

ORDINANCE NO: _____

AN ORDINANCE TO RECODIFY AND GENERALLY REVISE CHAPTER 3 OF THE
GILLETTE CITY CODE TO REVISE THE LICENSING AND REGULATION OF
ALCHOLIC BEVERAGES

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GILLETTE, WYOMING:

Chapter 3 of the Gillette City Code is amended to read as follows:

CHAPTER THREE
ALCOHOLIC BEVERAGES
Revised: July 1, 2017

ARTICLE I: GENERAL CONDITIONS

- §3-1 Intoxication
- §3-2 Purchase, Possession and Consumption of Intoxicating Liquor by Minor, Penalties
- §3-3 Restrictions Upon Minors in Licensed Buildings, Operating Hours, Sale to Obviously Intoxicated Person and Incompetents, Server Training Requirements
- §3-4 Notice and Warning to Minors
- §3-5 Hours of Sale and Operation for Liquor Licenses
- §3-6 Endangering the Welfare of a Minor
- §3-7 Prohibited Acts Within a Licensed Building, Violation Cause for Suspension or Revocation of License or Permit
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- §3-14 Application Process
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- §3-34 Satellite Manufacturer/Brewery Permit
- §3-35 Satellite Winery Permit
- §3-36 Catering, Malt Beverage and Open Container Permits

EDITOR'S NOTE: Chapter 3 has been re-written by Ordinance _____, approved on _____, 2017. Subsequent changes will be identified by the amending ordinance and the date of its approval.

ARTICLE I: GENERAL CONDITIONS

§3-1 Intoxication.

If any person shall be drunk or under the influence of any intoxicating liquor, malt beverage or controlled substance, as defined by Wyoming State Statutes, in any public street, thoroughfare, or place; or within view of any public street, thoroughfare or place; or in any vehicle or place within the city to such an extent that his drunkenness or intoxication is manifest by boisterous or by profane, vulgar language, or loud and violent discourse, or indecent conditions or actions which render that person incapable of caring for him or herself so as to create a nuisance or hazard, he or she shall be guilty of a misdemeanor.

§3-2 Purchase, Possession and Consumption, of Intoxicating Liquor by Minor, Penalties.

It shall be unlawful for any person under the age of twenty-one (21) years to buy, sell, possess, consume, solicit the sale or purchase of intoxicating liquor or be under the influence of an intoxicating liquor in the City.

§3-3 Restrictions upon Minors in Licensed Building, Operating Hours, Sale to Obviously Intoxicated Persons and Incompetents, Server Training Requirements.

(a) It shall be unlawful for any person under the age of twenty-one (21) years to enter, attempt to enter, or to be in or about any licensed building or rooms in any establishment operating by virtue of a liquor license issued by the City unless otherwise specifically authorized as may be further set forth under Article IV of this Chapter of the Gillette City Code.

(b) Every liquor Licensee or his servant or employee who sells, gives or delivers alcoholic liquor or malt beverages to any obviously intoxicated person or any incompetent person or person under the age of 21 years, or who permits any person under the age of twenty-one (21) years to enter or remain in the licensed room, rooms, or licensed building where intoxicating or malt beverages are dispensed, is guilty of a misdemeanor which is a violation of a Category 1 Standard.

(c) A person who is at least nineteen (19) years of age and is either the holder of a liquor license or a shareholder in a corporation which is the holder of a liquor license, may enter, remain within the licensed building and may dispense or serve alcoholic beverages and otherwise work within the licensed building operated by virtue of that license.

(d) All persons employed at any business operating with a liquor license issued by the City of Gillette who are engaged in the selling or serving of alcoholic beverages or the managing thereof, hereinafter Alcohol Server Staff, shall successfully complete an alcohol server training program as approved by WYO. STAT. § 12-2-402, within sixty (60) days of the start of their employment. All Alcohol Server Staff shall complete any additional or further training to maintain their server training certification. Every License holder shall maintain a server training record for all Alcohol Server Staff, including their date of hire, and proof that each of them has successfully completed the alcohol server training required by this Section, and any additional or further training to maintain their server training certification. The City shall furnish an appropriate server training record log to maintain the records required in this section. In addition, every License holder shall keep their server training records available for review and copying by the Gillette Police Department, at any time when the premises is open for business, to insure compliance with the server training requirements of this Section.

§3-4 Notice and Warning to Minors.

(a) Every Licensee, other than those operating under a license for a restaurant, bar and grill or package store, shall display at all times in a prominent place at each public entrance a printed card with a minimum height of 11 inches and a width of 17 inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21

**YOU ARE SUBJECT TO A FINE
OF UP TO \$750**

**IF YOU ARE UNDER 21 AND YOU
ATTEMPT TO PURCHASE, PURCHASE, CONSUME, OR HAVE IN
YOUR POSSESSION ALCOHOLIC LIQUOR OR MALT BEVERAGE**

OR

ENTER OR ATTEMPT TO ENTER A LIQUOR ESTABLISHMENT

WARNING TO ADULTS

**YOU ARE SUBJECT TO A FINE
OF UP TO \$750**

IF YOU PURCHASE OR PROVIDE ALCOHOL OR MALT BEVERAGE

FOR A PERSON UNDER 21

(b) Every Licensee operating under a license for a restaurant, bar and grill or a package store shall display at all times in a prominent place at each public entrance a printed card with a minimum height of 11 inches and a width of 17 inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21

