

Chapter 9.08

ALCOHOLIC BEVERAGES

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**Article I. Definitions and General
Provisions.**

9.08.010 Definitions.

Except as otherwise noted below, definitions or terms used in this chapter shall be found in W.S. Section 12 regulating Alcoholic Beverages:

“Clerk” means the town clerk for the town of Encampment.

“Governing body” means the mayor and council of the town of Encampment.

“Minibar” means a closed container, refrigerated or unrefrigerated, access to the interior of which is restricted by means of a locking device requiring the use of a key, magnetic card or similar device. (Ord. 96-06 (part): prior code § 3-100)

9.08.020 Compliance required.

A. For the protection of the health, safety and welfare of the residents, citizens and guests of the town, it is 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 or malt beverages shall be regulated to the extent that all such activity be, and the same 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. Section 12-1-101, et seq., reserving certain

powers to the state. Unless contradicted herein, it is the intent of this chapter to comply and coincide with provisions of W.S. Section 12-1-101 et. Seq., which regulates such substances. (Amended November 9, 2017)

B. 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. Section 12-2-202. (Amended during 1998 codification; Ord. 96-6 (part): prior code § 3-110; amended in part 02-12-2015; amended in part 08-10-2017)

Article II. License Application

9.08.030 Application for annual license.

A. 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. Section 12 Alcoholic Beverages 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 the requirements of W.S. Section 12 Alcoholic Beverages.

B. Upon receipt of an application, the clerk shall send one copy of the application to the Wyoming Liquor Commission 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 a newspaper of general circulation in the county, once a week for two consecutive weeks. The notice shall comply with the provisions of W.S. Section 12-4-104.

C. On behalf of the licensing authority, the clerk is authorized to request supporting documentation in conjunction with applications filed for a license or permit. Prior to issuance, review and inspections of the proposed premises may be conducted by various town department representatives as required by the town clerk. Representatives of town departments may enter licensed and permitted premises during regular business hours to make reasonable inspections. (Ord 96-6 (part): prior code § 3-200; amended in part 02-12-2015; amended in part August 10, 2017)

9.08.040 Restrictions upon applicants and license.

A. Except as provided in subsection B of this section, all permits and license recipients must post the license or permit in a conspicuous place within the functional licensed building as described in the application.

B. Any license issued pursuant to W.S. Section 12-4-103(a)(iv) shall be held by the clerk in the clerk's office, or other location as designated by the clerk, until the license can be placed in a physically functional fully operational building. (Ord. 96.06 (part): prior code § 3-210; amended August 10, 2017)

9.08.050 Grounds for denial of license.

A license shall not be issued, renewed or transferred if the governing body finds from evidence presented at the

hearing required under W.S. Section 12-4-104, any of the conditions found under W.S. Section 12-4-104(b).

A. Repealed August 10, 2017.

9.08.060 Transfer of annual license.

A person seeking to transfer an annual license shall submit a new application form and shall pay to the clerk at the time of such application a nonrefundable additional license fee of one hundred dollars (\$100.00). The transfer application shall be set for public hearing and otherwise considered by the governing body in a manner consistent with W.S. Section 12-4-601. (Ord. 96-6 (part): prior code § 3-230)

9.08.070 Terms of annual license.

A. Annual licenses shall be for a period of not more than one year, expiring each year on June 17th. Annual licenses shall be a personal privilege of the licensee.

B. 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. (Ord.96-06 (part): prior code § 3-240)

9.08.080 Application for temporary license.

A. Application for any temporary license issued under this chapter shall be

made on the form for such provided by the town clerk, which shall contain directions to the prospective licensee to complete the application and return such to the town clerk's office. The clerk shall then notify the Encampment Police Department of the issuance of the license. The clerk shall issue the requested license in those cases authorized by this chapter, or where reason for denial is determined by the clerk, deny the issuance of the license. In those instances where consent of the town council is required, or where the clerk has refused to issue the requested license and the applicant has requested an appearance before the town council, the clerk shall request that the application be placed on the agenda for town council determination.

