

ORDINANCE 2024-5

AN ORDINANCE AMENDING TITLE 2 - SALE, LICENSING AND USE OF ALCOHOLIC AND MALT BEVERAGES SECTION 2-2-6 GROUNDS FOR SUSPENSION, REVOCATION, OR NON-RENEWAL AND 2-5-1 BAR AND GRILL LICENSES AND UPDATING SECTION 2-2-16 RESTAURANT LIQUOR LICENSES AS PREVIOUSLY AMENDED

WHEREAS, the City of Lander, pursuant to Wyoming Statutes, §12-4-101 *et. Seq.*, licenses and regulates the issuance of liquor licenses; and

WHEREAS, as a result of statutory amendments made by the 67th Wyoming Legislature during the 2023 General Session, the Mayor and Council of the City of Lander, has determined that the existing municipal code needs to be revised; and

WHEREAS, Section 2-2-16 was amended by Ordinance 2021-1 on May 11, 2012 and should be updated herein; and

NOW THEREFORE, be it ordained by the Mayor and Council of the City of Lander, in the State of Wyoming, as follows:

TITLE 2

SALE, LICENSING AND USE OF ALCOHOLIC AND MALT BEVERAGES

SECTION 1:

- 2-1-1 **Maximum Term of Licenses**
- 2-1-2 **Licenses Subject to Review**
- 2-1-3 **Hearing**
- 2-1-4 **Fee Upon Transfer of License**
- 2-2-1 **General**
- 2-2-2 **Definitions**
- 2-2-3 **License Required**
- 2-2-4 **Expiration**
- 2-2-5 **Fees**
- 2-2-6 **Grounds for Suspension, Revocation or Non-Renewal**
- 2-2-7 **License Holder Accountable for Agent**
- 2-2-8 **Providing Minor with Alcoholic Beverages Prohibited**
- 2-2-9 **Minors Prohibited from Having or Using Alcoholic Beverages**
- 2-2-10 **Falsifying Identification Prohibited**
- 2-2-11 **Consumption on Private Premises Prohibited**
- 2-2-12 **Public Exhibition and Consumption**
- 2-2-13 **Public Drunkenness**

- 2-2-15 **Hours of Sale**
- 2-2-16 **Restaurant Liquor Licenses**
- 2-2-17 **Continuing Violation**
- 2-2-18 **Temporary Malt Beverage Permits; Issuance**
- 2-2-19 **Same; Limits**
- 2-2-20 **Same; Fees**
- 2-2-21 **Same; Restrictions**
- 2-3-1 **Microbrewery Permits**

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, fees shall be paid prior to the transfer becoming effective as stated in the City of Lander Fee Schedule. (*Section 2-1-4 Amended by Ordinance 1193, effective 11/15/15*)

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 stated in the City of Lander Fee Schedule. (*Section 2-2-5 amended by Ordinance 1193 effective 11/15/15*)

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 license 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.
- (c) **Receipt by the city clerk of a notice of sales tax delinquency and a Sales Tax Hold Notice from the State of Wyoming issued pursuant to W.S. 12-2-306, as amended.**
- (d) **Suspension or Revocation Procedure: Upon receipt by the city clerk of an alleged violation notice of a, b or c above, the city clerk shall notify the liquor licensee of the alleged violation(s). Notice of such violation shall be served by certified mail to the address of the licensee listed on the licensee's most recent liquor license application to the city, and shall include a statement:**

~~That the city received a notice for failure to pay sales tax or a summarization, including the nature and dates of the alleged violation(s) criminal violation described in Paragraph D herein has occurred, and that a fine, suspension and/or revocation of the licensee's license is possible; and~~

~~Summarizing the nature and date(s) of the incidents resulting in the conviction and notice for failure to pay sales tax.~~

~~Within fifteen calendar days of the notification of the violation(s), a hearing shall be set before the Governing Body. If the violation is sales tax delinquency as outlined in c and the liquor licensee fails to obtain a Sales Tax Release within fifteen calendar days from the date the city clerk receives the Sales Tax Hold Notice, a hearing shall be set before the governing body.~~

~~The Sales Tax Hold Notice certified notice from the state and all evidence presented to the state in support of the certified notice or and an order of conviction from municipal court for violation of state statute or ordinance violation will be admitted and considered prima facie evidence of the liquor licensee's violation(s) sales tax delinquency or conviction of municipal ordinance on liquor.~~

~~The purpose of the hearing is to allow the liquor licensee to offer corrections to the information; and action taken by liquor licensee to mitigate the violation and for the Governing Body to determine whether liquor licensee should face restrictions or suspension of the liquor license. Notice of such violation shall be served by certified mail to the address of the licensee listed on the licensee's most recent liquor license application to the city, and shall include a statement:~~

~~That the city received a notice for failure to pay sales tax or a criminal violation described in Paragraph D herein has occurred, and that a fine, suspension and/or revocation of the licensee's license is possible; and~~

~~Summarizing the nature and date(s) of the incidents resulting in the conviction and notice for failure to pay sales tax.~~

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.