YOU ARE SUBJECT TO A FINE
OF UP TO \$750

IF YOU ARE UNDER 21 AND YOU
ATTEMPT TO PURCHASE, PURCHASE, CONSUME, OR HAVE IN
YOUR POSSESSION ALCOHOLIC LIQUOR OR MALT BEVERAGE

WARNING TO ADULTS

YOU ARE SUBJECT TO A FINE
OF UP TO \$750

IF YOU PURCHASE OR PROVIDE ALCOHOL OR MALT BEVERAGE
FOR A PERSON UNDER 21

§3-5 Hours of Sale and Operation for Liquor Licenses.

All Licensees may open the Licensed Building at 6:00 a.m. and shall close the Licensed Building and cease the sale of both alcoholic and malt beverages promptly at the hour of 2:00 a.m. the following day, and shall clear the Licensed Building, and any other area in which dispensing alcoholic and malt beverages is authorized, of all persons other than employees by 2:30 a.m.

§3-6 Endangering The Welfare of a Minor.

(a) A person, who is not the parent or guardian of the minor, commits the offense of endangering the welfare of a minor if the person knowingly allows or permits a person under the age of twenty-one (21) years of age to:

- (1) Enter or remain in a place under the person's control in which unlawful activities involving controlled substances or alcohol are maintained or conducted; or
- (2) consume alcohol or controlled substances in violation of the law in a place under the person's control.

(b) A person is "in control" of a place or property when that person is the owner, renter, tenant, keeper, caretaker or has control over the persons allowed on the premises.

(c) Any person found guilty of this offense may be punished by a fine up to seven hundred fifty dollars (\$750.00), and six months in jail, or both.

§3-7 Prohibited Acts within a Licensed Building, Violation Cause for Suspension or Revocation of License or Permit.

(a) No Licensee or agent or employee thereof shall knowingly permit prostitution (WYO. STAT. §6-4-101), public indecency (WYO. STAT. §6-4-201), or gambling (WYO. STAT. §6-7-102), or shall promote obscenity (WYO. STAT. §6-4-302), within any building or premises licensed under this Chapter.

(b) Any Licensee or agent or employee thereof violating subsection (a) of this section, or aiding, abetting or inciting any violation thereof, is in addition to other penalties provided by law, sufficient cause for the suspension or revocation of a license or permit.

§3-8 Right of Entry – Inspection.

In addition to all other rights of inspection which the City may now or hereafter possess, the Chief of Police or the designees of the Chief of Police may enter and inspect every place of business which sells alcoholic liquor or malt beverages. Entry for purposes of inspection pursuant to this Section is authorized only during open business hours unless it is in the presence of the Licensee or his agent, employee or representative.

The purpose of the inspection authorized by this Section shall be to ascertain if the business to be inspected and its operation is in compliance with Gillette City Ordinances and Wyoming State Statutes or other laws applicable to businesses selling, storing, or keeping malt or alcoholic beverages under license issued by the City. A refusal to permit entry or inspection pursuant to this Section will result in a hearing before the City Council and may result in the revocation of the liquor license.

§3-9 Duty to Maintain Order.

The Chief of Police or his designee may order any establishment operating with a City liquor license closed until the following 6 A.M., or may revoke any catering, malt beverage or open container permit, issued pursuant to Section 3-35 of the Gillette City Code when the Licensee, permittee, or person in charge fails to follow the Operation Plan as outlined in the permit application and/or maintain peace and order which creates an emergency and immediate threat to the bodily security, property, or peaceful repose of any member of the general public.

§3-10 Beer Keg Registration.

A. As used in this Chapter, "keg" means any brewery sealed, individual container of beer having a liquid capacity of seven and one-half (7 ½) gallons or more, and includes a "party ball" which is a brewery-sealed container of beer having a liquid capacity of five and one-sixth (5 1/6) gallons.

B. Any retail liquor establishment selling beer by the keg within the City shall affix to the keg at the time of sale a permanent identification stamp or mark of a type approved by the Gillette Police Department.

C. Any retail liquor establishment selling beer by the keg within the City shall at the time of sale require a valid photographic identification of the purchaser and completion of a written identification form as approved by the Gillette Police Department, with information containing the purchasers name, address, date of birth, driver's license number, identification number of the keg sold, and date of sale and location where the keg will be physically located when the alcohol is dispensed, along with an alternate location if inclement weather would affect the primary location. Purchasers will also be required to sign a written statement on a form provided by the Gillette Police Department indicating that the purchaser is aware that it is unlawful for any person to purchase a keg containing beer and thereafter to allow consumption of an alcoholic beverage by minors unless consumption is authorized and allowed pursuant to other laws of the State of Wyoming. The records shall be maintained for six (6) months from the date of sale and shall be open to inspection by the Gillette Police Department during normal business hours.

D. The owner of any retail liquor establishment selling beer by the keg within the City, the owner's employee or the owner's agent who fails to affix to a keg the approved identification stamp or mark required above or fails to obtain the required identification and complete and maintain the forms is guilty of a misdemeanor.