B. Upon receipt of a completed application containing approval of such from the various town departments which have been designated as potentially affected by the issuance of the requested license, the clerk shall perform one of the following acts:

1. In the event that the applicant has not requested a street closure, and has requested one or more temporary licenses none of which require town council action pursuant to this chapter, the clerk shall issue the requested license, together with a set of instructions and restrictions on the use of the license.

2. In the event that the applicant has requested a street closure, or if the applicant has requested some other temporary license which requires town council approval before the license is issued, or if the clerk has refused to issue a requested temporary license and the applicant has requested in writing that the application be reviewed by the town council, the clerk shall take the

application and request that such be placed upon the town council agenda for further action. (Ord. 96-06(part): prior code § 3-250)

9.08.090 Denial of temporary license.

A temporary license shall be denied by the clerk and referred to the town council for action if one or more of the following facts or circumstances are found to exist:

A. The application is for a location within the town that is not located in a park or other public location that has been designated for the use of malt beverages;

B. The application is for use of an outside location in or near a residential area and is requesting a use later than ten p.m.;

C. The circumstances given to the clerk are such as to indicate a significant problem for the residents in the area, or an adjacent area, which problems may include traffic, noise, light, odor, or other significant annoyances;

D. The town has received complaints about previous licenses for substantially the same circumstances are present in the current application. (Ord. 96-06 (part); prior code § 3-260, amended in part 02-12-2015)

Article III. Licenses and Permits

9.08.100 Annual Licenses.

A. The governing body of the town of Encampment is authorized to issue the following annual licenses pursuant to state law and this chapter:

1. Retail liquor license, as defined in W.S. Section 12-4-201.

2. Limited retail liquor (special club) license, as defined in W.S. Section 12-4-301.

3. Resort retail liquor license, as defined in W.S. 12-4-401.

4. Restaurant liquor license, as defined in W.S. Section 12-4-407.

5. Microbrewery permit, as defined in W.S. Section 12-4-412.3.

6. Winery permit, as defined in W.S. Section 12-4-412.

7. Special malt beverage permit for public auditoriums, as defined in W.S. 12-4-504.

8. Motel/Hotel minibar license, as defined in W.S. 12-5-201(e).

9. Bar and Grill liquor license, as defined in W.S. 12-4-413.

10. Satellite Manufacturer's Permit as defined in W.S.12-2-203(g).

11. Satellite Winery Permit as defined in W.S.12-4-412(d.)

B. The annual fee for each license shall be payable at the time of application and shall be in the full amount as shown for each class of license below:

1. For a retail liquor license, the annual fee shall be five hundred dollars (\$500.00).

2. For a limited retail liquor (special club) license, the annual fee shall be five hundred dollars (\$500.00).

3. For a resort retail liquor license, the annual fee shall be five hundred dollars (\$500.00).

4. For a restaurant liquor license, the annual fee shall be five hundred dollars (\$500.00).

5. For microbrewery permit, the annual fee shall be five hundred dollars (\$500.00).

6. For a winery permit, the annual fee shall be five hundred dollars (\$500.00).

7. For a special malt beverage permit for public auditoriums, as defined in W.S. Section 12-4-504, the annual fee shall be five hundred dollars (\$500.00).

8. Repealed November 9, 2017.

9. For a Bar and Grill liquor license, the annual fee shall be One thousand five hundred dollars (\$1,500.00).

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

D. In addition to paying an application fee at the time of application, the applicant shall also pay a nonrefundable publication fee in an amount designated by the town clerk to cover the cost of publishing public hearing notices, or be direct billed for the publication fee. (Ord. 96-06(part): prior code § 3-300; amended August 10, 2017.)

