

ORDINANCE NO. 970

AN ORDINANCE AMENDING CHAPTER 5.16 OF DOUGLAS MUNICIPAL CODE CREATING A PROCESS FOR THE ISSUANCE, RENEWAL, SUSPENSION AND REVOCATION OF LIQUOR LICENSES BY THE GOVERNING BODY OF THE CITY OF DOUGLAS, WYOMING

WHEREAS, the City of Douglas shall, pursuant to Wyoming Statute § 12-4-101 *et seq.*, license and regulate the manner in which liquor licenses and permits are issued; and

WHEREAS, the City has determined that the existing laws within our municipal code are outdated and inadequate and therefore need to be revised; and

WHEREAS, on March 24, 2014, the City Council appointed members to an Ad Hoc Committee to review Chapter 5.16 of Douglas Municipal Code and to present recommended changes to this section of local code to the governing body; and

WHEREAS, after multiple committee meetings and careful consideration by the Ad Hoc Committee, the following are recommended changes to Chapter 5.16 of the Douglas Municipal Code.

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

Section 1. Chapter 5.16 in Title 5 of the Douglas Municipal Code is hereby repealed in its entirety and replaced.

Section 2. Section 5.16.010 of the Douglas Municipal Code is hereby created to read as follows:

5.16.010 Purpose.

The purpose of the provisions of this chapter generally is to regulate and control the sale, possession, and use of alcoholic beverages within the city for the public health, safety and welfare; to minimize abuse by decreasing litter and disturbances; to prevent purchases by persons under the age of twenty-one years; and to prevent speculation in licenses, and to permit the regulated sale and use of alcoholic beverages in the city with the least possible harmful impact on the health, safety and welfare of the people.

Section 3. Section 5.16.020 of the Douglas Municipal Code is hereby created to read as follows:

5.16.020 Definitions.

Except as otherwise noted below, definitions used in this chapter shall be as found in Wyoming Statutes 12-1-101, as amended.

- A. "*Clerk*" means the city clerk of the city.
- B. "*Governing body*" means a majority of those present of the mayor and council of the city.
- C. "*Licensed liquor establishment*" means any place of business together with its employees, merchandise, equipment, and building structure, duly licensed by the local licensing authority and the Wyoming Liquor Division to offer for sale alcoholic beverages.
- D. "*Liquor permit*" means any one of the one-day permits permissible by Title 12 of Wyoming Statutes: catering, malt beverage, malt beverage – State Fair, open container, or additional dispensing room.

- E. *“Liquor license”* means any one of the following licenses as permitted and defined by Title 12 of Wyoming Statutes: retail, bar and grill, limited retail, resort, or restaurant license, or a microbrewery, winery, satellite winery or manufacturing permit.
- F. *“Liquor licensee”* means a licensee as defined by W.S. §12-1-101 (viii).
- G. *“Liquor permittee”* means any individual having been issued a one day permit while the permit is in effect.

Section 4. Section 5.16.030 of the Douglas Municipal Code is hereby created to read as follows:

5.16.030 General Provisions.

- A. **State Laws Applicable.** All licenses issued pursuant to this chapter, and all use, possession, sales, and purchases of alcoholic beverages shall be subject to all requirements, regulations and limitations prescribed by the laws of the state relating to alcoholic beverages, specifically W.S. Chapters 1, 2, 4, 5, 6 and 7 of Title 12, and are adopted by reference and amendments thereto except as is otherwise expressly set forth in this chapter. If this chapter is silent, then state statute is applicable. If there is a conflict between the state statute and this chapter, then the stricter will apply. The catch lines of the sections of this chapter, printed in boldface type, are intended as mere catchwords to indicate the contents of the sections, and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catch line, is reference to a state statute.
- B. **License or Permit Required.** No person shall sell, offer for sale, traffic in or deliver for value, or in any other way than purely gratuitously, any alcoholic or malt liquor in the city without a license or permit therefor.
- C. **Severability.** If any section, subsection, sentence, clause, phrase or portion of the ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.
- D. **License - Personal privilege - Annual renewal.** A license issued under this chapter shall be a personal privilege, good for one year unless sooner revoked pursuant to Section 5.16.107 and applicable state statute.
- E. **Liquor license and permit application information.** All applicants for any annual liquor license or liquor permit shall provide accurate information in conjunction with each application. Providing false information is declared to be a violation of law and may result in penalties for the offending licensee pursuant to 5.16.107 of this chapter.
- F. **License – Term.**
 - 1. Annual licenses shall be for a period of not more than one (1) year, expiring each year on March 31. Annual licenses shall be a personal privilege of the licensee. Annual licenses may be renewed after application by the licensee prior to the expiration and in accordance with a

schedule established pursuant to law and as provided by the clerk to licensees.

