

# **ORDINANCE NO. 297**

## **CHUGWATER LIQUOR LICENSE**

### **AN ORDINANCE REPEALING ORDINANCE NO. 203 IN ITS ENTIRETY CONCERNING LIQUOR LICENSES AND ADOPTING LIQUOR LAWS FOR THE TOWN OF CHUGWATER.**

#### **Section 1: COMPLIANCE REQUIRED:**

For the protection of the health, safety and welfare of the residents, citizens and guests of the Town, it is hereby declared to be in the best interest of the Town and the residents, citizens and guests hereof, that the sale, distribution, possession and traffic of alcoholic and malt beverages including wine, shall be regulated to the extent that all such activity be, and the same hereby is, prohibited, except as provided in this chapter, and that no sale at retail or possession of such substances shall occur within the jurisdictional limits of the Town except as authorized herein and the exceptions provided in W.S. 12-1-101, et seq., reserving certain powers to the State of Wyoming. It is the intent of this chapter to comply and coincide with provisions of W.S. 12-1-101, et seq., which regulate such substances.

It is not the intent of the Town to regulate or interfere with the regulation by the State of limited transportation licenses issued in compliance with provisions of W.S. 12-2-202.

#### **Section 2: APPLICATION FOR ANNUAL LICENSE:**

Any person desiring an annual license as authorized by this chapter shall make application to the Town by delivering to the Town Clerk, on the form prepared by the Attorney General pursuant to W.S. 12-4-701 and provided to the applicant by the Clerk, a completed, verified and signed form. The license fee, or any other fees related to a license, shall be paid to the Clerk at the time the application is filed or the Clerk shall not commence processing the application. Renewal of an annual license, application for transfer of ownership and transfer of location shall be made upon the same form and in the same manner. The information contained in the application shall conform to requirements of W.S. 12-4-102.

All applications for Annual Liquor licenses only must be submitted at least 45 days prior to being approved by Council. The publication fee for publishing public hearing notices shall be paid for entirely by the applicant and the applicant shall be responsible for the publication bill(s).

Upon receipt of an application, the clerk shall send one copy of the application to the Department of Revenue and shall promptly prepare a notice of application, place a copy of the notice in a conspicuous place at the location shown in the application and publish the notice in the Platte County Record Times or other newspaper of general circulation once a week for two (2) consecutive weeks. The notice shall comply with the provisions of W.S. 12-4-104.

On behalf of the licensing authority, the Town Clerk is authorized to request supporting documentation in conjunction with the applications filed for a license or permit. Prior to issuance, review and inspections of the proposed premises may be conducted during regular business hours to make reasonable inspections as required by the Town Clerk.

Non-compliance of State Statute and/or Local Ordinance for the Liquor requirements can result in denial of Liquor License.

#### **Section 3: RESTRICTIONS UPON APPLICANTS AND LICENSE:**

Except as provided in Section 7, below, a license shall not be issued, renewed, or transferred if the governing body finds evidence presented at the hearing required under W.S. 12-4-104 any of the conditions found under W.S. 12-

4-104(b). The Town may deny a license for any reasonable conditions which may be applicable for the community or which may prove detrimental to the Chugwater community.

#### **Section 4: TRANSFER OF ANNUAL LICENSE:**

A person or entity seeking to transfer an annual license shall submit a new application form and shall pay the Town Clerk at the time of such application a non-refundable additional license fee of one hundred dollars (\$100.00) The transfer application shall be set for public hearing and otherwise be considered by the governing body in a manner consistent with W.S. 12-4-601. A transferred license or permit shall expire on the same date as the original license or permit.

#### **Section 5: TERM OF ANNUAL LICENSES:**

Annual licenses shall be for a period of not more than one (1) year. Annual licenses shall be a personal privilege of the licensee.

