become twenty-one (21) years of age; provided, however, all persons who are gainfully employed by the holder of a valid alcoholic beverage license as of the date this ordinance is passed, adopted and approved and as a bona fide incident of said employment and during the course and scope of said employment,

(1) Possess alcoholic beverages and/or;

- (2) Enter and/or remain in a room in which alcoholic beverages are dispensed or sold, shall not be considered minors, as herein defined. (*Section 2-2-2 amended by Ordinance 824, effective 6-28-88.*)

**2-2-3. License Required.** - No person shall sell alcoholic or malt beverages without a license or permit issued by the City of Lander. Application shall be made to the City Council as provided by state law, and any licenses or permits granted shall accord with and be subject to state law. The City Clerk shall keep a record of licenses and permits issued, including the name of the holder, the location for which the license or permit is granted, the dates of issuance and expiration, and the fee paid.

**2-2-4. Expiration.** - All alcoholic beverage licenses shall expire on February 20 of each year and shall be subject to renewal at a regular City Council meeting, or at any special Council meeting called for this purpose, on or before January 20 of each year. Fees for licenses issued or renewed on other dates shall be prorated.

**2-2-5. Fees.** - Fees for alcoholic beverage licenses shall be as follows:

- (a) For retail liquor licenses, \$1,500 (*Section 2-2-5 (a) amended by Ordinance 1119, effective August 13, 2006*)
- (b) For club licenses (limited retail liquor licenses), from and after February 20, 1982, \$500.
- (c) For restaurant liquor licenses, from and after December 27, 1988, \$1,000. (*Section 2-2-5 amended by Ordinance 827, effective 12-27-88.*)
- (d) For malt beverage and catering permits, \$50 per day. (*Amended by Ordinance 1098 effective 5/10/05*)
- (e) Microbrewery & Winery Permit \$500
- (f) Resort License \$1,000 (*Section 2-2-5(e) & (f) was created by Ordinance 1100, effective June 21, 2005*)
- (g) Bar and Grill Liquor License Initial Fee \$10,500; Yearly Renewal \$1,500 (*Section 2-2-5(g) was created by Ordinance 1122, effective October 15,, 2006*)

**2-2-6. Ground for Suspension, Revocation, or Non-Renewal.** -Without limitation, the following are grounds for the City Council to suspend, revoke, or refuse to renew any license or permit under this Title:

- (a) Violations by the holder of any provisions of this Title or of Title 12 of the Wyoming Statutes. A court conviction shall be presumptive evidence of such violation.
- (b) That the premises, while licensed in the name of the holder, are the scene of repeated or continuing violations of any ordinance or law, and that the initial violation occurred while the premises were

licensed in the name of the holder and the holder had knowledge of the first violation or delays correcting a continuing violation.

**2-2-7. License Holder Accountable for Agent.** - Violations or notice attributable to agents of the license or permit holder are attributable to the holder and in such cases either the holder or the agent, or both, may be held accountable and the defense that the agent acted outside the scope of his authority shall not apply. This section shall apply to misdemeanor violations and City Council proceedings, provided that no jail sentence shall be imposed on license holders for violation by their agents unless the agent was expressly authorized to perform or permit the act in question.

**2-2-8. Providing Minor with Alcoholic Beverages Prohibited.**

- (a) No person shall sell, furnish, give or cause to be sold, furnished or given away any alcoholic or malt beverages to a minor who is not his legal ward, medical patient, or a member of his immediate family.
- (b) No holder of a retail, club, or restaurant liquor license shall permit any minor to enter or remain in a room in which alcoholic or malt beverages are dispensed, except for employees during hours when alcoholic or malt beverages are not sold or dispensed.
- (c) A valid motor vehicle operator's license, registration certificate issued under the Federal Selective Service Act, an identification card issued to a member of the armed forces, or a Wyoming liquor purchase identification card is prima facie evidence of the age and identity of a person. Proof that a licensee or his agent demanded, was shown, and acted in reasonable reliance upon the information contained in any one of the above documents of identification is a defense to any criminal prosecution or in any proceeding for the suspension or revocation of or refusal to renew a license.

**2-2-9. Minors Prohibited from Having or Using Alcoholic Beverages** - No minor shall:

- (a) have any alcoholic or malt beverage in his possession within the city, or appear in a public place within the city, without being in the presence of a parent or legal guardian, while drunk or under the influence of an alcoholic liquor or malt beverage. For purposes of this section, under the influence of an alcoholic liquor or malt beverage shall mean the consumption of alcohol or malt beverage as shall be evidenced by the odor of alcohol on the breath and/or a positive reading for alcohol by an alco sensor or other device used to detect the presence of alcohol. *(Amended by Ordinance 878, effective 5-26-92.)*
- (b) enter or remain in a room where alcoholic or malt beverages are stored or dispensed in any establishment holding a club, retail, or

- restaurant liquor license, except that minor employees shall be permitted in the room during hours when alcoholic and malt beverages are not sold or dispensed; or
- (c) use or consume any alcoholic or malt beverages in any public place.

