

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

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. The general control and regulatory provisions of this title apply to all licenses and permits authorized under this title, unless otherwise provided.

2.1.2 Definitions

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 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.
- Q. Revocation: Termination of the liquor license.
- R. "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.
- S. Suspension: Temporary revocation of the right to sell or serve alcoholic beverages.
- T. Violation: Any breach of federal, state, or local laws or ordinances relating to the sale, service, or consumption of alcoholic beverages.
- U. "Winery" means a commercial enterprise at a single location producing wine.

2.1.3 License and Application Requirements

- A. No person shall sell alcoholic or malt beverages without a liquor license or permit issued by the City of Lander. Application shall be made under oath on the approved form to the governing body as provided by state law, and any licenses or permits granted shall be in accordance 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.

- B. Pursuant to W.S. § 12-4-102, 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 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
 - (ii) Whether any officer, manager or member with ten (10%) percent or more ownership has been convicted of a violation of law as provided above.
 - (g) If the applicant seeks a new or renewal of a restaurant liquor License, the applicant shall:
 - (i) Submit a valid food service permit;
 - (ii) An applicant for a restaurant liquor license shall satisfy the appropriate licensing authority that the primary source of revenue from the operation of the restaurant to be licensed will be derived from food services and not from the sale of alcoholic or malt beverages.

- (iii) When renewing a restaurant liquor license, the appropriate licensing authority shall condition renewal upon a requirement that not less than sixty percent (60%) of gross sales from the preceding twelve (12) months operation of a licensed restaurant be derived from food services.
 - (iv) Upon application for license renewal, a license holder shall submit an annual report to the licensing authority on the sales of the licensed restaurant from the licensee's accountant or accounting program. The report shall contain the annual gross sales figures of the restaurant and shall separate the gross sales figures into two (2) categories: Food service sales; and Alcoholic and malt beverage sales.
- (h) If the applicant seeks a new or renewal of a bar and grill license, the applicant shall:
- (i) Submit a valid food service permit;
 - (ii) An applicant for a bar and grill liquor license shall satisfy the appropriate licensing authority that not less than sixty percent (60%) of revenue from the operation of the bar and grill to be licensed will be derived from food services, entertainment or a combination of food services and entertainment and not from the sale of alcoholic or malt beverages.
 - (ii) When renewing a bar and grill liquor license, the appropriate licensing authority shall condition renewal upon a requirement that not less than sixty percent (60%) of gross sales from the preceding twelve (12) months operation of a licensed bar and grill be derived from food services, entertainment or a combination of food services and entertainment.
 - (iii) The appropriate licensing authority shall consider the type, level and appropriateness of food services and entertainment sales proposed in each application when determining whether to issue or renew a bar and grill license.
 - (iv) Upon application for license renewal, a license holder shall submit an annual report from the licensee's accountant or accounting program to the licensing authority on the sales of the licensed bar and grill. The report shall contain the annual gross sales figures of the bar and grill and shall separate the gross sales figures into the following three (3) categories: Food service sales; Alcoholic and malt beverage sales; and Entertainment sales.

- C. No person or partner shall have any interest, directly or indirectly, in a license or permit unless he signs and verifies the application for the license or permit. No corporation shall be granted a license or permit unless two (2) or more of the officers or directors sign and verify the application on behalf of the corporation and

also verify upon their oath as individuals that the statements and provisions contained therein are true, except that if all the stock of the corporation is owned by one (1) individual then that individual may sign and verify the application and verify upon his oath that the statements and provisions contained therein are true. No limited liability company shall be granted a license or permit unless at least one (1) of the officers, managers, or if there are no officers or managers, at least one (1) of the members who is duly authorized to act on behalf of the limited liability company signs and verifies the application on behalf of the company and also verifies upon his oath that the statements and provisions contained therein are true.

- D. Corporate and limited liability company licensees and permittees shall advise the licensing authority within thirty (30) days in writing of any change in the information in the application.
- E. A license or permit authorized by this title shall not be held by, issued or transferred to:
 - (a) Any person who does not own the building or hold a written lease for the period for which the license will be effective containing an agreement by the lessor that alcoholic or malt beverages may be sold upon the leased premises, except as provided by paragraph (iv) of this subsection. This paragraph shall not be interpreted to prevent the use of a resort liquor license or a resort hotel liquor license by a contractor or subcontractor as permitted by W.S.12-4-403(b);
 - (b) Any licensee who fails to demonstrate that his licensed alcoholic or malt beverage enterprise will be operational in a planned but not physically functional building within one (1) year after a license or permit has been issued or transferred, or if holding a license, fails to open his business in a functional building within one (1) year after license issuance or transfer and remain operational thereafter. Upon a showing of good cause by the licensee and for an additional period of not to exceed one (1) year, the local licensing authority may extend the time period in which the business or enterprise of the licensee is required to become operational or open for business pursuant to this paragraph. Any license or permit in violation of this paragraph shall not be renewed by the local licensing authority and once the enterprise is operational or open for business, no licensee shall be eligible to repeat the grace periods made available by this paragraph without the consent of the local licensing authority due to extraordinary circumstances. For purposes of this paragraph "remain operational" means operational consecutively, in any license term year, for twelve (12) months or for not less than three (3) months if determined by the local licensing authority to be a seasonal operation;

2.1.4 Term, Renewal and Expiration of License

- A. 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.
- B. All liquor 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).