The executor or administrator of the estate of a deceased licensee, when the estate consists in whole or in part of a business selling alcoholic or malt beverages under an annual license issued by the Town, may exercise the personal privilege of the deceased licensee under terms of the license until the expiration date of the license. If the license of the deceased licensee has not been transferred prior to the annual expiration date, the governing body shall consider the license of the deceased licensee as an un-issued license.

#### **Section 6: ANNUAL LICENSE:**

The Governing Body of the Town of Chugwater is hereby authorized to issue the following licenses for the following fee pursuant to state law:

1. **Retail Liquor License**, as defined in W.S. 12-4-201, (a) A retail liquor license is the authority under which a licensee is permitted to sell alcoholic liquor or malt beverages for use or consumption but not for resale. (e) The liquor license fee to be assessed for a retail liquor license shall not be less than three hundred dollars (\$300.00) nor more than one thousand five hundred dollars (\$1500.00) payable annually in advance.

The annual fee shall be \$500.00

2. **Limited Retail Liquor (Special Club) License**, as defined in W.S. 12-4-301, (a) Bona fide clubs as defined by W.S. 12-1-101(a)(iii) may be licensed by the appropriate licensing authority under a limited retail liquor license for which the licensee shall pay a license fee of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1500.00) annually in advance. (b) At least fifty-one percent (51%) of the membership of a social club as defined by W.S. 12-1-101(a)(iii)(E) shall sign a petition indicating a desire to secure a limited retail liquor license. (c) Except as otherwise provided in W.S. 12-5-201(g), a club holding limited retail license shall not sell alcoholic or malt beverages for consumption anywhere except within the licensed premises and for consumption by its members and their accompanied guests only.

The annual fee shall be \$500.00

3. **Resort Liquor License**, as defined in W.S. 12-4-401, (a) The appropriate licensing authority in a county, city or town may issue resort retail liquor licenses to applicants who are owners or lessees of a resort complex where the resort complex satisfies the requirements of subsection (b). (b) To qualify the appropriate licensing authority shall require the resort complex to: (i) Have an actual valuation of, or the applicant shall have committed or expended on the complex, not less than one million dollars (\$1,000,000.00), excluding the value of the land; (ii) Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons; and (iii) include motel, hotel or privately owned condominium, town houses or home accommodations approved for short term occupancy with a minimum of one hundred (100) sleeping rooms.

The annual fee shall be \$500.00

**4. Restaurant Liquor License**, as defined in W.S. 12-4-407, (a) Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the appropriate licensing authority in counties, cities and towns under a restaurant liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application.

W.S. 12-4-11, The annual fee for a restaurant liquor license shall be no more than three thousand dollars (\$3000.00) and no less than five hundred dollars (\$500.00)

The annual fee shall be \$500.00

**5. Microbrewery Permit and Winery Permit**, as defined by W.S. 12-4-412, (a) Subject to restrictions imposed under W.S. 12-4-103 excluding W.S. 12-4-103(a)(vi), a local licensing authority may issue: (i) A microbrewery permit authorizing a permit holder to brew malt beverage and dispense the brewed malt beverage for on-premises and limited off-premises personal consumption; (ii) A Winery Permit authorizing a permit holder to manufacture wine and dispense the manufactured wine for on-premises and limited off-premises personal consumption. (viii) Shall access a fee of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) payable annually in advance for each microbrewery or winery permit.

The annual fee shall be \$300.00 for each

**6. Bar and Grill Liquor License**, as defined in W.S. 12-4-413, (a) Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the appropriate licensing authority in counties, cities and towns under a bar and grill liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application. (d) The license fee assessed for a bar and grill liquor license shall not be less than one thousand five hundred dollars (\$1500.00) nor more than ten thousand five hundred dollars (\$10,500.00) (e) A bar and grill liquor license shall not be sold, transferred or assigned by the holder. (f) Bar and Grill liquor licenses shall be subject to the provisions of W.S. 12-4-408 and 12-4-401(c) to the same extent those provisions are applicable to restaurant liquor license. Bar and Grill liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee except as allowed under W.S. 12-4-410(e).