E. Any owner or operator of a retail liquor establishment selling beer by the keg who fails to ensure that the owner's employees properly comply with subsections B and C above is guilty of a misdemeanor.

F. It is unlawful for any person who has purchased beer by the keg within the City to remove or alter the identification stamp or mark required in Section 3-10 above. It is not a violation of this Chapter if the person removing the identification stamp or mark is an employee of an owner or operator of a retail or wholesale alcoholic beverage establishment who removes the stamp or mark after the return of the keg to the retail establishment.

G. It is unlawful for the purchaser of a keg to allow anyone to remove or alter the permanent identification stamp or mark from the keg before its return to the retail liquor establishment that sold the keg.

H. Any owner or operator of any retail liquor establishment or any employee thereof who receives a returned keg shall inspect the returned keg. If the identification stamp or mark has been removed, altered or tampered with, the owner or operator shall immediately notify the Gillette Police Department of that fact. It is unlawful for any owner, operator or employee to fail to notify the Police Department as required herein.

I. It is unlawful for any person (except an alcohol beverage wholesaler or retailer in the usual course of business) to be in possession of a keg of alcoholic beverage purchased within the city if that keg does not contain the appropriate permanent identification stamp or mark as required by Section 3-10 above.

J. Any person convicted of violating any provision of Section 3-10 of the Gillette City Code, shall be fined seven hundred fifty dollars (\$750.00).

§3-11 Standards in Association with the Sale and Possession of Alcoholic Beverages.

(a) Public policy.

The public policy of the City of Gillette requires that the use of alcoholic beverages be controlled in order to reduce associated problems affecting the welfare of the community and public safety. The following standards will be employed by the Gillette City Council to decide whether it is in the public interest to suspend or revoke a liquor license or permit, or to request the District Court revoke or suspend the liquor license of an establishment which is a danger to the public welfare. Any person, including a liquor Licensee and/or his employee, who violates any portion of Section 3-10 of the Gillette City Code, including the Standards listed in this Section, shall be guilty of a misdemeanor, punishable by a fine of not more than seven hundred fifty dollars (\$750.00). The performance record of a licensed establishment and its compliance with these standards will be considered in proceedings to renew liquor licenses as well as to request that one be revoked or suspended.

(b) Standards.

All establishments, by and through their agents, operating by virtue of a liquor license, shall meet the following Category 1 and Category 2 Standards:

(1) CATEGORY 1 STANDARDS.

(A) Refuse to serve any patron who is obviously intoxicated, or is endangering people or property in the licensed establishment.

(B) Order any patron to leave and depart who is endangering people or property in the licensed establishment and immediately notify the Gillette Police Department of the incident.

(C) Notify the Gillette Police Department by telephone immediately when an assault, aggravated assault or assault and battery occurs on or in the establishment's property.

(D) Report all physical fights to the Gillette Police Department immediately and cooperate fully in the Police investigation of the incident.

(E) Refuse to sell, give, or deliver alcoholic liquor or malt beverage to any person under the age of twenty-one (21) years.

(F) Refuse admittance to any person under the age of twenty-one (21) years except as allowed by the Gillette City Code, any bar or package liquor store that dispenses alcoholic or malt beverages.

(G) Prohibit any person from illegally using or distributing controlled substances as defined in WYO. STAT. §35-7-1001 to 1059 on the licensed premises.

(H) Prohibit other criminal activity on the licensed premises as established by local, state or federal law.

(I) 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 Section 5-5 of the Gillette City Code, and any amendments or updates thereto.

(J) A Licensee has a duty to maintain peace and order in and around the licensed premises including any adjacent parking lots owned by the Licensee or under his control.

(K) No retail liquor Licensee shall deliver or cause to be delivered any alcoholic or malt beverage to any person whatsoever, except at the licensed premises.

(L) No person shall engage in the business of making deliveries of alcoholic or malt beverages from the place of any retail Licensee in the City.

(2) CATEGORY 2 STANDARDS.

(A) Immediately notify the Gillette Police Department of any attempts by a person under the age of twenty-one (21) years to acquire alcoholic liquor or malt beverages in violation of this ordinance.

(B) Immediately notify the Gillette Police Department of any attempts by any person under the age of twenty-one (21) years to enter any bar or package liquor store that dispenses alcoholic or malt beverages.

(C) Prohibit any person from leaving the licensed establishment with an open container of alcoholic liquor or malt beverage in violation of the Gillette City Code.

(D) Gambling will be authorized pursuant to Section WYO. STAT. §§ 6-7-101, *et seq.* The Licensee shall prohibit public indecency as defined in WYO. STAT. § 6-4-201.

(E) Post in a prominent location, a conspicuous notice to the public required in the Gillette City Code.

(F) Comply with the training and records maintenance requirements of the Gillette City Code.

(c) 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, except within a commercial limousine as described in Section 3-12(d), 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, City Ordinance, or as permitted by a catering, malt beverage or open container permit, issued pursuant to Section 3-35 of the Gillette City Code.