2. 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 city, 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 unissued license.

G. Hours of Operation. Licensees may open the dispensing room at six (6:00) a.m. and shall close the dispensing room and cease the sale of both alcoholic and malt beverages promptly at the hour of two (2:00) a.m. the following day. In addition, licensees shall clear the dispensing room of all persons other than employees by two-thirty (2:30) a.m.

H. Right of entry - Inspection.

1. In addition to all other rights of inspection which the city may or hereafter possess, the city clerk, community development director, chief of police or State Fire Marshall or their designee(s) are empowered to enter and inspect every place of business which is licensed by the city to sell malt or alcoholic beverages or where malt or alcoholic beverages are sold, stored, or kept for the purpose of sale pursuant to a city liquor license.
2. 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, representative, or unless the person making entry does so under court order, or the person making entry has reasonable grounds to believe that evidence of a violation of this chapter is within the place to be entered and emergency or exigent circumstances exist such that a warrantless search is allowed by law.
3. 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 this chapter and W.S. Title 12, or other laws applicable to businesses selling, storing, keeping malt or alcoholic beverages under license issued by the city.
4. A refusal to permit entry or inspection contrary to this section is declared to be in violation of law and this may result in penalties for offending licensee pursuant to 5.16.107 of this chapter.

I. Other fees. Any licensee who requests an additional official copy of the current liquor license shall be assessed a \$25.00 fee at the time the license is provided.

J. Alcohol Server Certification – Required. All licensees and all managers and supervisory personnel employed at any licensed premises shall participate in and complete a Wyoming Liquor Division approved Alcohol Server Training Program as established in Section 12-2-401 and 12-2-402 W.S.S 2003, as amended. Such

training shall be provided within three (3) months of obtaining any new or transfer liquor license, or any renewal annual liquor license; or within three (3) months of accepting employment as a manager or supervisor. Unless otherwise trained through the certified state training program above, nonsupervisory employees shall receive alcohol server training from those persons so trained at the time of employment and at least annually during the term of employment.

K. Dispensing room restrictions. Except as provided in this section, no licensee or agent, employee or server thereof shall knowingly permit any person under the age of twenty-one (21) years to enter or remain in the licensed room or rooms where alcoholic or malt beverages are dispensed. No person under the age of twenty-one (21) years shall enter or remain in the licensed room or rooms where alcoholic beverages are sold unless:

1. Accompanied by his or her parent or guardian who is at least twenty-one (21) years of age and the licensed room is for the sale of alcoholic or malt beverages for off-premises consumption and separate from any licensed room for on-premises consumption;
2. As expressly authorized by Wyoming Statutes 12-5-203(b) and 12-4-410(b), as amended.
3. This section does not apply to a person under the age of twenty-one (21) years if the underage person is in a dining or waiting area of the dispensing room with an adult not later than ten (10:00) p.m. As used in this chapter, "adult" is defined as a person twenty-one (21) years of age who is the parent or legal guardian of the person under the age of twenty-one (21), and "dining or waiting area" means a specifically delineated area which has been submitted with the licensee's application and has been approved by the governing body.

L. Gambling on licensed premises. No person shall gamble and no licensee (including the licensee's employees and agents) shall permit gambling in any room licensed under this chapter. "Gambling" for the purposes of this section is defined per Wyoming Statute. Section 6-7-101 et seq. A licensee who permits gambling on a licensed premise contrary to the state statute is declared to be in violation of law.

