

CHAPTER 4

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CHAPTER 4

ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

SECTION 4-1. DEFINITIONS.

(a) For purposes of this chapter, except as otherwise provided in this code or other city ordinances, the definitions present in Wyoming Statutes Annotated, (1977, Repub. Ed.), Title 12, (Section 12-1-101) as from time to time changed or amended, shall apply to the city, and are adopted by reference, as though incorporated herein at length. 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.

(b) "Drugstore" means a suitable space in a building kept, used, maintained, advertised and held out to the public to be a place where drugs and medicines are sold and prescriptions compounded and where a registered pharmacist is regularly employed.

(c) "Minor" means any person under the age of twenty-one (21) or such other age limit as may be prescribed from time to time by the State of Wyoming Legislature in connection with the liquor laws, contained in Title 12 of the Wyoming Statute.

(d) "Public Place" means any public street, sidewalk, highway, park, public parking lot, public school property, any private parking lot or any private areas that are open to the public.

SECTION 4-2. MINORS ON PREMISES.

It shall be unlawful in the city:

(a) For any minor to drink, buy, sell, possess or solicit the sale or purchase of alcoholic liquor and/or malt beverages.

(1) This subsection does not apply to possession of alcoholic or malt beverages by a minor:

(A) When making a delivery of alcoholic or malt beverages pursuant to his employment;

(B) Who is in the physical presence of his parent or legal guardian; or

(C) When serving alcoholic or malt beverages pursuant to his employment in a restaurant which holds a license to serve alcoholic or malt beverages, if the person is at least eighteen (18) years of age.

- (b) For any minor to enter and remain in any place in which alcoholic or malt beverages are sold, prepared or dispensed, with the following exceptions:
- (1) When accompanied by his parent or guardian who is at least twenty-one (21) years of age, in a dining or waiting room with an adult not later than 10 p.m. if the dining or waiting area is part of the licensed room.
 - (2) When the licensed room or rooms are not open for the sale or dispensing of alcoholic or malt beverages, employees of the licensee under the age of twenty-one (21) may be permitted in the course of their employment to work in the room or rooms.
- (c) For any holder of a retail or limited retail liquor license issued under the provisions of the state law and within the city, or any servant or employee of such holder, to give, sell or deliver alcoholic or malt beverages to any minor.
- (d) For any holder of a retail liquor license issued under the provisions of the state law and within the city, or any servant or employee of such holder, to permit any minor, with or without the knowledge of said holder, servant or employee, to enter and remain in the place which he sells alcoholic or malt beverages.
- (e) Violation of this section is a misdemeanor, punishable by a fine of not more than the maximum allowable by law and/or imprisonment for a period not to exceed the maximum allowable by law.

SECTION 4-3. FALSE IDENTIFICATION TO OBTAIN BEVERAGES.

Any minor who shall falsify any identification or who shall use any false identification in order to obtain alcoholic liquor or malt beverages shall be guilty of a misdemeanor.

SECTION 4-4. PUBLIC INTOXICATION.

It shall be unlawful for any person to be under the influence of alcoholic liquor, malt beverages or drugs to the extent that he or she endangers his or her own personal safety or endangers the safety of others or the property of others while upon any highway, street, thoroughfare or other public place within the corporate limits of the City of Kemmerer.

SECTION 4-5. OPEN CONTAINERS PROHIBITED.

- (a) It shall be unlawful for any person to sell or dispense from any licensed facilities alcoholic or malt beverages in open containers for off-premise consumption.
- (b) It shall be unlawful to possess or consume alcoholic or malt beverages from an open container while operating a motor vehicle.
- (c) It shall be unlawful for any person to consume, carry or possess any alcoholic or malt beverages in an open container while in or upon any public place, except the Kemmerer Municipal Golf Course during any City approved activity
- (d) Open container is defined as any glass, cup, bottle, can, or other receptacle which is not sealed or capped.
- (e) The City Administrator shall establish a procedure whereby a permit may be issued to a responsible party granting a waiver of the application of subsections (a) and (c) or this section.