(2) It is unlawful to remain in an establishment operated under a liquor license after a request to leave is made by an agent, employee, or owner of the establishment.

(d) Limousine.

Alcoholic liquor or malt beverages may be consumed by adult passengers within commercial limousines. A limousine is a passenger car pursuant to WYO. STAT. §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. No fee may be charged for any alcoholic liquor or malt beverage consumed in the limousine.

(e) 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 the 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, punishable by a fine of not more than seven hundred fifty dollars (\$750.00) for each day of the violation.

(f) Penalty.

Violations of these Sections are punishable by a fine of not more than seven hundred fifty dollars (\$750.00). Evidence that the Licensee or his employee summoned police to deal with activity within the establishment that is prohibited by the preceding Section (b) may be considered in mitigation of a charge that the Licensee or its employee violated that Section of the ordinance.

ARTICLE II: LIQUOR LICENSE APPLICATION, REVOCATION and RENEWAL

§3-12 Adoption of State Alcohol Beverage Laws.

(a) Amendment.

This Ordinance amends and supersedes all other ordinances regulating the possession, sale and consumption of intoxicating liquor that is not in conformance with this ordinance.

(b) Adoption of State Law by Reference.

The provisions of Title 12, Alcoholic Beverages, WYO. STAT. §§12-1-101 through 12-10-101, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are hereby adopted by reference and are made a part of this Ordinance as if set out in full. It is the intention of the City that all future amendments to Title 12 are hereby adopted by reference or referenced as if they had been in existence at the time this Ordinance is adopted. A copy of Title 12 and of any subsequent amendments shall be kept on file in the office of the Gillette City Clerk.

(c) City May Be More Restrictive Than State Law.

The City is authorized by WYO. STAT. §12-4-101, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Title 12, as it may be amended from time to time.

§3-13 Authority to Issue Licenses and Permits.

(a) Pursuant to WYO. STAT. §12-4-101, all liquor licenses within the jurisdictional boundaries of the City of Gillette belong to the City. The City retains authority to license and regulate, or prohibit the retail sale of alcoholic and malt beverages. The Governing Body retains sole authority to approve or deny a license or permit, or to place conditions on the issuance of the same.

(b) Nothing contained within Chapter Three of the Gillette City Code shall be construed or interpreted to prohibit the Governing Body from issuing less than the total number of allowable retail liquor licenses, less than the allowable bar and grill licenses, or from refusing to issue any license or permit authorized by Chapter Twelve of the Wyoming Statutes and Chapter Three of the Gillette City Code.

§3-14 Application Process.

(a) Special Consideration for the Issuance of New Retail Liquor Licenses.

The City of Gillette, as the local licensing authority, may request applications and supporting documents, including business plans, financial statements, and letters of intent from prospective retail liquor license applicants. These documents, as proposals, may be used by the City Council to determine from whom applications for retail liquor licenses may be received and processed. The City Council, by accepting these proposals, is not required to issue any retail liquor license by merely requesting such information from prospective license applicants.

(b) Application for Renewal, Transfer of Location and Transfer of Owner for Retail Liquor Licenses.

Upon receipt of an application for renewal, transfer of location, or transfer of ownership of an existing retail liquor license, the City Clerk shall forward the same to the Wyoming Liquor Commission. Pursuant to WYO. STAT. §12-4-104, all applications shall be deemed certified by the Wyoming Liquor Commission unless an objection is made by the Commission within ten (10) working days after receipt of the application. Applicants are advised that the City Clerk only receives notice from the Commission in those instances where an application is incomplete or in need of additional information. Notice is not provided to the City Clerk if the application is considered complete by the Commission. If a correction notice is not received from the Commission, the City Clerk shall cause publication and notice to be made as required by WYO. STAT. §12-4-104.

(c) Applications for Renewal, Transfer of Location, Transfer of Owner, and New License Applications for All Liquor Licenses and Permits, Excluding Retail Liquor Licenses.

All liquor license and permit applications are available from the Gillette City Clerk during regular business hours. Upon receipt of an application for renewal, transfer of location, or transfer of ownership, the City Clerk shall forward the same to the Wyoming Liquor Commission. Pursuant to WYO. STAT. § 12-4-104, all applications shall be deemed certified by the Wyoming Liquor Commission unless an objection is made by the Commission within ten (10) working days after receipt of the application. Applicants are advised that the City Clerk only receives notice from the Commission in those instances where an application is incomplete or in need of additional information. Notice is not provided to the City Clerk if the application is considered complete by the Commission. If a correction notice is not received from the Commission, the City Clerk shall cause publication and notice to be made as required by WYO. STAT. §12-4-104.