**2-2-10. Falsifying Identification Prohibited.** - No person shall, for the purpose of obtaining alcoholic or malt beverages for himself or for another person:

- (a) falsify any identification;
- (b) use identification belonging to another person; or
- (c) lend to or permit another person to use any identification not belonging to that person.

**2-2-11. Consumption on Private Premises Prohibited.** - No person shall consume or exhibit any open container of alcoholic or malt beverages on any privately owned property without the permission of the owner.

**2-2-12. Public Exhibition and Consumption.** -

- (a) No person shall consume any alcoholic or malt beverage, or exhibit any open container thereof, in any public place, with the following exceptions:
  - (i) a restaurant;
  - (ii) premises covered by an alcoholic beverage license or malt beverage permit;
  - (iii) city parks, between the hours of 8:00 a.m. and 11:00 p.m.;
  - (iv) city outdoor public recreational facilities during period of scheduled public recreational activities and only between the hours of 8:00 a.m. and 11:00 p.m.; (*Section 2-2-12(a)(iv) amended by Ordinance 1000, effective June 1, 1998*)
  - (v) the interior areas of the Lander Community Center between the hours of 10:00 a.m. to 2:00 a.m.; and
  - (vi) other areas specifically exempted by resolution of the City Council (*Section 2-2-12(a) amended by Ordinance 907, effective 8-2-93.*)
- (b) The City Council may, by resolution, designate special days during which the above subsections shall not apply or shall be limited in application, it being the policy of the City that the restrictions should not be in effect on certain holidays and days of public celebrations. (*Section 2-2-12 amended by Ordinance 723, effective 10-1-81.*)

**2-2-13. Public Drunkenness.** - No person shall appear in any public place in a drunken or intoxicated condition to the extent that such person creates a nuisance or spectacle, as may be established by any of the following elements: staggering, weaving, sleeping, vomiting, speaking incoherently to strangers, obscene speech, offensive gestures, or any other indecent or obnoxious conduct or act.

**2-2-14. Permit for Additional Dispensing Room.** - The City Council may issue a 24 hour permit to any licensee authorizing the sale of alcoholic or malt beverages in one additional dispensing room in the same building for a 24 hour period only. No one licensee shall be issued more than six permits in any one year period. The fee for the permit shall be \$25.

**2-2-15. Hours of Sale.** - Except as specifically provided by resolution of the City Council, all liquor licensees shall be controlled by the following schedule for operating hours:

- (a) On all days except Sunday a licensee 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 of all persons other than employees by 2:30 a.m.; and
- (b) On Sundays licensees may open the dispensing room between the hours of 12:00 noon and 10:00 p.m. and shall clear the dispensing room of all persons other than employees by 10:30 p.m.

**2-2-16. Restaurant Liquor Licensees.** -

- (a) Restaurant liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee.
- (b) Alcoholic and malt beverages shall be dispensed and prepared for consumption in one room upon the licensed premises separated from the dining area in which alcoholic and malt beverages may be served. No consumption of alcoholic and malt beverages shall be permitted within the dispensing room, nor shall any person other than employees be permitted to enter the dispensing room. If a restaurant has a dispensing room separate from the dining area which is licensed prior to February 1, 1979 for purposes of alcoholic or malt beverage sales and consumption, the restaurant may dispense alcoholic or malt beverages in the separate dispensing room under a restaurant liquor license, and any person over 19 year of age is permitted to enter the separate dispensing room.
- (c) No restaurant liquor licensee shall serve alcoholic or malt beverages after food sales and services have ceased.

**2-2-17. Continuing Violations.** - Each day of a continuing violation of this Title shall be deemed a separate offense. (*Amended by Ordinance 730, effective 6-14-82.*)

**2-2-18. Temporary Malt Beverage Permits; Issuance.** A temporary malt beverage permit may be issued to any responsible person or organization for the sale of malt beverages only at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No organization or person holding the special permit shall sell any alcoholic liquor except malt beverages on the premises described on the permit, nor shall any malt beverages be sold or consumed off the premises authorized by the permit.

A catering permit authorizing the sale of alcoholic and malt beverages may be issued by the city to any person holding a retail or resort 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.