9.08.110 Temporary licenses and permits.

A. The governing body of the town is authorized to issue the following temporary licenses pursuant to W.S. Section 12-4-502 and this chapter:

1. Malt beverage permit, as defined in W.S. Section 12-4-502(a).

a. A malt beverage permit is the authority under which a licensee is permitted to sell malt beverages only for a period not to exceed twenty-four hours per permit.

b. A malt beverage permit may be issued to any responsible person or organization for sales of malt beverages at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No alcoholic liquors, other than malt beverages, shall be sold on the premises described in the permit, nor shall any malt beverage be sold which are to be consumed off the premises authorized by the permit. (Amended November 9, 2017.)

c. No person or organization shall receive more than twelve malt

beverage permits in one year as set forth in W.S. 12-4-502 (c).

d. Unless otherwise specified in the permit application or in the conditions of its approval the hours of operation contained elsewhere in this chapter shall apply to a malt beverage permit.

2. Catering permit, as defined in W.S. Section 12-4-502(b).

a. A catering permit is the authority by which a retail or resort liquor licensee is permitted to sell alcoholic liquors and malt beverages off the licensed premises for sales at meetings, conventions, private parties and dinners or at other similar gatherings not capable of being held within the licensee's licensed premises.

b. The permittee shall not sell or permit the consumption of any alcoholic or malt beverages off the premises described in the permit.

c. No retail or resort liquor licensee shall receive more than thirty six catering permits in one year as set forth in W.S. 12-4-502 (c).

d. Unless otherwise specified in the in the conditions of its approval, the hours of operation contained elsewhere in this chapter shall apply to a catering permit.

3. Repealed August 10, 2017.

4. Extended club hours permits, as defined in W.S. Section 12-5-101(b).

5. Street closure permit, as defined in Section 9.08.120 of this chapter.

B. The fee for each license shall be payable at the time of application and

shall be in the full amount as shown for each class of license below:

1. For a malt beverage permit, the fee shall be ten dollars (\$10.00) per twenty-four (24) period.

2. For a catering permit, the fee shall be ten dollars (\$10.00) per twenty-four (24) period.

3. Repealed August 10, 2017.

4. Repealed August 10, 2017.

5. For a street closure permit, as defined in Section 9.08.120 of this chapter, the fee shall be ten dollars (\$10.00).

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

D. In addition to paying application fee at the time of application, the applicant shall also pay a nonrefundable publication fee in an amount designated by the town clerk to cover the cost of publishing public hearing notices, or be direct billed for the publication fee. (Amended during the 1998 codification; Ord. 96-06 (part): prior code § 3-310, amended in part 02-12-2015, amended in part August 10, 2017, amended in part November 9, 2017.)

9.08.120 Street closure permit.

A. Any responsible person or organization, in conjunction with a public or private gathering, with or without applying for one or more of the permits authorized in this chapter, may apply to the town clerk in writing on the form provided for such a permit for the temporary closure of an area to vehicular traffic within the town. Upon receipt of a completed application, the town clerk shall issue the permit, except in the instances listed in this title.

B. The town clerk may issue a temporary street closure permit except in

those cases where one or more of the following facts are existing:

1. The closure will affect a business area during hours when one or more of the businesses will be open.

2. The closure will affect a residential area during the hours after ten p.m. with accompanying increased noise from the gathering.

3. The closure will affect a collector street within the town, or the only convenient access for emergency vehicles to an area.

4. The closure will be in effect for more than six hours. (Ord. 96-06 (part): prior code § 3-320)

Article IV. Restrictions.