The annual fee shall be \$1500.00

The annual fee for each license shall be payable at the time of the application and shall be paid in cash or by check, and shall be in the full amount as shown for each class of license.

No refund of all or any part of any license fee shall be made at any time following the issuance of the license.

## **Section 7: TEMPORARY LICENSES AND PERMITS:**

The governing body of the Town of Chugwater is hereby authorized to issue the following temporary licenses pursuant to state law:

1. Except as provided in sub paragraph 2, below, applications for temporary licenses and permits shall be submitted at least five (5) business days prior to the next Town Council Meeting. No publication of notices or public hearings shall be required for Temporary Licenses and permits.
2. The governing body of the Town of Chugwater shall have the power and ability to shorten or suspend the time requirement set out in sub paragraph 1, above under circumstances as the governing body deems necessary and just.
3. Malt Beverage Permit, as defined by W.S. 12-4-502(a) which fee shall be ten dollars (\$10.00) per twenty-four (24) hour period. Fee between \$10.00 and \$100.00
4. Catering Permit, as defined in W.S. 12-4-502(b), which fee shall be ten dollars (\$10.00) per twenty-four (24) period. Fee between \$10.00 and \$100.00

5. Temporary Dispensing Room Permit, as defined in W.S. 12-4-504 and 12-5-20 1(f), (g), (h) and (j) which fee shall be ten dollars (\$10.00). Fee between \$10.00 and \$100.00
6. Extended Club Hours, as defined in W.S. 12-5-101(b) for which there can be no fee. (State law does not specify a fee for applicants, but a municipality may recover administrative expenses if it so desires).
7. Open Container Waiver Permit, (City Law Only)
8. Street Closure Permit, (City Law Only)

No refund for all or any part of any temporary license or permit fee shall be made at any time following the issuance of the license.

### **Section 8: HOURS OF OPERATION:**

The hours of operation for all licensees and permittees shall be as follows:

1. On all days except Sunday, a licensee may open the dispensing room no earlier than six o'clock (6:00) a.m. and shall close the dispensing room and cease the sale of alcohol and malt beverages not later than two o'clock (2:00) a.m. the following day, and the licensee shall clear the dispensing room of all persons other than employees no later than two-thirty o'clock (2:30) a. m.
2. On Sundays, licensees may open the dispensing room no earlier than ten o'clock (10:00) a.m., and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than twelve o'clock (12:00) p.m. the next day, and the licensee shall clear the dispensing room of all persons other than employees no later than twelve-thirty o'clock (12:30) a.m.

### **Section 9: DRIVE-IN FACILITIES:**

Upon approval of the original application by the Governing Body, or the renewal thereof, a drive-in area adjacent to or contiguous with the licensed room may be used by the holder of a retail liquor license for taking orders, making delivery of, and receiving payment for alcoholic or malt beverages under the terms and conditions found in W.S. 12-5-103.

### **Section 10: FALSIFICATION OF APPLICATION:**

It is unlawful for any person or organization to knowingly submit false information or false facts as true on an application for any license or permit authorized by this Ordinance, and that each application being submitted shall be sworn to the truth to the best of the applicant's knowledge.

If, in the opinion of the Town Council and Town Attorney, a liquor license holder has acted in violation of this section, action shall be taken seeking revocation of the license or permit.

### **Section 11: PUBLIC CONSUMPTION OR POSSESSION: "OPEN CONTAINER ORDINANCE":**

It is unlawful for any person to consume or have in possession any alcoholic liquor or malt beverage in a container that has been open or unsealed from the original factory closure or sealing while in or upon any public place within the Town, or while in any vehicle upon the public streets, highways, roads, alleys or places open to the public for vehicular traffic, except as follows:

1. Within the confines of such places where sale, dispensing or consumption of alcoholic liquor or malt beverages has been licensed or permitted pursuant to W.S. 12-2-202;

2. For charter transportation services licensed pursuant to W.S. 12-2-202 and;
3. At such other places and times as may be licensed by the governing body pursuant to this chapter.

