

Blue text is suggested new language

Black text is current language

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

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. As used in this paragraph, "beverage" does not include liquid filled candies containing less than six and one-quarter percent (6.25%) of alcohol by volume;

C. "'Building' means a roofed and walled structure built or set in place for permanent use;

D. "Club" means any of the following organizations:(A) A post, charter, camp or other local unit composed only of veterans and its duly organized auxiliary, chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes and, as the owner, lessee or occupant, operates an establishment for these purposes within the state; (B) A chapter, lodge or other local unit of an American national fraternal organization and, as the owner, lessee or occupant, operates an establishment for fraternal purposes within the state. As used in this subparagraph, an American fraternal organization means an organization actively operating in not less than thirty-six (36) states or having been in active continuous existence for not less than twenty (20) years, but does not mean a college fraternity; (C) A hall or building association of a local unit specified in subparagraphs (A) and (B) of this paragraph, of which all of the capital stock is owned by the local unit or its members, operating clubroom facilities for the local unit; (D) A golf club having more than fifty (50) bona fide members and owning, maintaining or operating a bona fide golf course together with a clubhouse; (E) A social club with more than one hundred (100) bona fide members who are residents of the county in which it is located, owning, maintaining or operating club quarters, incorporated and operating solely as a nonprofit corporation under the laws of this state and qualified as a tax exempt organization under the Internal Revenue Service Code and having been continuously operating for a period of not less than one (1) year. The club shall have had during this one (1) year period a bona fide membership paying dues of at least twenty-five dollars (\$25.00) per year as recorded by the secretary of the club, quarterly meetings and an actively engaged membership carrying out the objects of the club. A social club shall, upon applying for a license, file with the licensing authority and the

division, a true copy of its bylaws and shall further, upon applying for a renewal of its license, file with the licensing authority and the division a detailed statement of its activities during the preceding year which were undertaken or furthered in pursuit of the objects of the club together with an itemized statement of amounts expended for such activities. Club members, at the time of application for a limited retail liquor license pursuant to W.S.12-4-301, shall be in good standing by having paid at least one (1) full year in dues; (F) Club does not mean college fraternities or labor unions; (G) A political subdivision of this state owning, maintaining or operating a bona fide golf course together with a clubhouse.

E. Demerit Points: Points assigned to a licensee for specific violations, used to evaluate the

F. "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.

G. "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.

H. "Licensee" means a person holding any one (1) or more of the following: (A) Retail liquor license; (B) Limited retail liquor license; (C) Resort liquor license; (D) County retail malt beverage permit; (E) Twenty-four (24) hour malt beverage permit; (F) Restaurant liquor license; (G) Catering permit; (H) Bar and grill liquor license; (J) Malt beverage wholesale license; (K) Microbrewery permit; (L) Resort hotel liquor license, or any other liquor license allowed under Wyoming State law.

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.

J. "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.

K. "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 may:

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.

L. "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.

M. "Person" includes an individual person, partnership, corporation, limited liability company or any other association or entity, public or private;

N. "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.

O. "Resident" means a domiciled resident and citizen of Wyoming for a period of not less than one (1) year who has not claimed residency elsewhere for any purpose within a one (1) year period immediately preceding the date of application for any license under Title 12 of the Wyoming State Statutes.

P. "Restaurant" means a room 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.

Q. Revocation: Termination of the liquor license.

R. Room: A space defined by four complete walls and a door.

S. "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.

T. Suspension: Temporary revocation of the right to sell or serve alcoholic beverages.

U. Violation: Any breach of federal, state, or local laws or ordinances relating to the sale, service, or consumption of alcoholic beverages.

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

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

A. Purpose: The purpose of this section is to establish a system of fines and demerit points for licensed liquor license holders and establishments in order to deter violations of state and local liquor laws, encourage voluntary compliance, and provide a framework for escalating enforcement actions when needed.

B. Violation Categories and Demerits. Upon first offense, there shall be a written warning, which shall be addressed by the liquor license holder within 30 days. A fine as set forth below shall be imposed upon a second or subsequent offense. Demerit points shall be assessed as set forth below upon first and subsequent offenses.

Type of Violation	Fine	Demerit Points
Sale to Minor	\$500	10
Sale to Intoxicated Person	\$400	8
After-Hours Sale/Service	\$250	5
Controlled Substance Violation as defined below	\$1000	100/50
Failure to Cooperate with Law Enforcement	\$500	10
Unauthorized Gambling	\$250	5
Unauthorized Alcohol Service (failure to obtain appropriate permit, selling while suspended or selling alcohol not purchased from wholesaler)	\$250	5
Record-Keeping/ Reporting	\$150	3
Failure to T.I.P.S. train	\$150	3

Controlled Substance Violations. If 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.

If 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.

Sales Tax Holds shall be addressed and or suspended in accordance with W.S. 12-7-103.

Repeat offenses within a 24-month period may result in increased fines up to double the previous amount and additional demerit points.

C. Demerit Thresholds and Consequences

Cumulative Demerits (24-month period)	Penalty
10–14 points	Present a correction plan
15–19 points	Potential 3-day suspension of liquor license
20–24 points	Potential 7-day suspension of liquor license
25+ points	Violation Hearing before the local licensing authority for revocation or recommendation of revocation through District Court

D. Enforcement and Appeals

1. Violation Hearing. Should the governing body become aware that a licensee has obtained 25 or more demerit points as outlined above, 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:

- A. That the governing body has been informed that one or more of the events described in subsection B 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;

- B. 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;
- C. 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
- D. That the purpose of the hearing is to hear evidence, including that presented by the licensee, on the issue.

2. Suspension Periods.

- A. 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.
- B. The sanctions provided in this section for demerit points are cumulative, and therefore points may result in multiple sanctions.

3. Suspension Hearing. If it appears to the governing body that a licensee has acquired 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:

- A. That it appears to the governing body that the licensee has acquired points
- B. such that a suspension and/or revocation of the licensee's license is appropriate;

- C. 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;
 - D. 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
 - E. That the purpose of the hearing is to allow the licensee to offer corrections to the information demonstrating such points have not been acquired.
4. 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:
- A. All notices and intermediate rulings;
 - B. Evidence received or considered by the governing body, including information officially noticed and received from the municipal court;
 - C. Questions and offers of proof, objections, and rulings thereon;
 - D. Any proposed findings and exceptions thereto; and
 - E. Any opinion, findings, decision, or order of the governing body and any report by any hearing officer.
5. 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.
6. 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:
- A. Order the suspension of the license in question;

- B. Authorize the City Attorney to prepare and file with the district court a petition to revoke the licensee's license; or
 - C. Find that suspension or revocation is not required by the terms of this section.
 - D. Governing body decisions shall be made 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.
7. Appeal. The governing body's action suspending a licensee shall be subject to review in the district court in accordance with the procedural rules for 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:

- A. Arbitrary, capricious, or otherwise not in accordance with law;
- B. Without observance of the procedure required by law; or
- C. Unsupported by substantial evidence.

8. 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.

F. Recordkeeping. The city shall maintain a demerit database for each licensee. Demerit points expire 24 months after the date of the violation, provided no further violations occur within that time.