

TITLE 2 SALE, LICENSING AND USE OF ALCOHOLIC AND MALT BEVERAGES

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.

i) 2.1.1 General – Adoption of State Alcohol Beverage Laws

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. Except as otherwise provided in this Title 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 Title 12 as from time to time may be amended.

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ii) 2.1.2 Definitions

Definitions - as used herein the following terms shall have the following meanings:

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A. "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.

B. "Alcoholic liquor" means any spirituous or fermented fluid, substance or compound other than malt beverage intended for beverage purposes which contains at least one-half of one percent (.5%) of alcohol by volume.

C. "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.

D. "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.

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E. "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.

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F. "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.

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G. "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;

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2. Enter and/or remain in a room in which alcoholic beverages are dispensed or sold, shall not be considered minors, as herein defined.

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

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I. "Operational" means offering for sale on an ongoing weekly basis to the general public alcoholic liquor and malt beverages as authorized under a license or permit issued under W.S. § 12-1-101 et seq.

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J. "Restaurant" means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on-premises consumption and 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.

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K. "Sell" or "sale" includes offering for sale, trafficking in, bartering, delivering or dispensing and pouring for value, exchanging for goods, services or patronage or an exchange in any way other than purely gratuitously. Every delivery of any alcoholic liquor or malt beverage made otherwise than by gift constitutes a sale.

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L. "Winery" means a commercial enterprise at a single location producing wine.

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

(2) "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.

(3) "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;

- (a) Possess alcoholic beverages and/or;
- (b) Enter and/or remain in a room in which alcoholic beverages are dispensed or sold, shall not be considered minors, as herein defined.

iii) 2.1.3 License AND APPLICATION Required

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No person shall sell alcoholic or malt beverages without a liquor license or permit issued by the City of Lander. Application shall be made to the City Council governing body 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.

(1) Pursuant to W.S. § 124-102, original and renewal liquor license applications shall contain:

- (a) The location of the licensed building in which the applicant will sell under the license, if the building is in existence at the time of the application. If the building is not in existence, the location and an architect's drawing or suitable plans of the licensed building and premises to be licensed;
- (b) The age and residence of the applicant, and of each applicant or partner if the application is made by more than one (1) individual or by a partnership;
- (c) A disclosure of any criminal record of the applicant or any partner equal to a felony conviction under Wyoming law and of any conviction for a violation of Wyoming law relating to the sale or manufacture of alcoholic liquor or malt beverages within ten (10) years prior to the filing of the application;
- (d) A statement indicating the financial condition and financial stability of the new applicant;
- (e) If the applicant is a corporation:
 - (i) The name, age and residence of each officer, director, and stockholder holding, either jointly or severally, ten (10%) percent or more of the outstanding and issued capital stock of the corporation; and
 - (ii) Whether any officer, director or stockholder with ten (10%) percent or more ownership has been convicted of a violation of law as

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provided above.

(f) If the applicant is a limited liability company:

(i) The name, age and residence of each officer, manager, and member holding, either jointly or severally, ten (10%) percent or more of the outstanding ownership of the limited liability company; and

—Whether any officer, manager or member with ten (10%) percent or more ownership has been convicted of a violation of law as provided above.

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(2) Licenses Subject To Review - All licenses or permits issued by the City are subject to review at any time by the City Council governing body. At any time the Council governing body 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.

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(3) Hearing - If the Council governing body 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 governing body 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 governing body may immediately suspend or revoke the permit or license. Otherwise, the Council governing body 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.

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iv) 2.1.4 Term, Renewal and Expiration of License

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A. No liquor 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. (I find this odd language- I suggest "A liquor license or permit is considered a personal privilege to the holder and the term of the liquor license or permit is for one (1) year unless sooner revoked".

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B. 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 in accordance with W.S. 12-4-106 (b).