**Section 12: POSSESSION OF UNDERAGE PERSONS:**

It is unlawful for any person under the legal drinking age to possess, buy, sell, drink, consume or otherwise solicit the sale or purchase of alcoholic liquor or malt beverages in the Town. As used in this section, possession shall also include alcohol which has been consumed and is present within the body at the time of determination.

**Section 13: SALES TO UNDERAGE PERSONS:**

It is unlawful for any person to sell, give or deliver alcoholic liquor or malt beverage to any person under the legal drinking age set forth in State Statutes provided, however, that such prohibition shall not apply to any parent or guardian providing such to his or her child in the confines of their home.

**Section 14: USE OF FALSE PROOF OF AGE OR IDENTITY:**

It is unlawful for any person under the legal drinking age to make, use or possess any identification which falsely indicates the person's age as greater than the legal drinking age, whether in the person's correct name or note, or to attempt to obtain any alcoholic liquor or malt beverage using any false identification.

**Section 15: DISPENSING ROOM RESTRICTION:**

The Town of Chugwater will conform to all rules and regulation as set forth by the Department of Revenue, Liquor division, State of Wyoming.

**Section 16: SUSPENSION OF LICENSE OR PERMIT:**

The Governing Body may suspend any license or permit issued under this chapter if the licensee or permittee fails to pay sales taxes and the Wyoming Liquor Commission has ceased sales of alcoholic liquor to the licensee or permittee pursuant to W.S. 12-2-306. Upon receipt by the clerk of a certified notice from the State of Wyoming issued pursuant to W.S. 12-2-306, and upon order of the governing body, the Clerk shall notify the licensee or permittee, that the Town intends to hold a hearing on whether the license or permit should be suspended. The suspension hearing shall be conducted under the Wyoming Administrative Procedures Act (W.S. 16-6-101 et seq.) and rules adopted by the governing body. The certified notice from the State of Wyoming and all evidence presented to the State of Wyoming in support of the certified notice will be admitted and considered prima facie evidence of the licensee's or permittee's tax delinquency.

In the event a license or permit is suspended in accordance with this section, the holder of the license or permit may appeal the suspension in accordance with W.S. 12-7-103.

The suspension of the license or permit shall remain in effect until either the Governing Body lifts the suspension, a court of competent jurisdiction lifts the suspension, or the clerk receives certified notice from the State of Wyoming that the sales tax liability has been satisfied.

In the event a suspension occurs, the clerk shall send one copy each of the suspension notice to the last known addresses of the license or permit holder and the Director of the Wyoming Liquor Division for the State of Wyoming. Additionally, the clerk shall post one copy of the suspension notice on the licensed or permitted premise.

Immediately upon the posting of the suspension notice, the sale, offering to sell, distribution or traffic of alcoholic liquor or malt beverages shall be unlawful. Further, the licensee or permittee shall either remove all the alcoholic liquor and malt beverages from the licensed premises or secure the alcoholic liquor and malt beverages in a manner approved in writing by the chief of police or his designee.

**Section 17: DELIVERY OF ALCOHOLIC LIQUOR AND BEVERAGES:**

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.

No person shall engage in the business of making deliveries of alcoholic liquor or malt beverages from the place of any retail liquor licensee in the Town of Chugwater.

PASSED AND APPROVED ON THE FIRST READING THIS 7<sup>TH</sup> DAY OF DECEMBER, 2015

PASSED AND APPROVED ON SECOND READING THIS 8<sup>TH</sup> DAY OF DECEMBER, 2015

THIRD AND FINAL READING THIS 9<sup>TH</sup> DAY OF DECEMBER, 2015

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Mayor

Attest:

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Town Clerk