SECTION 4-6. HOURS OF OPERATION OF RETAILERS; DATES FOR UNRESTRICTED HOURS.

- (a) All persons licensed under this chapter, except trains, holding a limited retail license, shall close the dispensing room and cease the sale of both alcoholic and malt liquors promptly at the hour of 2:00 a.m. each day and shall clear the dispensing room of all persons other than employees by 2:30 a.m. and keep the same closed until 6:00 a.m. the same day.
- (b) Clubs holding liquor licenses may be exempt from the hours of operation specified in subsection (a) of this section by ordinance or regulation of the governing body.
- (c) The mayor and city council may meet in January of each year to designate the dates when licensees may operate without restriction as to closing hours, licensee may operate the dispensing room for 24 hours beginning at 6:00 a.m. Such dates of unrestricted hours of operation shall not exceed a total of four (4) days in any one (1) calendar year.

SECTION 4-7. BOTTLE CLUBS.

It shall be unlawful to operate a bottle club, and any person who shall operate a bottle club shall be deemed guilty of a misdemeanor. Each day of operation shall be deemed a separate offense.

SECTION 4-8. DRIVE-IN LIQUOR STORES.

A drive-in liquor store/area shall be in compliance with Wyoming Statutes Annotated (1977 Repub. Ed.), Section 12-5-301, et seq., as from time to time changed or amended.

SECTION 4-9. LOCATION, REGULATION AND RESTRICTIONS AS TO PLACES OF SALE.

- (a) The location, regulations and restrictions as to place of sale shall be in compliance with Wyoming Statutes Annotated (1977 Repub. Ed.), Section 12-5-201 et seq. as from time to time changes or amended as the same shall apply to the city.
- (b) Gambling. No gambling shall be permitted in a licensed room or dispensing rooms.
- (c) Inspection of Premises. The City of Kemmerer or its agent shall as often as may be deemed necessary inspect the licensed room and adjoining rooms where alcoholic beverages are served to determine whether or not requirements as to sanitation and fire hazards and other applicable laws are being complied with.

SECTION 4-10. VIOLATIONS GENERALLY: PENALTIES.

- (a) In addition to any other penalty which may be imposed pursuant to the provisions of this Code or state law, the violation of any provision of this chapter by any licensee shall be sufficient cause for the suspension, and in the case of gross violation, the revocation of the license of the licensee.

SECTION 4-11. STATE LIQUOR LAWS APPLY; COPY ON FILE.

The sale of alcoholic and malt liquors in the city shall be in compliance with Wyoming Statutes annotated (1977 Repub. Ed.), Sections 12-1-101, et seq., as from time to time changed or amended as the same shall apply the city. A copy of such laws and subsequent 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 this reference, as though incorporated herein at length.

ARTICLE II. LICENSES AND PERMITS

DIVISION 1. GENERALLY

SECTION 4-12. REQUIRED.

It shall be unlawful for any person to possess for sale, sell or dispense any alcoholic or malt liquor without first obtaining a license to do so and paying the license fees therefor.

SECTION 4-13. FRATERNAL CLUBS.

For purposes of this section, except as otherwise provided in this code or other city ordinances, the provisions of Wyoming Statutes Annotated (1977 Repub. Ed.), Section 12-4-301, et seq., as from time to time changed or amended, shall apply to the city, and are adopted by reference, as though incorporated herein at length.

Bona fide clubs, as defined in Section 4-1, may be licensed under a limited retail liquor license for which they shall pay a license fee of not less than One Hundred Dollars (\$100.00), nor more than One Thousand Five Hundred Dollars (\$1,500.00) annually in advance, which said license fee shall be paid to the city.

SECTION 4-14. MALT BEVERAGE PERMITS.

For purposes of this section, except as otherwise provided in this code or other city ordinances, the provisions of Wyoming Statutes Annotated (1977 Repub. Ed.), Section 12-4-502, et. seq., as from time to time changes or amended, shall apply to the city, and are hereby adopted by reference, as though incorporated herein at length.