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C. Any liquor license or permit shall not be issued, renewed or transferred until on or after the date noticed and set for public hearing of protests. A liquor license

or permit shall not be issued, renewed or transferred if the governing body finds from evidence presented at the hearing;

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- a. The welfare of the people residing in the vicinity of the proposed liquor license or permit premises shall be adversely and seriously affected;
- b. The purpose of this title shall not be carried out by the issuance, renewal or transfer of the liquor license or permit;
- c. The number, type and location of existing liquor licenses or permits meet the needs of the vicinity under consideration;
- d. The desires of the residents of the city will not be met or satisfied by the issuance, renewal or transfer of the liquor license or permit;
- e. Restaurant or Bar and Grill liquor license failure to satisfy the statutory requirements concerning gross sales of food, alcohol, and entertainment as appropriate or failure to provide a valid food service permit;
- f. The liquor license or permit is in violation of the operational requirements set forth in W.S. 12-4-103 (iv).
- g. Alcohol Server Training.
- h. Any other reason pursuant to state statute.

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v) 2.1.5 Fees

A. Original License and Renewal Fees for alcoholic beverage liquor licenses shall be as stated in the City of Lander Fee Schedule. City Administration has the right to suspend or terminate a license if fees are not paid in full prior to the expiration date of February 20. Issuance of the original or renewal of a liquor license.

B. Transfer: Upon approval by the Lander City Council governing body 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.

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2.2.1 Mandatory Standards for the Sale and Possession of Alcoholic Beverages

Every liquor licensee and/or his or her employees shall conform to the following mandatory standards when selling and serving alcoholic beverages in the city. Standards. For this chapter, the following standards of conduct shall apply:

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1. Refuse to serve any patron who is obviously intoxicated or is obviously physically endangering people or property in the licensed premises or dispensing area. For the purposes of this section, "obviously intoxicated"

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shall mean an individual who is inebriated to the extent that the person appears substantially impaired, and the impairment is evident by actions such as slurred speech, uncoordinated physical actions or physical dysfunction which would be obvious to a reasonable person.

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2. Order any patron to leave and depart who is endangering people or property in the licensed establishment and notify the Lander police department of any criminal incident as soon as reasonably possible.
3. Refuse to sell, give, or deliver alcoholic liquor or malt beverage to any person under the age of twenty-one years.
4. Report other criminal activity in the licensed building, dispensing area or on the licensed premises as established by local, state or federal law, as soon as reasonably possible.
5. Comply with the training and records maintenance requirements of section 4-4(e).
6. 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.
7. A licensee shall not be subject to multiple convictions arising out of the same set of facts, events, date and time for the purposes of this section.

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B. Public responsibility.

1. No person shall consume or carry in open containers alcoholic liquor or malt beverages, inside or outside of any motor vehicles on any street or highway, 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 this Title.
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.

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C. Chartered vehicles. Alcoholic liquor or malt beverages may be consumed by adult passengers within: (1) commercial limousines, being defined for purposes herein as a passenger car pursuant to W. S. Section 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; (2) horse-drawn vehicle; or (3) a chartered bus, trolley or similar vehicle designed to carry ten or more persons when the vehicle is being used for transportation of passengers. The driver of any such vehicle is prohibited from consuming, possessing, or having an alcoholic beverage in or about the driving area of the vehicle. No fee may be charged for any alcoholic liquor or malt beverage consumed in such vehicles.

D. Bottle clubs.

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

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

E. Penalty. Each violation of a standard set out in this section shall constitute a misdemeanor punishable by a fine of not more than seven hundred fifty dollars and in accordance with the current adopted City of Lander Fee Schedule.

1. A violation of this chapter that results in a conviction is punishable by a fine of not more than seven hundred fifty dollars, or other penalties per City of Lander Municipal Bond Fee Schedule. Evidence that the licensee or his or her employee summoned police to deal with activity within the establishment that is prohibited by this Title may be considered in mitigation of the penalty that may be imposed for a conviction.