- 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, or recommendations to pursue revocation or suspension in the district court shall be made if the governing body finds from evidence presented at the hearing:
- (a) The welfare of the people residing in the vicinity of the proposed liquor license or permit premises shall be adversely and seriously affected, including but not limited to resident comments and law enforcement calls.
 - (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) Completion of an approved Alcohol Server Training Course by server employees within 30 days of hire.
 - (h) Any other reason pursuant to state statute.

2.1.5 Fees

- A. Original License, transfer and Renewal Fees for alcoholic beverage liquor licenses shall be as stated in the City of Lander Fee Schedule. A license or permit issued for a term less than one (1) year shall be issued at a pro-rated annual fee accordingly. All license and related fees shall be paid in full before the issuance of the original or renewal of a liquor license.
- B. All fees for licenses and permits issued by a licensing authority paid under this title shall be deposited into the treasury of the licensing authority. No refund of all or any part of a license fee shall be made at any time following issuance.
- C. Transfer: Upon approval by the 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.

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:

- (a) Standards.
 - (a) 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" 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.
 - (b) Order any patron to leave and depart who is endangering people or property in the licensed premises and notify the Lander police department of any criminal incident as soon as reasonably possible.
 - (c) Refuse to sell, give, or deliver alcoholic liquor or malt beverage to any person under the age of twenty-one years.
 - (d) 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.
 - (e) Comply with the training and records maintenance requirements.
 - (f) 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.
- B. Public responsibility.
 - (a) 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.
 - (b) 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.
- 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.

- (a) "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.
- (b) 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.
 - (a) 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.
 - (b) 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.

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:
 - (a) An operational statement describing the location and layout of the licensed building, licensed premises and/or dispensing area;
 - (b) Schedule of all days and hours of operation;
 - (c) Description of the character and use of the facility (i.e., bar, restaurant, brewery, etc.);
 - (d) Description of specific alcohol inventory management practices that are relevant to the license at issue;
 - (e) Description of specific crowd control and security practices that are relevant to the license at issue;
 - (f) 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;
 - (g) Description of delivery and/or curbside services if offered by the licensee;
 - (h) A bar and grill shall define the type of entertainment it intends to provide.
 - (i) Alcohol Server Training plan and schedule.
- 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.

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 and/or subsequent offense(s). 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	\$500	10
After-Hours Sale/Service	\$250	5
Controlled Substance Violation as defined below	\$1000	100/50
Failure to Notify Law Enforcement concerning removal of persons from the premises, denial of service to minors, or due to level of intoxication	\$500	10
Unauthorized Gambling	\$250	5
Unauthorized Alcohol Service (failure to obtain appropriate permit, selling while suspended or selling alcohol not purchased from wholesaler)	\$500	10
Record-Keeping	\$150	3
Failure to provide approved alcohol training to servers	\$150	3
Failure to pay Sales Tax within 60 days of Sales Tax Hold Notice	\$1000	25
Sales Tax Holds may also be addressed and or suspended in accordance with W.S. 12-7-103.		

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.

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 within 7 business days of notification
15–19 points	Violation Hearing Potential 7-day suspension recommendation of liquor license
20–24 points	Violation Hearing Potential 20-day suspension recommendation of liquor license
25+ points	Violation Hearing before the local licensing authority for recommendation of revocation through District Court

D. Enforcement and Appeals

(a) Written warnings, fines and demerits. The following process shall apply for the issuance of fines, demerits and written warnings:

- (i) **Notice of Violation:** The City Clerk or designee issues a written citation specifying the violation, the fine amount, and the demerits to be assessed.
- (ii) **Opportunity to Cure/Pay:** The licensee may accept the citation and pay the fine within a set period within 15 days, at which point the matter is closed.
- (iii) **Right to Contest:** If the licensee disputes the violation or fine, they may request a hearing before the governing body or hearing examiner within the same 15-day period.
- (iv) **Hearing Procedure:** At the hearing, the licensee can appear in person or through counsel, present evidence, and cross-examine witnesses. The governing body or hearing examiner would make findings of fact and issue a written decision.
- (v) **Appeal:** Any suspension or revocation decision would continue to be subject to review in district court under § 12-4-104. For fines, an appeal could also be allowed under the Wyoming Administrative Procedure Act, or the ordinance can

specify that Council decisions are final unless overturned by a court.

(b) Violation Hearing for Suspension or Revocation Consideration. Should the governing body become aware that a licensee has obtained 15 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:

- (i) That the governing body has been informed that one or more of the events described in subsection 2.3.1 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;
- (ii) 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;
- (iii) 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
- (iv) That the purpose of the hearing is to hear evidence, including that presented by the licensee, on the issue.
- (v) The sanctions provided in this section for demerit points are cumulative, and therefore points may result in multiple sanctions.