The permit shall be issued only for the days named therein and shall not authorize the sale of malt liquor for more than twelve days by any community organization in any one calendar year. The permit may be issued without public notice or hearing upon proper application to the governing body. Any applicant applying for a permit authorized by this section having licensed premises located in another jurisdiction shall secure the written approval of the licensing authority of that jurisdiction in which the licensed premises are located prior to the filing of an application for a permit. (*Section 2-2-18 amended by Ordinance 1067 effective 7/22/03*)

**2-2-19. Same; Limits.** - Permittees shall not apply for a temporary malt beverage permit more than 45 days prior to its use. (*Section 2-2-19 created by Ordinance 775, effective 11-27-84.*)

**2-2-20. Same; Fees.** - Before issuance of a temporary malt beverage permit, the City Clerk shall collect the following fees from the applicant for each calendar day said permit is to be in effect:

- (a) In the event the applicant is a community organization the fee shall be \$25.00 per calendar day. (*Section 2-2-20 created by Ordinance 775, effective 11-27-84.*)

**2-2-21. Same; Restrictions.** - The applicant shall insure that the premises are maintained in a decent and orderly manner, and shall insure that all patrons or guests act within the law and not cause disturbances, riots, or fights. Should the picnic, bazaar, fair rodeo or similar public gathering become disorderly, the Chief of Police may suspend the temporary malt beverage permit and refund any unaccrued fees to the applicant. In such case, the applicant shall cause any crowds, patrons or guests to disperse and shall remove

any malt beverages from the premises and cease dispensing the same. (*Section 2-2-21 created by Ordinance 775, effective 11-27-84.*)

### **2-3-1. Microbrewery and Winery Permits -**

- (a) Definitions - as used herein the following terms shall have the following meanings:
- (i) "Malt Beverage" means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substance therefore, containing at least one-half of one percent (.5%) of alcohol by volume.
  - (ii) "Microbrewery" means a commercial enterprise at a single location producing malt beverage in quantities not to exceed fifteen thousand (15,000) barrels per year and no less than one hundred (100) barrels per year.
  - (iii) "Winery" means a commercial enterprise at a single location producing wine.
- (b) Application and Issuance of Microbrewery Permit & Winery Permits - Any person desiring a permit for the operation of a microbrewery or winery in accordance with the requirements of W.S. §12-4-412 shall apply to the City Clerk on forms prepared by the Wyoming Attorney General and in accordance with the applicable statutes of the State of Wyoming and not otherwise. The amount of the fee to be paid for a microbrewery permit shall be \$500.00 per year, payable in advance. Said permit shall be renewed annually as other liquor licenses provided for hereunder.
- (c) Provision for Sale in Microbrewery and Winery Permit - Issuance of a permit by the City of Lander shall entitle the permittee to:
- (i) Sell the microbrewery product, wines and other malt beverage for on premises consumption, provided the other malt beverages are obtained through licensed wholesale malt beverage distribution;
  - (ii) Hold a dual microbrewery permit or winery permit and a retail liquor license, restaurant license or resort license. Provided that there are available retail liquor, restaurant or resort licenses available and the same is approved by the Lander City Council and Mayor. Further provided that no additional permit fee shall be charged over and above that charged for the original retail, restaurant or resort license.
  - (iii) May allow the microbrewery to sell on site its products for off premises personal consumption, not for sale, in packaging bottles, cans or packs of an aggregate volume not to exceed two thousand (2,000) ounces per sale.
  - (iv) May allow the winery to sell its products for off premises personal consumption, not for retail sale, in packaging of bottles of an

aggregate volume not to exceed two thousand twenty-eight (2,028) ounces per sale.

- (v) Transfer ownership of the microbrewery, by the permittee shall not be allowed to transfer the microbrewery permit to another location.
- (vi) (v) Said permit shall be subject to all other requirements of the Wyoming State Statutes governing microbreweries not in effect or hereafter enacted. *(Section 2-3-1 was amended by Ordinance 1100, effective June 21, 2005)*

2-4-1. **Resort Retail Liquor Licenses** – The appropriate licensing authority in a county, City or town may issue resort retail liquor licenses to applicants who are owners or lessees of a resort complex meeting the qualifications of subsection (a) of this section

- (a) To qualify for a resort retail liquor license, the appropriate licensing authority shall require the resort complex to:
  - (i) Have an actual valuation of, or the applicant shall have committed or expended on the complex, not less than one million dollars (\$1,000,000.00), excluding the value of the land;
  - (ii) Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons, and
  - (iii) Include motel or hotel accommodations with a minimum of one hundred (100) sleeping rooms. *(Section 2-4-1 was created by Ordinance 1100, effective June 21, 2005)*

2-5-1. **Bar and Grill License** –

- a) The City, upon application and after public hearing, may authorize the issuance of a Bar and Grill Liquor License to a restaurant pursuant to Section 12-4-413(a) of Wyoming Statutes as such section may be amended from time to time.
- b) Any person desiring a Bar and Grill Liquor License shall file with the town clerk an application with the required supporting documentation and payment of the applicable fee. The annual fee for a Bar and Grill Liquor License shall be fifteen hundred (\$1,500.00) which amount may be amended from time to time by resolution of the town council without the necessity of amending the ordinance codified in this section; provided, however, that in no case shall the sum be greater than the amount authorized by applicable statutes of the State of Wyoming. *(Section 2-5-1 created by Ordinance 1119, effective August 13, 2000)*