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2.2.2 Plan Of Operation Required

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

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1. An operational statement describing the location and layout of the licensed building, licensed premises and/or dispensing area;

2. Schedule of all days and hours of operation;

3. Description of the character and use of the facility (i.e., bar, restaurant, brewery, etc.);

4. Description of specific alcohol inventory management practices that are relevant to the license at issue;

5. Description of specific crowd control and security practices that are relevant to the license at issue;

6. Description of other information that is relevant and pertinent to the operation of the licensee's licensed premises and dispensing area that is reasonably available to the licensee and that is specifically requested by the city governing body at the time of renewal, transfer or issuance of the license;

7. Description of delivery and/or curbside services if offered by the licensee;

8. A bar and grill shall define the type of entertainment it intends to provide.

9. Alcohol Server Training plan and schedule.

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B. Amendments. The licensee may propose amendment(s) to an existing approved plan of operation for an issued license during the term of its license. Such an amendment may be approved by the city administrator if it is not a material deviation from the licensee's existing approved plan.

C. Deviation. Any material deviation from the approved plan of operation requires a formal review by City administration and may be referred to the city governing body for approval of a modified plan of operation.

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2.3.1 Penalties and Fines

- ~~In addition to any other penalty, sanction or fee authorized under this chapter or applicable state law, if a licensee, or its employee(s), is convicted of a criminal violation of one or more of the standards set out in city of Sheridan Code section 4-5(a)(1)-(6) (inclusive) that is applicable to licensees or licensee employees, the licensee shall, upon actual notice, pay to the city clerk, an administrative fee. The notice to pay shall be issued by the city clerk to the licensee at the licensee's mailing address of record within twenty calendar days immediately following entry of a final conviction. Said fee shall be paid within ninety calendar days of the notice to pay, unless, only for first and second convicted violations occurring within twelve-month period, the licensee provides timely notice of intent to ameliorate to the city clerk and completes additional training and established preventative measures according to subsection (c) of this section, below.~~
- ~~*Payment on conviction:*~~
 - ~~Upon first conviction of a violation of any standard set out in section 4-5(a)(1)-(6) (inclusive), the licensee shall pay to the city clerk, an administrative fee in the amount of five hundred dollars.~~
 - ~~Upon a second conviction of a violation of any standard set out in section 4-5(a)(1)-(6) (inclusive), arising within a twelve-month period, the licensee shall pay to the city clerk, an administrative fee in the amount of one thousand dollars.~~
 - ~~Upon a third conviction of a violation of any standard set out in section 4-5(a)(1)-(6) (inclusive) arising within a twenty-four-month period, the licensee shall pay to the city clerk, an administrative fee in the amount of one thousand dollars. The licensee shall also submit a revised plan of operation, acceptable to the city council, specifically addressing the conviction including actions they will take to prevent further violations.~~
 - ~~Upon a fourth conviction of a violation of any standard set out in section 4-5(a)(1)-(6) (inclusive) 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. The licensee shall also submit a revised plan of operation, acceptable to the city council, specifically addressing the conviction including actions they will take to prevent further violations.~~
 - ~~Upon a fifth or subsequent conviction of a violation of any standard set out in section 4-5(a)(1)-(6) (inclusive) 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. The licensee shall also submit a revised plan of operation, acceptable to the city council, specifically addressing the conviction including actions they will take to prevent further violations.~~
 - ~~Convictions of violations of any standard(s) which violations occur before June 30, 2017, shall not apply after that date.~~
 - ~~A licensee shall not be subject to multiple administrative fines arising out of the same set of facts, events, date and time for the purposes of this section.~~
 - ~~Any fine paid by a licensee for a criminal conviction per this chapter shall be applied as a credit towards the payment of any administrative fee required to be paid pursuant to this section.~~

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~~Amelioration Only for a first or a second conviction of a violation of any standard set out in section 4-5(a)(1)–(6) (inclusive) occurring within a twelve-month period, the administrative fee that may otherwise be imposed pursuant to this section shall be fully waived if:~~

~~— Within seventy-five calendar days immediately after the licensee's timely provision of notice to the city clerk of intent to ameliorate, the licensee shall provide the city clerk with written proof that the person who committed the relevant violation has attended an alcohol server training program as approved by Wyoming Statute section 12-2-402 (whether or not that person has previously attended such training) if the person is still employed by the licensee. Regardless of whether the person who committed the relevant violation is still employed by the licensee, the licensee shall also, within the same seventy-five calendar-day time period, submit to the city clerk a revised plan of operation to the city council that specifically addresses the actions they will take to prevent a similar violation.~~