§3-15 Fees for Application, Transfer, and Renewal

License Type	City Fee	Statutory Minimum	Statutory Maximum
Retail	\$ 1,500.00	\$ 300.00	\$ 1,500.00
Limited Retail (Club)	\$ 750.00	\$ 100.00	\$ 1,500.00
Bar and Grill	\$ 3,000.00	\$ 1,500.00	\$ 10,500.00
Restaurant	\$ 1,200.00	\$ 500.00	\$ 3,000.00
Resort License	\$ 3,000.00	\$ 500.00	\$ 3,000.00
Special Malt Beverage	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00
Microbrewery Permit	\$ 500.00	\$ 300.00	\$ 500.00

Winery Permit	\$ 500.00	\$ 300.00	\$ 500.00
Satellite Brewery	\$ 100.00	\$ -	\$ 100.00
Satellite Winery	\$ 100.00	\$ -	\$ 100.00
Catering	\$ 50.00 / \$100.00	\$ 10.00	\$ 100.00
Malt Beverage	\$ 50.00 / \$100.00	\$ 10.00	\$ 100.00
Open Container	\$ 50.00 / \$100.00	N/A	N/A
Drive-In	\$ 500.00	N/A	N/A
Transfer Fee	\$ 100.00	\$ -	\$ 100.00

Any fee required to be tendered under this Section shall be paid to the Gillette City Clerk by means of cash, personal check, business check, or credit card. Payment by credit card shall be at the discretion of the Gillette City Clerk.

§3-16 Prohibitions on Certain Persons from Holding a Liquor License.

A license or permit issued pursuant to Wyoming Statute Title Twelve, or under Chapter Three of the Gillette City Code shall not be held by, issued or transferred to:

- (1) The Mayor, member of the City Council or County Commissioner for Campbell County, Wyoming;
- (2) Any person employed by the State, the City of Gillette, the Campbell County Sheriff's Department as a law enforcement officer or any person who holds office as a law enforcement officer through election.

§3-17 Pledging or Hypothecating a Retail Liquor License as Collateral.

(a) It is the policy of the City of Gillette and its Governing Body that retail liquor licenses should be made available to those individuals and entities seeking to engage in commerce. It is the experience of the Governing Body, and the history of the City of Gillette, that retail liquor licenses have been pledged and hypothecated as collateral for purposes of both the acquisition of the license itself, and as a means of acquiring a valuable interest for either holding for future use, or as a means of adding a valuable asset to a business for purposes of its own financial balance sheets. Such action, in the determination of the City of Gillette is contrary to the interests of the community.

(b) Liquor licenses are not assignable, therefore, the Council will not renew or transfer a retail liquor license to any person or entity asserting an interest in any license by virtue of a security interest, lease, or other financial obligation.

§3-18 Conditions on Granting of Application or Renewal.

(a) Any license or permit issued by the City of Gillette shall not be issued, renewed or transferred until on or after the date set in any notice for hearing protests. If a renewal or transfer hearing, the hearing shall be held no later than thirty (30) days preceding the expiration date of the license or permit. A license or permit shall not be issued renewed or transferred if the licensing authority finds from evidence presented at the hearing:

- (1) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely affected;
- (2) The purposes of Chapter 3 of the Gillette City Code, or Title 12 of the Wyoming Statutes is not carried out by the issuance, renewal or transfer of the license or permit;
- (3) The number, type and location of existing licenses or permits currently meets the needs of the vicinity under consideration;
- (4) The desires of the residents of the City of Gillette will not be met or satisfied by the issuance, renewal or transfer of the license or permit

(b) The City Council retains the right to place conditions and standards on the granting of a liquor license, and may conditionally grant any license or permit subject to specific actions to be taken by the applicant or Licensee prior to the annual expiration of the license.

§3-19 Holding of License or Permit without Operation or Sales.

A license or permit issued by the City to 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 shall not be renewed. Any Licensee or permittee who fails to open his business in a functional building within one (1) year after license issuance or transfer and remain open thereafter shall not have the license or permit renewed. Upon showing of good cause, the City Council may, in its sole discretion, extend the one (1) year period set forth herein for an additional period of time not to exceed sixty (60) calendar days.

§3-20 Plan of Operation.

(a) Plan Required.

Any license authorized under this act shall not be issued, renewed or transferred until the applicant has submitted a Plan of Operation acceptable to the City. A Plan of Operation shall contain an operational statement outlining the proposed manner in which the establishment will be operated, including but not limited to, schedule of hours of operation, intended uses of the facility, alcohol management, crowd control, security, and any other pertinent information as requested by the City.

(b) Modification or Amendment to Plan of Operation.

Any deviation from the approved Plan of Operation, such as catering and open containers, requires a special permit as authorized in Section 3-35 of the Gillette City Code.

§3-21 Revocation of Liquor License.

(a) General Causes for Revocation.

Any violation of this Chapter, or a violation of Title Twelve of the Wyoming Statutes, by any manufacturer, rectifier, wholesaler, Licensee, employee or agent thereof is sufficient cause for the suspension and in the case of gross violation, the revocation of the license of the Licensee, or the permit of any permittee.

(b) Temporary Suspension of License for Violations.

The City of Gillette, by and through its Governing Body, retains the right to temporarily suspend the sale of alcoholic or malt beverages of any establishment issued a liquor license, for infractions of either Chapter 3 of the Gillette City Code and/or Title Twelve of the Wyoming Statutes. Such suspension shall be for a finite period of time, not to exceed five (5) consecutive calendar days for any such violation. The Licensee shall not be subjected to more than one temporary suspension of their license more than one (1) time in any license year.

(c) Revocation for Failure to Pay Administrative Fee.