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

Licensed Building Restrictions

Except as provided in this section, no licensee or agent, employee or server thereof shall knowingly 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 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; Employees at least eighteen (18) years of age are permitted in the building in the course of their employment and may serve 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 hour of 2:00 a. m. but not including seating at the bar itself;
- (c) Limited Retail Licenses (clubs) are exempt from the age restrictions listed above;
- (d) Retail Licenses operating as a bowling alley are exempt from the age restrictions above;
- (e) Establishments that operate primarily for off-premise sales shall maintain a separate area for the sale of alcoholic or malt beverages, including a separate check out area.
- (f) In any other establishment and operation that is approved by the City Council for persons under twenty-one (21) years to be present.

No person shall sell, furnish, provide, give or cause to be sold, furnished or given away an alcoholic or malt beverage to a minor, under the age of 21, who is not his legal ward, medical patient or a member of their immediate family

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) all 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.;
 - (v) The interior areas of the Lander Community and Convention Center; and the exterior grounds of the Lander Community and Convention Center, including, but not limited to, the south patio and fireplace area, the north patio, but excluding the parking lot. This shall apply to the hours of 10:00 a.m. to 2:00 a.m.; and
 - (vi) All other areas specifically exempted by resolution of the City Council
- (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.

2-2-13. Public Intoxication . - No person shall appear or be present in any public place while under the influence of alcohol, narcotics or other non-prescribed mind altering substance(s) to the extent that such person creates a nuisance or spectacle. This ~~as~~ may be established by any of the following elements: staggering, weaving, sleeping, vomiting, speaking incoherently, obscene speech, offensive gestures, or any other indecent or obnoxious conduct or act.

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 a licensee may open the building at 6:00 a.m. and shall close the building 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 building of all persons other than employees by 2:30 a.m.; and
- (b)

~~**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.~~
- ~~(d) All Restaurant Liquor Licensee's shall comply with any and all applicable state, federal, and municipal liquor laws.~~

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 an area 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 over eighteen (18) years of age be permitted to enter the dispensing area.
- (c) No restaurant liquor licensee shall serve alcoholic or malt beverages after food sales and services have ceased.
- (d) All Restaurant Liquor Licensee's shall comply with any and all applicable state, federal, and municipal liquor laws.

Amended by Ordinance 2021-1 on May 11, 2021

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 and Catering Permits; Issuance.
WY Statute 12-4-502

2-2-20. Repealed

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 un-accrued 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 as stated in the City of Lander Fee Schedule. Said permit shall be renewed annually as other liquor licenses provided for hereunder. *(Section 2-3-1(b) amended by Ordinance 1193 effective 11/15/15)*
- (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) 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. (*Section 2-5-1 amended by Ordinance 1193 effective 11/15/15.*)

- c) A Bar and Grill license holder may include entertainment as part of the compliance with W.S. § 12-4-413 provided entertainment meets the following requirements and definitions:
 - i. For purposes of this section “Entertainment” means any activity designated to provide diversion or amusement, regardless of the age required for the activity. “Entertainment” shall not include adult entertainment or gambling.
 - ii. For purposes of this section “Adult Entertainment” means any form of dancing, exhibition or display involving male or female nudity or partial nudity for any period of time intended to gratify the sexual desires of any entertainer or patron, or any sexually oriented business.
 - iii. For purposes of this section Gambling is defined as risking any property for gain contingent in whole or in part upon lot, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking the risk has no control.

SECTION 2: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3: Severability. If any section, subsection, sentence, phrase, or clause of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4: This Ordinance shall take effect from and after its passage, approval and publication as required by law and the ordinances of the City of Lander.

PUBLIC HEARING FEBRUARY 13, 2024

PASSED ON FIRST READING FEBRUARY 13, 2024

PASSED ON SECOND READING

PASSED ON THIRD READING

PASSED, ADOPTED AND APPROVED by the Mayor and City Council on the _____.

THE CITY OF LANDER
A Municipal Corporation

By _____
Monte Richardson, Mayor

ATTEST:

Rachelle Fontaine, City Clerk

STATE OF WYOMING)
)ss.
COUNTY OF FREMONT)

CERTIFICATE

I hereby certify that on April 9, 2024, following passage, adoption and approval of Ordinance 2024-5, Monte Richardson, the duly elected, qualified and acting Mayor of the City of Lander, issued this proclamation and said ordinance was published at least once in the Lander Journal, a newspaper of general circulation within Lander, Wyoming, the effective date and publication being April 10, 2024.

Rachelle Fontaine, City Clerk