~~— Following timely compliance with the requirements of subsection (c)(1) above, the city council shall meet and either accept the licensee's proposed revised plan of operation or require additional preventative measures such as additional licensee or licensee employee training or a modification of the licensee's existing plan of operation that is reasonably designed to address the circumstances that led to the relevant violation.~~

~~Each day of a continuing violation of this Title shall be deemed a separate offense.~~

**2.3.1 Demerit point values for alcoholic beverage violations — Hearings —
Suspensions and revocation petition consideration — Procedure.**

A. Purpose. The governing body shall use an alcoholic liquor and malt beverage demerit point system to assist it in identifying licensees that repeatedly violate the provisions of this code relating to alcoholic liquor and malt beverages, and in determining when liquor licenses should be suspended or revoked as a result of such violations. Violations of this chapter by an employee or agent of a licensee, while acting in the service of the licensee, shall be imputed to the licensee for the purposes of this section. Accordingly, a licensee will acquire demerit points upon the conviction of its employees and/or agents for violations of the City code Chapter 4 committed while acting in the service of the licensee. References to "violations by licensee," "convictions of a licensee," "demerit points acquired by a licensee," and similar references shall be construed in a manner consistent with this intent. Upon conviction for any offense specified in subsection B of this section, the number of demerit points specified in subsection B shall be acquired by the licensee. Points shall be considered "acquired" by a licensee on the date Chapter 4 of this code is violated by the licensee. In attributing points to a licensee, the section number of the City code which the licensee is convicted of violating and the points ascribed to the violation by subsection B are controlling.

B. Demerit Points. The number of demerit points specified below will be acquired by a licensee as a result of a conviction of it, its employees or agents for violations of the corresponding sections of this chapter.

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City Code

Section or Chapter Type of Violation

Failure to notify City of changes in application information

Special malt beverage permit violation:

Selling alcohol liquor other than malt beverages

Point Value

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City Code

Section or Chapter	Type of Violation	Point Value
	<u>Malt beverage sold for consumption off the authorized premises</u>	<u>25</u>
	<u>Catering permit violation:</u>	
	<u>Selling or permitting consumption of alcoholic liquor or malt beverage off the authorized premises</u>	<u>25</u>
<u>§</u>	<u>Unlawful sale or transfer of license or permit</u>	<u>5</u>
<u>§</u>	<u>Providing false information on license application</u>	<u>50</u>
<u>§</u>	<u>Fraternal club permit violation:</u>	
	<u>Selling alcoholic liquor or malt beverage for consumption off the licensed premises.</u>	<u>25</u>
	<u>Selling alcoholic liquor or malt beverage for consumption by other than members and their accompanied guests.</u>	<u>25</u>
<u>§</u>	<u>Drive-in area violation</u>	<u>25</u>
<u>§</u>	<u>Drugstore sale violation</u>	<u>25</u>
<u>§</u>	<u>Resort retail license violation:</u>	
	<u>Improper transfer of license</u>	<u>50</u>
	<u>Selling alcoholic beverages or malt liquor for consumption off premises owned or leased by the licensee</u>	<u>25</u>
<u>§</u>	<u>Restaurant license sale violation</u>	<u>25</u>
<u>§</u>	<u>Retail liquor license location violation</u>	<u>25</u>
<u>§</u>	<u>Retail liquor license sale violation</u>	<u>25</u>
<u>§</u>	<u>Golf Club liquor license sale violation</u>	<u>25</u>
<u>§</u>	<u>Hours of sale violation:</u>	
	<u>Per violation</u>	<u>25</u>
<u>§</u>	<u>Off-premises storage violation</u>	<u>25</u>
<u>§</u>	<u>On-premises violations:</u>	
	<u>Prostitution</u>	<u>50</u>
	<u>Public indecency</u>	<u>10</u>
	<u>Obscenity</u>	<u>10</u>
<u>§</u>	<u>Minor illegally on premises:</u>	
	<u>Per violation</u>	<u>50</u>
<u>§</u>	<u>Sale or gift to minor:</u>	
	<u>Per violation</u>	
<u>§</u>	<u>Gambling</u>	<u>10</u>
	<u>Any other violation of this chapter</u>	<u>25</u>