(c) 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 or hearing examiner. 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:

- (i) 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;
- (ii) 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;

- (iii) 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
 - (iv) That the purpose of the hearing is to allow the licensee to offer corrections to the information demonstrating such points have not been acquired.
- (d) 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:
 - (i) All notices and intermediate rulings;
 - (ii) Evidence received or considered by the governing body, including information officially noticed and received from the municipal court;
 - (iii) Questions and offers of proof, objections, and rulings thereon;
 - (iv) Any proposed findings and exceptions thereto; and
 - (v) Any opinion, findings, decision, or order of the governing body and any report by any hearing officer.
- (e) 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.
- (f) Governing body or Hearing Examiner 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:
 - (i) Authorize the City Attorney to prepare and file with the district court a petition to revoke or suspend the licensee's license; or
 - (ii) Find that suspension or revocation is not required by the terms of this section.
 - (iii) All 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.

E. 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.

2.3.2 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 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.

2.3.3 Providing Minor With Alcoholic Beverages Prohibited

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 governing body 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.

2.3.4 Minors Prohibited From Having Or Using Alcoholic Beverages

- A. No minor shall 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.

- B. No minor shall 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 use or
- C. Consume any alcoholic or malt beverages in any public place.

2.3.5 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.

2.3.6 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.

2.3.7 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:
 - (a) Places of business with underlying liquor licenses.
 - (b) All city parks, between the hours of 8:00 a.m. and 11:00 p.m.;
 - (c) 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.;
 - (d) 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.;
 - (e) All other areas specifically exempted by resolution of the governing body.
- B. The 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.

2.3.8 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.

2.4.1 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, except as provided for in subsection f below.
- 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.
- E. No restaurant liquor licensee shall promote or operate the restaurant as a bar and lounge.
- F. A restaurant liquor licensee may permit a patron to remove one (1) unsealed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. For purposes of this subsection the term "full course meal" shall mean a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises pursuant to this subsection shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises, so that it is visibly apparent that the resealed bottle of wine has not been tampered with. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine which is resealed in accordance with the provisions of this subsection shall not be deemed an open container for purposes of W.S.31-5-235.

2.4.2 Resort Retail Liquor Licenses

- A. To qualify for a resort retail liquor license, the appropriate licensing authority shall require the resort complex to:

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

2.4.3 Bar And Grill License

- A. 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.
- B. 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 and shall be supported by an annual report from the licensee's accountant or accounting program.
- C. A bar and grill liquor license shall not be sold, transferred or assigned by the holder.
- D. Bar and grill liquor licensees shall not sell alcoholic or malt beverages for off-premises consumption from the licensed building owned or leased by the licensee except as allowed under this subsection. The following shall apply to sales of alcoholic and malt beverages:
 - (a) 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 or at the hours specified by W.S.12-5-101(a) if food sales and services extend beyond the hours specified therein;
 - (b) A bar and grill liquor licensee may permit a patron to remove one (1) partially consumed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with the meal on the bar and grill premises. For purposes of this paragraph the term "full course meal" shall mean food which cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises pursuant to this paragraph shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises, so that it is visibly apparent that the resealed bottle of wine has not been tampered with. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine which is resealed in accordance with the provisions of this paragraph shall not be deemed an open container for purposes of W.S.31-5-235.

2.4.4 Resort Hotel Liquor License:

To qualify for a resort hotel liquor license the resort hotel shall:

- A. Have an actual valuation of, or the applicant shall commit to expend or have actually expended on the resort hotel, not less than five million dollars (\$5,000,000.00). Any valuation under this paragraph shall include the value of the land on which the resort hotel is located;
- B. Include a full-service restaurant that shall be open during regular business hours. At the discretion of the appropriate licensing authority, variances to this time requirement may be granted on a seasonal basis. As used in this paragraph, "full-service restaurant" means a restaurant where waiters deliver food and drink offered from a printed food menu to patrons at tables or booths and that has a dining room or rooms, kitchen and the number and kind of employees necessary for the preparing, cooking and serving of meals;
- C. Include within the resort hotel not less than twenty (20) sleeping rooms for short-term occupancy; (iv) Provide dining services to guest rooms for not less than twelve (12) hours each day; and (v) Provide facilities for business meetings that can accommodate not less than fifty (50) participants. "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.

2.5.1 Temporary Malt Beverage And Catering Permits

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.

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 or catering permit. 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.

2-5-2 Microbrewery And Winery Permits

- 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.
- B. Provision for Sale in Microbrewery and Winery Permit - Issuance of a permit by

the City of Lander shall entitle the permittee to:

- (a) 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;
- (b) 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 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.
- (c) 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.
- (d) 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.
- (e) Transfer ownership of the microbrewery, by the permittee shall not be allowed to transfer the microbrewery permit to another location.
- (f) Said permit shall be subject to all other requirements of the Wyoming State Statutes governing microbreweries not in effect or hereafter enacted.

2-6-1 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 premises at 6:00 a.m. and shall close the building premises 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.