9.08.130 Hours of operation.

Licensees may begin alcoholic or malt beverage sales in the licensed building at 6:00 a.m. and shall close and cease the sale of both alcoholic and malt beverages promptly at the hour of 2:00 a.m. the following day. In addition, licensees shall clear the licensed building of all persons other than bona fide employees by 2:30 a.m. (Amended 02-12-2015; amended August 10, 2017)

A. Hours of operation may be modified on no more than four days each calendar year where all license holders may sell alcoholic or malt beverages for up to twenty-four (24) hours as approved by the governing body. All license holders shall have the same dates. (Adopted August 10, 2017)

B. Repealed August 10, 2017.

C. Repealed 02-12-2015.

D. It is unlawful for any person to operate a bottle club in the town. Used herein, "bottle club" is defined as an operation or enterprise in which no alcoholic liquor or malt beverages are sold, but where food, soft drinks and

mixes are sold, and the safekeeping of alcoholic or malt beverages is provided for individual club members who bring alcoholic liquor or malt beverages upon the premises for their own use and consumption. Income, profits or fees of the operator of a bottle club are typically derived from sales or furnishing of mixes, ice, food and glasses, or from dues, charges, contributions, membership cards or assessments.

E. Excessive drinking of alcoholic or malt beverages or disorderly conduct in any place licensed under this chapter shall not be permitted by the licensee. In addition to any penalty provided by the code or state law, excessive drinking or disorderly conduct may be cause for the initiation of suspension and/or revocation procedures. (Ord. 96-06 (part): prior code § 3-400, amended in part 02-12-2015, amended in part August 10, 2017)

9.08.140 Drive-in facilities.

Upon approval of the original or amended application by the governing body, or the renewal thereof, a drive-in area adjacent to or contiguous with the licensed building 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 following conditions as described;

A. 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;

B. The area shall be well lighted and subject to inspection by the licensing authority at any and all times;

C. No walls or screens shall interfere with observing and checking the part of the area used for orders, delivery and payment;

D. 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;

E. No part of a publicly owned sidewalk, highway, street or alley shall be used for taking orders or conducting sales; and

F. Alcoholic liquor or malt beverages shall be sold and delivered in the drive-in area only in the original, unopened package and consumption of alcoholic liquor or malt beverages in the drive-in area shall not be permitted.

(Ord. 96-06 (part): prior code § 3-410, amended August 10, 2017).

Article V. Violations

9.08.150 Falsification of application.

A. It is unlawful for any person or organization to knowingly submit false information or false facts as true, or to submit a fact or piece of information without knowing such to be true or false, on an application for any license or permit authorized by this chapter, and that each application being submitted shall be sworn to the true and to the best of the knowledge by the person submitting such application.

B. If, in the opinion of the town attorney, a liquor license holder has acted in violation of this section, the town attorney shall upon action of the licensing authority take action on behalf of the licensing authority pursuant to W.S. Section 12-7-201 seeking revocation of the license or permit. Such action shall be in addition to any other penalties which may accrue to the license holder for violation of this section. (Ord. 96-09 (part): prior code § 3-500)

9.08.160 Possession by underage persons.

It is unlawful for any person under the age of twenty-one (21) years to possess, buy, sell, drink, consume or otherwise solicit the sale or purchase of alcoholic 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. The prohibitions against possession of alcoholic liquor or malt beverages by a person under the age of twenty-one (21) years specified in this section shall not apply as follows:

1. When the person is making a delivery of alcoholic beverages pursuant to his employment.

2. When the person is serving alcoholic liquor or malt beverages pursuant to his employment in a restaurant which holds a license to serve alcoholic liquor or malt beverages, if the person is at least eighteen (18) years of age. The term "serving" in this paragraph does not include the mixing or dispensing of alcoholic beverages.

3. To a person who is a licensee under this title.

(Ord. 96-06 (part): prior code § 3-510; amended in part 02-12-2015, amended November 9, 2017).

9.08.170 Sales to underage persons.

It is unlawful for any person to sell, give or deliver any alcoholic or malt beverage to any person under the age of twenty-one (21) years, who is not his legal ward, medical patient or member of his own immediate family. This section shall not apply to possession of alcoholic liquor or malt beverages or consumption of ethyl alcohol by a

person under the age of twenty-one (21) years as follows:

1. A person under the age of twenty-one (21) years who is in the physical presence of his parent, spouse or legal guardian who is twenty-one (21) years of age or older.