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C. City Court Notification. Not later than thirty days following disposition of a charge alleging a violation of this Chapter in municipal court which results in a conviction, the court shall report the following information to the City Treasurer who, in turn, shall notify the licensee of those items of which the court notified the City Treasurer:

1. The fact that a licensee, its employee or agent has been convicted of a violation of this Chapter of the City code;
2. The date of the alleged violation; and

3. Whether the municipal court disposition has been appealed.

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- D. Controlled Substance Violation. In the event that a licensee, its agent or employee is convicted of illegally distributing or possessing with intent to distribute a controlled substance in the licensed premises, in any court, the licensee shall acquire one hundred points.
- E. Controlled Substance Premises Violation. In the event that a third party is convicted of illegally distributing or possessing with intent to distribute a controlled substance in the licensed premises, and the governing body finds that there is substantial evidence that such occurred with the knowledge of the licensee, or its agent or employee while in the service of the licensee, and that the licensee, its agent or employee did not report his or her knowledge of such sale or possession to a peace officer, as that term is defined in Wyoming Statute Section 7-2-101, as soon as practicable, the licensee shall acquire fifty points.
- F. Inspection Violation. In the event that the governing body concludes that there is substantial evidence that a licensee, its agent or employee has refused to allow entry and inspection pursuant to Section 4-3 1, the licensee shall acquire one hundred demerit points for each day that a refusal occurs.
- G. Violation Hearing. Should the governing body become aware that an event, as described in subsection D, E, F or H of this section, may have occurred, it shall provide the licensee with notice and an opportunity for a hearing. Notice of such hearing shall precede consideration of the matter by at least ten days, shall be served personally or 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:
1. That the governing body has been informed that one or more of the events described in subsection D, E, F or H of this section, has occurred and that as a result demerit points may be attributed to the licensee and that a suspension and/or revocation of the license is possible;
 2. Summarizing the nature and date(s) of the alleged event(s) and the number of demerit points which would be attributed to the licensee if the governing body finds that such event(s) occurred;
 3. That a hearing on the subject has been scheduled before the governing body, and further informing the licensee of the time and place of the hearing; and
 4. That the purpose of the hearing is to hear evidence, including that presented by the licensee, on the issue.
- H. Suspension Periods. Except as otherwise provided, the following suspension periods shall be imposed:
1. Every licensee acquiring one hundred twenty-five points in a twelve-month period shall have its license suspended for seven days;
 2. Every licensee acquiring more than one hundred seventy-five but less than two hundred fifty points in a twelve-month period shall have its license suspended for thirty days, and
 3. Every licensee acquiring more than two hundred fifty points in a twenty-four month period shall have its license suspended for sixty days.
 4. It is declared to be a gross violation, both of this chapter and for the purposes of license revocation as provided in Title 12, Chapter 7, of the Wyoming Statutes, for a licensee to have its license suspended three times in any twenty-four-month period. In the event of a gross violation, the governing body may authorize a petition to the district court pursuant to Wyoming Statutes Section 12-7-201 to revoke a licensee's license.
 5. The sanctions provided in this section for demerit points are cumulative, and therefore points may result in multiple sanctions. Accumulated points shall not be excused at the end of the license year, but shall instead continue to be counted against a licensee for the periods described in this section of the Evanston Municipal code.
- I. Suspension Hearing. If it appears to the governing body that a licensee has acquired

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sufficient points to result in a suspension or revocation of its license, the licensee shall be afforded an opportunity for hearing before the governing body. The purpose of such hearing is to allow the licensee to provide information demonstrating that such points have not been acquired. Notice of such hearing shall precede consideration of the matter by at least ten days, shall be served personally or 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:

1. That it appears to the governing body that the licensee has acquired points such that a suspension and/or revocation of the licensee's license is appropriate;
2. Summarizing the nature and date(s) of the incidents resulting in points and the number of demerit points alleged to have been acquired by the licensee as a result of such incidents;
3. That a hearing on the subject has been scheduled before the governing body, and further informing the licensee of the time and place of the hearing; and
4. That the purpose of the hearing is to allow the licensee to offer corrections to the information demonstrating such points have not been acquired.