If any administrative fee is not paid, or if Plans of Operation are not submitted on time, as required pursuant to Sections 3-13 and 3-14, then the Licensee shall appear before the City Council at the meeting at which its license is scheduled for renewal. The City Council shall receive evidence of the convictions and charges pursuant to which the Administrative Fees have been assessed and their nonpayment and the failure of the Licensee to submit appropriate Plans of Operation and may, on that record vote to deny renewal of the Licensee's Liquor License.

(d) Revocation for Failure to Comply with Conditions Imposed Upon Granting License or Permit.

The City Council retains the right to place reasonable conditions or standards on the granting of a liquor license, and may conditionally grant any license or permit subject to specific actions to be taken by the applicant or Licensee prior to the annual expiration of the license. The failure to timely meet the conditions set by the Council may be grounds for a suspension or termination of the License or Permit.

ARTICLE III: ADMINISTRATIVE FEE

§3-22 Administrative Fees.

(a) Any licensed establishment in which violations of City, State or Federal laws occur requires the expenditure of greater municipal resources to control and police than establishments which are operated in accordance with the law. Those extra enforcement and other social costs include police, judicial and prosecutor salaries, victim impacts and depressed neighborhood real estate values as well as lost sales in surrounding businesses. The regulation of establishments which possess liquor licenses by the City of Gillette should include holding the owners and operators accountable for the conduct of their businesses by charging administrative fees to pay for the external costs of poor management.

In addition to any other penalty, sanction or fee authorized by law, if a liquor license holder, or its employees or agents, is convicted of a violation of any Section of Gillette Municipal Code Chapter 3 that is applicable to Licensees or their employees, the Licensee shall upon notice, pay to the City Clerk, an administrative fee. The notice to pay shall be issued by the City Clerk upon notification of the relevant conviction. Said fee shall be paid within ten days of the notice to pay, unless the Licensee completes additional training and established preventative measures according to Section C for first and second violations occurring within one year.

(b) (1) Upon first conviction of a violation of either a Category 1 or 2 Standard, the Licensee shall pay to the City Clerk, an administrative fee in the amount of Five Hundred Dollars (\$500.00).

(2) Upon a second conviction of a violation of either a Category 1 or 2 Standard, arising within a twelve (12) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of One Thousand Dollars (\$1,000.00).

(3) Upon a third conviction of a violation of a Category 1 Standard arising within a twenty-four (24) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of One Thousand Dollars (\$1,000.00). The Licensee shall also submit a revised Plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.

(4) Upon a fourth conviction of a violation of a Category 1 Standard 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 (\$1,500.00). The Licensee shall also submit a revised Plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.

(5) Upon a fifth or subsequent conviction of a violation of a Category 1 Standard 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 (\$2,000.00). The Licensee shall also submit a revised Plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.

(6) Convictions of violations of Category 1 or Category 2 standards which violations occur before July 1, 2017, shall not apply after that date.

(c) For first and second convictions of violations occurring within one year this fee shall be waived if the Licensee takes training or preventive measures approved by the City such as acquisition of identification card readers, security devices such as cameras or additional assignment of security personnel as described in this Section. For convictions of violations of Section 3-3(b), this fee will be waived if the person who committed the violation attends an alcohol server training program as approved by WYO. STAT. §12-2-402 (whether or not that person has previously attended such training) if the person is still employed by the Licensee, and if the Licensee and all employees authorized to serve alcoholic liquor or malt beverage have been to an alcohol server training program within the previous two years. The Licensee shall notify the City Clerk of their intent to substitute the training within ten (10) days of notification and submit proof of the training to the City Clerk within three (3) months of the notification or pay the administrative fee by that day. The Licensee shall also submit a revised Plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.

§3-23 Liquor License Revocation for Failure to Pay Administrative Fees.

The failure to pay any administrative fee, when due, may result in the revocation of a liquor license pursuant to Section 3-21(c) of the Gillette City Code.

ARTICLE IV: TYPES OF LICENSES, REGULATIONS, SPECIAL CONDITIONS

§3-24 Special Conditions for the Operation of Certain Types of Liquor Licenses within the Jurisdictional Boundaries of the City of Gillette.

The Governing Body of the City of Gillette establishes the following special conditions for each type of license or permit which may be issued by the Governing Body.

Licensed Building Restrictions

(a) 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 a 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) 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;
- (2) 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 12:00 A.M. (Midnight);
- (3) Limited Retail (Club) Licenses are exempt from the age restrictions listed above;

- (A) Limited Retail (Club) License holders may dispense alcoholic or malt beverages from locations outside of their licensed building as approved by the governing body.
- (4) Any other establishment approved by the governing body, including but not limited to: Bowling alleys, hotels, coffee shops, theaters, civic/event centers, family entertainment centers, persons under the age of twenty-one (21) years may enter or remain in the licensed building until the hour of 12:00 A.M. (Midnight);
- (5) Under no circumstances shall an individual under the age of twenty-one (21) be seated, or allowed to remain, at a bar, counter, or area where alcoholic or malt beverages are dispensed;
- (6) Establishments that operate primarily for off-premise sales shall maintain a separate area for the sale of alcoholic or malt beverages. Grocery stores shall have an age restricted area to prevent alcoholic beverages from being sold next to grocery items in accordance with WYO. STAT. §12-6-101(c)(iv).