The permit shall be issued without notice on application to the city council. The fee for such permit shall be Ten Dollars (\$10.00) per day, payable to the city.

DIVISION 2. RETAIL LIQUOR LICENSES.

SECTION 4-15. LIQUOR LICENSES - NUMBER TO BE GRANTED.

For purposes of this section, except as otherwise provided in this code or other city ordinances, the provisions of Wyoming Statutes Annotated (1977 Repub. Ed.), Section 12-4-201 and 12-4-103, et seq., as from time to time changed or amended, shall apply to the city, and are adopted by reference, as though incorporated herein at length.

SECTION 4-16. PERSONS INELIGIBLE FOR RETAIL LICENSES.

For purposes of this section, except as otherwise provided in this code or other city ordinances, the provisions of Wyoming Statutes Annotated (1977 Repub. Ed.), Section 12-4-103, et seq., as from time to time changed or amended, shall apply to the city and are adopted by reference, as though incorporated herein at length.

SECTION 4-17. APPLICATIONS.

- (a) Any person desiring a retail liquor license shall apply to the city council for such license.
- (b) Such application shall be made under oath upon a form to be prepared by the attorney general of the state and furnished to the city. It shall be sworn to by the applicant, filed in the office of the city clerk and contain the provisions provided for in Wyoming Statute 12-4-102, as from time to time changed or amended, as the same shall apply to the city.
- (c) No person or partner shall have any interest, directly or indirectly, in a retail liquor license unless he shall sign and verify the application for the license; and no corporation shall be granted a license unless two (2) or more of the officers or directors shall sign and verify the application on behalf of the corporation and shall also verify upon their oath as individuals that the statements and provisions are true.
- (d) Corporate licensees and permittee shall advise the licensing authority within thirty (30) days in writing of any change in the information in the application required by paragraph (b) (4) of this section.

SECTION 4-18. HEARING ON APPLICATION.

- (a) Publication of Notice. When an application for a license, permit, renewal or any transfer of location or ownership thereof has been filed in the office of the city clerk, it shall be the duty of such clerk to promptly publish, once a week for two (2) consecutive weeks, in a newspaper of general circulation in the city and also display conspicuously on the premises which the applicant desires to use as the place of sale, a notice that such applicant has made application for a license, permit, renewal or transfer thereof, and that protests against the issuance, renewal or transfer of the license or permit to the applicant will be heard at a time stated in the notice, which shall be at a special or regular meeting of the city council. Notices may be substantially in the following form:

NOTICES OF APPLICATION FOR A _____

Notice is hereby given that on the _____ day of _____, _____
_____ (name of applicant) filed an application for a
_____ license, (permit) in the office of the city clerk of the
City of Kemmerer for the following building (insert address) and protests, if any
there be, against the issuance (transfer or renewal) of the license (permit), will be
heard at the hour of _____ m., on the _____ day of
_____, 20____, in the Kemmerer City Hall.

Dated _____ Signed _____

- (d) Factors Prohibiting Issuance. Any license or permit authorized under this title shall not be issued, renewed or transferred until on or after the date set in the notice for hearing protests. If a renewal or transfer hearing, the hearing shall be held no later than thirty (30) days preceding the expiration date of the license or permit. A license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing:
- (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.

SECTION 4-19. APPEAL OF DENIALS.

No applicant for a license under this chapter shall have a right of appeal from the decision of the city council denying an application except applicants holding a license which is expiring and who are applying for a renewal.

SECTION 4-20. TERM; TRANSFER; REFUND OF FEES.

A license shall be a personal privilege, good for one (1) year unless sooner revoked

after public hearing and upon approval of the city council, the license may be renewed on different premises on the same basis of an original application, except for the payment of the license fee, which renewed license shall expire as of the date of the original license. The owner of such license, by an actual bona fide sale to be made in good faith, may, if proceedings are not pending to suspend, revoke or otherwise penalize the license holder, assign and transfer such license and the assignee or transferee thereof, subject to the condition and approval hereinafter stated, may exercise the privilege of continuing the business at the place authorized by such license, without the payment of any additional license fee, until the expiration of the same, upon the express condition, however, that such assignee or transferee shall first make and file a sworn application showing the qualifications of such person or assignee or transferee to take and hold a retail liquor license as required by Section 4-20 and subject to the approval of the city council, after public hearing; provided, that the city council shall notify in writing the Wyoming Liquor Commission at least ten (10) days prior to approval of such transfer or sale.