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J. Hearing requirements. At a hearing, a licensee may appear in person or through counsel. A licensee will be given an opportunity to present evidence and argument on the relevant issue. Evidence relied on shall consist of information commonly relied upon by reasonably prudent people in the conduct of their serious affairs. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A record shall be made of the proceedings and shall include the following:

1. All notices and intermediate rulings;
2. Evidence received or considered by the governing body including information officially noticed and received from the municipal court;
3. Questions and offers of proof, objections and rulings thereon;
4. Any proposed findings and exceptions thereto; and
5. Any opinion, findings, decision or order of the governing body and any report by any hearing officer.

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K. Hearing Examiners. Nothing shall preclude the governing body from appointing one or more hearing examiners to conduct any hearing called for by this section for the purpose of assembling a record for subsequent consideration by the governing body. If a hearing examiner is appointed, the governing body shall direct the examiner to forward the record of the hearing to the governing body either with or without proposed findings of fact and conclusions of law, and with or without the opinion/recommendation of the examiner.

L. Governing body decision. Following the hearing described in this section, and based upon the information considered and received at such hearing, and the sanctions described, the governing body shall:

1. Order the suspension of the license in question;
2. Authorize the City Attorney to prepare and file with the district court a petition to revoke the licensee's license; or
3. Find that suspension or revocation is not required by the terms of this section.
4. Governing body decisions shall be in writing, shall be supported by findings of fact and conclusions of law, and shall be delivered to the licensee in interest either personally or by mail at the address listed on the licensee's most recent liquor license application to the City.

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M. Appeal. The governing body's action suspending a licensee shall be subject to review in the district court in accordance with the procedural rules heretofore or hereinafter adopted by the Wyoming Supreme Court concerning the review of administrative actions. Filing an appeal as provided in such rules, stays enforcement of the suspension decision pending final order on the appeal. The governing body's action may be set aside by the district court if it finds the action to be:

1. Arbitrary, capricious, or otherwise not in accordance with law;
2. Without observance of the procedure required by law; or

3. Unsupported by substantial evidence.

N. If a license is revoked, except as provided in Wyoming Statutes § 12-7-201(d) concerning the expiration of a licensee while a revocation order is under appeal, the holder of such revoked license shall not be eligible to apply for a new license for a period of twelve months from the date of revocation.

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vi) **2.3.2 Grounds For Suspension, Revocation Or Non-Renewal**

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Without limitation, the following are grounds for the City Council governing body to suspend, revoke, or refuse to renew any license or permit under this Title:

(1) D. 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.

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(2) E. 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.

(3) F. 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.

(4) G. Suspension or Revocation Procedure: Upon receipt by the city clerk of an alleged violation 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 summarization, including the nature and dates of the alleged violation(s) and that a fine, suspension and/or revocation of the licensee's license is possible; Within fifteen calendar days of the notification of the violation(s), a hearing shall be set before the Governing Body.

(5) H. The Sales Tax Hold Notice from the state and all evidence presented to the state in support of the notice or an order of conviction from the 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).

I. The purpose of the hearing is to allow the liquor licensee to offer corrections to the information, and action taken by the liquor licensee to mitigate the violation and for the Governing Body to determine whether the liquor licensee should face restrictions or suspension of the liquor license.

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(6) J. Any reason set forth in 2.1.4 (c) above.

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vii) **2.3.3 License Holder Accountable For Agent**

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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.

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shall not apply. This section shall apply to misdemeanor violations and **City Council governing body** 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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viii) 2.3.4 Providing Minor With Alcoholic Beverages Prohibited

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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:

- (1) **K.** 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;
- (2) **L.** 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;
- (3) **M.** Limited Retail Licenses (clubs) are exempt from the age restrictions listed above;
- (4) **N.** Retail Licenses operating as a bowling alley are exempt from the age restrictions above;
- (5) **O.** 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.
- (6) **P.** In any other establishment and operation that is approved by the **City Council governing body** for persons under twenty-one (21) years to be present.