§3-25 Waiver of Certain General and Special Conditions for Private Events.

The General Conditions and Special Conditions contained within Chapter Three shall apply to all establishments holding a liquor license during such time as said establishment is open to the general public for business. Should the establishment be closed for purposes of a special, catered, or private event, the Sections of the Gillette City Code regulating the hours upon which minors, and those individuals under the age of twenty-one (21) may be physically present in such an establishment may be amended by the holder of the liquor license and that person, group or entity who has reserved the establishment for the special, catered or private event. Nothing contained herein shall be interpreted to provide authority to serve alcoholic or malt beverages to any individual under the age of twenty-one (21) nor allow for the extension of the hours of operation beyond 2:00 A.M.

§3-26 Retail License

(a) Drive-In Liquor Sales. Upon approval of the Governing Body, a drive-in area adjacent or contiguous to the licensed building may be used for taking orders and making delivery of and receiving payment for alcoholic liquor or malt beverages under the following conditions:

- (1) the holder of the retail liquor license shall own the area or hold a written lease for the period for which the license was issued;
- (2) the area shall be well lighted and subject to inspection by the licensing authority at any and all times;
- (3) no walls or screens shall interfere with observing and checking the part of the area used for orders, delivery and payment;

- (4) no order shall be received from nor delivery made to a person under twenty-one (21) years of age or an intoxicated person in the area;
- (5) no part of a publicly owned sidewalk, highway, street or alley shall be used for taking orders or conducting sales;
- (6) alcoholic liquor or malt beverages shall be sold and delivered in the drive-in area only in the original, factory sealed, unopened package, and consumption of alcoholic liquor or malt beverages in the drive-in areas shall not be permitted;
- (7) no beverage mixed or prepared within the licensed building, which contains alcoholic liquor, may be sold, tendered, delivered or given through a drive in area.

§3-27 Limited Retail (Club) License

(a) Sale and Consumption Limited to the Licensed Building. Unless otherwise granted by the Governing Body, and incorporated within the holder's Operation Plan, no sales of alcoholic liquor or malt beverages shall be made outside of the licensed building. Nothing contained herein shall be interpreted as prohibiting the holder of a Limited Retail (Club) License from seeking and obtaining an open-container permit to allow for the consumption of alcoholic liquor or malt beverages outside of the licensed building on real property owned by the holder of the Limited Retail (Club) License.

(b) Seasonal Sales of Alcoholic Liquor or Malt Beverages. Any holder of a Limited Retail (Club) License issued by the City of Gillette who operates their Limited Retail (Club) License on a seasonal basis shall designate such dates they will engage in the sale of alcoholic liquor or malt beverage sales within their application for granting of a new license, or its renewal, and shall designate the same in their Operation Plan. Under no circumstances shall the holder of a Limited Retail (Club) License operate for less than ninety (90) days during any license year.

§3-28 Bar and Grill License

The City of Gillette, by reference herein adopts those standards of operation required by Title Twelve of the Wyoming Statutes with regard to Bar and Grill License. The City of Gillette makes no further restrictions or limitations on Bar and Grill License other than those set forth in this Chapter.

§3-29 Restaurant Liquor License

(a) Operation of a Restaurant. An establishment is operating as a "restaurant" when an establishment maintains 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 liquor or malt beverages.

(b) Establishment of a Dispensing Room. Holders of a Restaurant Liquor License shall comply with WYO. STAT. §12-4-410 in establishing a “dispensing room” for the dispensing and preparation of alcoholic and malt beverages for consumption, as may be required by the Governing Body of the City of Gillette.

§3-30 Resort Liquor License

The City of Gillette, by reference herein adopts those standards of operation required by Title Twelve of the Wyoming Statutes with regard to Resort Liquor License. The City of Gillette makes no further restrictions or limitations on Resort Liquor License other than those set forth in this Chapter.

§3-31 Special Malt Beverage License

(a) The Governing Body of the City of Gillette may issue a special malt beverage permit to any reasonable person or organization for the sale of malt beverages at public auditoriums, civic centers or event centers subject to the following restrictions:

(1) The public auditorium, civic center or events center shall be an enclosed building owned by the City of Gillette, Campbell County, or created by the City of Gillette or Campbell County pursuant to a Memorandum of Understanding pursuant to WYO. STAT. §16-1-101 or pursuant to a Joint Powers Agreement approved by the Wyoming Attorney General;

(2) the reasonable person or organization holds a written agreement with the owner of the public auditorium, civic center or events center giving said person the right to sell concessions within the building for the period for which the license will be effective

(b) Seasonal Sales of Alcoholic Liquor or Malt Beverages. Any holder of a Special Malt Beverage License issued by the City of Gillette who operates their Special Malt Beverage License on a seasonal basis shall designate such dates they will engage in the sale of alcoholic liquor or malt beverage sales within their application for granting of a new license, or its renewal, and shall designate the same in their Operation Plan. Under no circumstances shall the holder of a Special Malt Beverage License operate for less than ninety (90) days during any license year.