2. As part of a church's or religious organization's religious services.

3. For medical purposes if the alcoholic liquor, malt beverage or ethyl alcohol is furnished by the person's parent, spouse or legal guardian who is twenty-one (21) years of age or older or pursuant to lawful prescription.

4. To sales by the division or a wholesaler to a licensee. (Ord. 96-06 (part): prior code § 3-520; amended in part 02-12-2015, amended August 10, 2017, amended November 9, 2017)

9.08.180 Use of false proof of age or identity.

It is unlawful for any person under the age of twenty-one (21) years to make, use or possess any identification which falsely indicates the person's age as greater than twenty-one (21) years, whether in the person's correct name or not, or attempt to obtain any alcoholic or malt beverage using any false identification. (Ord. 96-06 (part) prior code § 3-530, amended in part 02-12-2015)

9.08.190 Licensed building & licensed dispensing room restrictions.

A. Except as provided in this section, no licensee or agent, bona fide 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-premises 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, bona fide employees and persons under twenty-one (21) years may enter or remain in the licensed building until the hour of **10:00 p.m.** (amended November 09, 2017)

3. Limited Retail License holders (Clubs) are exempt from the age restrictions listed above;

a. Limited Retail 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.

5. Establishments that operate primarily for off-premises sales shall maintain a separate area for the sale of alcoholic or malt beverages to which no person under the age of twenty-one (21) shall be permitted pursuant to W.S.12-6-101 (c) (vi).

6. Restaurant License holders are subject to all provisions governing licensed dispensing rooms pursuant to W.S. 12-4-410. (Amended August 10, 2017, amended November 9, 2017).

B. Repealed August 10, 2017.

C. Repealed August 10, 2017.

D. Repealed August 10, 2017.

(Ord. 96-06 (part): prior code § 3-540; amended August 10, 2017, amended November 9, 2017)

9.08.200 Suspension of license or permit.

Any revocation procedures of a license or permit shall be in accordance with W.S. Sections 12-7-101 through 12-7-201.

A. Any violation of Title 9.08 of the Town of Encampment Municipal Code, as amended, or any violation of title 12 of Wyoming Statutes 1977, as amended, by any licensee, employee or agent thereof, is sufficient cause of suspension or revocation of the license of the licensee.

B. In a proceeding for revocation of a liquor license and when a licensee is found guilty of violation any section of title 9.08 of the Town of Encampment Municipal Code, as amended, or Title 12 of the Wyoming Statutes, as amended, the governing body may, if it appears advisable to revoke the license, suspend the license for a period not to exceed the balance of the term for which the license was issued and the suspension shall not, of itself, disqualify the license holder for renewal at the end of the license term.

C. 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 that the sales tax liability has been satisfied. (Ord.96-06 (part): prior code § 3.550; amended 02-12-2015 in part; amended August 10, 2017)

9.08.210 Delivery of alcoholic or malt beverages.

A. 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.

B. No person shall engage in the business of making deliveries of alcoholic or malt beverages from the place of any retail liquor licensee in the town. (Ord. 96-09 (part): prior code § 3-560; amended 02-12-2015, in part.)


09.08.220 Duty to Maintain Order.

The Chief of Police or his designee may order any establishment operating with a liquor license closed until the following 6 A.M. when the Licensee or person in charge fails to maintain peace and order which creates an emergency and immediate threat to the bodily security or property of any member of the general public within the establishment. (Adopted 02-12-2015)

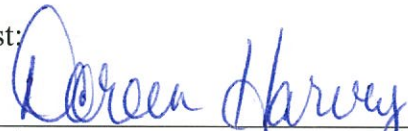
PASSED, APPROVED, AND ADOPTED

this 9th day of November, 2017

TOWN OF ENCAMPMENT



Mayor, Greg Salisbury

Attest: 

Clerk/Treasurer, Doreen Harvey, CMC

1st Reading: September 14, 2017
2nd Reading: October 12, 2017
3rd & Final Reading: November 9, 2017.