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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.

ix) 2.3.5 Minors Prohibited From Having Or Using Alcoholic Beverages

No minor shall:

- (1) Q. 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.)*
- (2) 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
- (3) use or consume any alcoholic or malt beverages in any public place.

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x) 2.3.6 Falsifying Identification Prohibited

No person shall, for the purpose of obtaining alcoholic or malt beverages for himself or for another person:

- (1) A. falsify any identification;
- B. use identification belonging to another person; or
- (2) C.
- (3) lend to or permit another person to use any identification not belonging to that person.

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xi) 2.3.7 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.

xii) 2.3.8 Public Exhibition And Consumption

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(1)D. No person shall consume any alcoholic or malt beverage, or exhibit any open container thereof, in any public place, with the following exceptions:

(a)1. a restaurant; ~~(bar grills—places of business with underlying liquor licenses?)~~

(b) ~~premises covered by an alcoholic beverage license or malt beverage permit;~~

(c)2. all city parks, between the hours of 8:00 a.m. and 11:00 p.m.;

(d)3. 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.;

(e)4. 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

(f)5. All other areas specifically exempted by resolution of the ~~City Council governing body.~~

(2)E. The ~~City Council governing body~~ 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.

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xiii) 2.3.9 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.

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2-2-152.4.1 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

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sales and services have ceased.

D. All Restaurant Liquor Licensee's shall comply with any and all applicable state, federal, and municipal liquor laws.

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2.4.2 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:

1. 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;
2. Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons, and
3. Include motel or hotel accommodations with a minimum of one hundred (100) sleeping rooms.

2.4.3 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.

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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.

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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 herein. Upon application for renewal the license holder shall submit an annual report to the city on the sales of eth licensed bar and grill. The report shall contain the annual gross sales figures separated into 1. Food service sales, 2. Alcoholic and malt beverage sales and 3. Entertainment sales.

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D. Restaurants as defined herein may be licensed under a bar and grill liquor license. In addition to any other application requirements herein, the license applicant shall submit a valid food service permit upon application and renewal.

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E. All sales of alcoholic and malt beverages authorized by a bar and grill liquor license shall cease at the time food sales and services cease.

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D-F. The governing body will consider the type, level and appropriateness of food

services and entertainment sales in each application when determining whether to issue or renew a bar and grill license. Renewal shall be conditioned upon a requirement that not less than sixty (60%) percent of gross sales from the preceding 12 months operations are derived from food services, entertainment or a combination of food services and entertainment.

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2-2-16 Continuing Violations

Each day of a continuing violation of this Title shall be deemed a separate offense.

2-2-17 2.5.1 Temporary Malt Beverage And Catering Permits: Issuance

A. Issuance - WY Statute 12-4-502

Shall be issued by the Clerk, if appropriate, in accordance with the requirements of W.S. §12-4-502, as it may be amended, following the submission of an approval of the application, any required attachments, and review.

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2-2-20 Same; Restrictions

B. Restrictions - The applicant shall ensure 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.

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2-3-12-5-2 Microbrewery And Winery Permits

A. Definitions — as used herein the following terms shall have the following meanings:

1. "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.

2. "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.

3. "Winery" means a commercial enterprise at a single location producing wine.

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B.A. 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.

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C.B. Provision for Sale in Microbrewery and Winery Permit - Issuance of a permit by the City of Lander shall entitle the permittee to:

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1. 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;
2. 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~~ governing body. Further provided that no additional permit fee shall be charged over and above that charged for the original retail, restaurant or resort license.
3. 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.
4. 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.
5. Transfer ownership of the microbrewery, by the permittee shall not be allowed to transfer the microbrewery permit to another location.
6. Said permit shall be subject to all other requirements of the Wyoming State Statutes governing microbreweries not in effect or hereafter enacted.

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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:~~

- ~~1. 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;~~
- ~~2. Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons, and~~

3. Include motel or hotel accommodations with a minimum of one hundred (100) sleeping rooms.

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.

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:

1. 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.

2. 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.

1. 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.

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Retail Liquor Licenses

Shall comply with te requirements of W.S. 12-4-201 as it may be amended

Sales by Clubs 12-4-301

Restaurant liquor license 12-4-407 408 410

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