§3-32 Microbrewery Permit

The City of Gillette, by reference herein adopts those standards of operation required by Title Twelve of the Wyoming Statutes with regard to Microbrewery Permits. The City of Gillette makes no further restrictions or limitations on Microbrewery Permits other than those set forth in this Chapter.

§3-33 Winery Permit

The City of Gillette, by reference herein adopts those standards of operation required by Title Twelve of the Wyoming Statutes with regard to Winery Permits. The City of Gillette makes no further restrictions or limitations on Winery Permits other than those set forth in this Chapter.

§3-34 Satellite Manufacturer/Brewery Permit

The City of Gillette, by reference herein adopts those standards of operation required by Title Twelve of the Wyoming Statutes with regard to Satellite Manufacturer/Brewery Permit. The City of Gillette makes no further restrictions or limitations on Satellite Manufacturer/Brewery Permit other than those set forth in this Chapter.

§3-35 Satellite Winery Permit

The City of Gillette, by reference herein adopts those standards of operation required by Title Twelve of the Wyoming Statutes with regard to Satellite Winery Permit. The City of Gillette makes no further restrictions or limitations on Satellite Winery Permit other than those set forth in this Chapter.

§3-36 Catering, Malt Beverage, and Open Container Permits

(a) Applications.

Applications for catering permits authorized by WYO. STAT. 12-4-502(b), malt beverage permits authorized by WYO. STAT. § 12-4-502(a) and open container permits according to this Section of the Gillette City Code, shall be made by completing a form available from the City Clerk.

(b) Application Contents.

Applicants for catering or malt beverage permits will complete and submit an application, no less than three weeks prior to the event, in which the applicant shall provide his/her name, address and phone number, the name, date, time(s) and location of the event, an operation plan which includes a short summary of the reason for the request and the activities proposed for the event, a description and drawing of the area(s) in which the possession and consumption of alcoholic beverages will occur and what safe guards will be in place at the desired location to ensure that minors will neither possess nor consume alcoholic or malt beverages, and the names and ages of the persons who will dispense malt beverages or alcohol. In addition, if the applicant is not the owner of the location where the event is proposed, the applicant shall attach a written statement from the landowner permitting the proposed activity including the consumption and possession of alcoholic or malt beverages, as described in the application. Catering permits can only be issued to Retail Liquor License holders and so the name in which the license was issued must be listed as the name of the applicant. A catering, malt beverage, or open container permit shall authorize possession and consumption of alcoholic or malt beverages in open containers for the time period and within the area described in the permit application according to the operation plan. Applications will be reviewed by the Chief of Police or designee and the City Clerk or designee.

(c) When Council Consideration is Required.

In the case of catering or malt beverage permit applications, information supplied by the applicant will be reviewed to determine if the event/activity to be permitted is routine in that it will not cause an impact beyond the area described in the application, or is scheduled for CAM-PLEX. If the proposed event/activity is at CAM-PLEX or is determined to not have an impact beyond the proposed area, the permit will be issued by the City Clerk or designee, upon successful submission of the application. A proposed event/activity may be determined to have an impact beyond the area described in the application if it includes any of the following, for example, an outdoor dance, band(s) or amplified music, amplified sound or a P.A. system, parking beyond existing capacity, or a street closure. Upon a determination of an impact beyond the area proposed in the permit, the permit will be presented to the Governing Body for review and approval at the next scheduled regular City Council meeting no sooner than two weeks from the date of submission of the application and fee.

If the permit is denied by the City Clerk and Chief of Police, the denial may be appealed by the applicant to the Governing Body whose determination is final.

The City Administrator may authorize scheduling Council consideration of a new permit or an appeal, within two (2) weeks of the submission of an application when good cause for filing the application less than three (3) weeks before the event is shown.

(d) Fees.

Catering/malt beverage permit fees shall be based on when the permit application is submitted and the proposed date of the event/activity. If the permit application is submitted at least three (3) weeks before the proposed date of the event/activity, the fee is fifty dollars (\$50.00). If the permit application is submitted less than three (3) weeks before the proposed date of the event/activity, the fee is one hundred dollars (\$100.00).

(e) Open Container Permits.

Applicants for open container permits will complete and submit an application in which the applicant shall provide their name, address and phone number, the date, time(s) and location of the event, and a short summary of the reason for the permit request and the activities proposed for the event. Open container permits may be issued to allow the possession and consumption of alcoholic or malt beverages in open containers on public property, such as parks in conjunction with a park permit issued pursuant to Section 14-14 of the Gillette City Code, on city streets in conjunction with a street closure permit, and at other areas, in which open containers would not otherwise be permitted. Applications will be reviewed by the Chief of Police or designee and the City Clerk or designee. Upon approval of the application and the payment of the fifty dollar (\$50.00) permit fee, the permit will be issued to the applicant by the City Clerk. The City Clerk will issue an Open Container Sign, to be posted at the location of the event described in the application, which sign must be displayed during the event to allow the consumption of alcoholic or malt beverages at that location.

PASSED, APPROVED AND ADOPTED this _____ day of June, 2017.

Louise Carter-King, Mayor

(S E A L)
ATTEST:

Karlene Abelseth, City Clerk

Published: _____, 2017

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