Except as provided by this section and state law, no license shall be transferred or sold, nor shall it be used for anyplace not described in the license at the time of issuance, nor shall it be subject to attachment, garnishment or execution. No refund of all or any part of any license fee shall be made at any time following the issuance thereof.

SECTION 4-21. RENEWALS.

- (a) Preference. Upon the expiration of any license the owner and holder thereof shall have a preference right to a new license for the same location, if such license may be granted under this chapter and application therefor conforming with requirement of Section 4-18, shows that such licensee is otherwise qualified to receive such new license.
- (b) To be Promptly Considered; Publication of Notice. Each application claiming renewal preference shall be promptly considered and decided by the city council after publication or other notice provided by Section 4-18.
- (c) Appeals. Any such applicant owning and holding a license which is expiring and who has applied for a new license, and whose application for a new license has been denied by the city council, may have an appeal from such decision to the District Court in the Third Judicial District in and for the County of Lincoln, State of Wyoming.

SECTION 4-22. SIGNING AND ATTESTATION; CONTENTS; DISPLAY.

- (a) Each license issued by the city shall be signed by the mayor and attested by the

clerk.

- (b) The following shall be shown in each license:
 - (1) The name of the licensee;
 - (2) A description of the place in which alcoholic and/or malt beverage may be sold;
 - (3) The date of issuance;
 - (4) The amount of the fee and that the same has been paid.
- (c) Each licensee shall display his license in a conspicuous place in the licensed room.

SECTION 4-23. FEES.

Every person licensed as a retail dealer by the provisions of this chapter shall pay annually, in advance, for a license hereunder, the sum of One Thousand Dollars (\$1,00.00) for City fiscal year 1996-97 and \$750 each year thereafter. The license fee shall be paid to the city clerk before the license is issued.

SECTION 4-24. ADMINISTRATIVE RULES APPLY.

In the event of any contested hearings or proceedings under this chapter, the administrative rules and regulations in Sections 2-54 through 2-78 shall apply, except to the extent that they may be in conflict with the specific provisions of this chapter.

SECTION 4-25. LICENSES SUBJECT TO REVIEW.

- (a) All licenses or permits issued by the City of Kemmerer 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 exists 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.
- (b) The holder may appear before the Council with legal counsel and witnesses. The failure of the holder, or an agent in his employment, to appear shall constitute grounds for suspension, revocation, or refusal to renew.

SECTION 4-26. HEARINGS.

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.

ARTICLE III. LICENSED BUILDING RESTRICTIONS

SECTION 4-27. LICENSED BUILDING RESTRICTIONS

- (1) Except as provided in this section, no licensee or agent, employee or server thereof shall knowingly permit any person under the age of twenty (21) years to enter or remain in the licensed building where alcoholic or malt beverages are dispensed in an establishment that provides adult entertainment and/or is primarily for on-premise consumption where the primary source of revenue from the operation is from the sale of alcoholic or malt beverages unless:
 - (a) The establishment is operating a restaurant with a commercial kitchen where the primary source of revenue from the operation is from the sale of food and not from the sale of alcoholic or malt beverages.
 - (b) The establishment operates a commercial kitchen, persons under the age of twenty-one (21) years may enter or remain in the licensed building until the hours of 10 p.m.
 - (c) Limited Retail License holders may dispense alcoholic or malt beverages from locations outside of their licensed building, up to four times per year, as approved by the governing body.
 - (d) Any other establishment approved by the governing body.
 - (e) Establishments that operate primarily for off-premise sales shall maintain a separate area for the sale of alcoholic or malt beverages.