M. Open container prohibited, public property-exceptions. No person shall consume or carry in open containers alcoholic liquor or malt beverages on any street or highway, on any alley, on any sidewalk, in any public park or public building, on any parking lot open to unrestricted use by the public, or in any vehicle, within the city, except:

1. At a special event where the city has granted a one-day permit in compliance with the provisions outlined in Chapter 5.18 which authorizes or permits persons attending the event to consume alcoholic beverages in areas where such consumption and/or possession is otherwise prohibited by this section;

2. On any public sidewalk on which the city has granted an encroachment permit for serving of alcoholic beverages or equivalent use.
3. At any place where the sale or service of alcoholic liquor or malt beverages is authorized by state law or city ordinance.
4. This section does not apply to persons within a chartered transportation vehicle which is licensed pursuant to W.S. 12-2-202, if the vehicle operating under the license has a copy of the state license conspicuously displayed in the rear of the vehicle.

N. **Open container prohibited, private property.** It is unlawful for any person to consume or carry in open containers alcoholic liquor or malt beverages upon the private business premises of another without permission of the owner or person in control of such premises.

O. **Corked Wine.** A restaurant or bar and grill licensee may permit a patron to remove one (1) unsealed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with the meal on the premises. For purposes of this subsection the term "full course meal" shall mean a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises, so that it is visibly apparent that the resealed bottle of wine has not been tampered with. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine which is resealed in accordance with the provisions of this subsection shall not be deemed an open container under this Ordinance.

P. **Occupancy loads - Sign.** Occupancy loads, as determined by the Wyoming State Fire Marshall or designee, pursuant to the International Building Code as adopted by the city, must be clearly posted via a sign to be provided by the applicant and posted in a location as required by the Fire Marshall or designee. A licensee who fails to post a sign as to the occupancy load of the licensed premises contrary to the city code and as required under this section within six (6) months of the effective date of this Ordinance is declared to be in violation of law.

Q. **Habitual violation of occupancy limits.** A licensee who has a subsequent conviction under Section 5.16.107 of the city code, within a twelve-month period, of the occupancy limits set by the State Fire Marshall is declared to be in violation of law.

R. **Bottle Clubs.** It is unlawful for any person to operate a bottle club in the city. As used in this chapter, "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 liquor 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 for furnishing of mixes, ice, food or glasses, or from dues, charges, contributions, membership cards or assessments.

Section 5. Section 5.16.040 of the Douglas Municipal Code is hereby created to read as follows:

5.16.040 Ethyl alcohol - Uses exempt from chapter. The provisions of this chapter shall not apply to ethyl alcohol intended for use or used for the following purposes:

- A. Scientific, chemical, mechanical, industrial, medicinal and culinary purposes;
- B. By those authorized to procure ethyl alcohol tax free, as provided by the acts of congress and regulations promulgated thereunder;
- C. The manufacturer of denatured alcohol produced and used as provided by the acts of congress and regulations promulgated thereunder;
- D. The manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and industrial preparations or products, unfit for beverage purposes;
- E. The manufacture of flavoring extracts and syrups, unfit for beverage purposes.

Section 6. Section 5.16.050 of the Douglas Municipal Code is hereby created to read as follows:

5.16.050 Annual license fees.

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

1. Retail liquor license	\$1,000.00
2. Limited retail liquor license (special club)	\$500.00
3. Resort retail liquor license	\$2,000.00
4. Restaurant liquor license	\$500.00
5. Bar and grill liquor license	\$1,500.00
6. Microbrewery license/permit	\$500.00
7. Winery license/permit	\$500.00
8. Special malt beverage permit for auditoriums, civic centers	\$1,500.00
9. Satellite Wineries	\$100.00
10. Motel/hotel mini bar license	One-half of the original license fee
11. Manufacturers Satellite Permit – Distillery or Rectifier	\$100.00

- B. No refund of all or any part of any license fee shall be made at any time following the issuance of the license.
- C. Publication costs for a new, transfer, or renewal license shall be paid at the time of application for a liquor license and will be based upon the actual cost of publishing, which the city will determine prior to publishing based upon the estimate provide by the city’s designated newspaper of local distribution.

Section 7. Section 5.16.060 of the Douglas Municipal Code is hereby created to read as follows:

5.16.060 Application for licenses and permits – New and Transfer.

A. Applicants must comply with all provisions of Wyoming State Statutes 12-4-102, 12-4-103, 12-4-104, 12-4-105, and 12-4-106, as amended.

B. Applicants for a new retail, limited retail, restaurant, bar and grill, or resort licenses, or for a new microbrewery or winery permit, or for the transfer of location of an existing license, with the exception of a bar and grill license, which pursuant to W.S. 12-4-413 may not be transferred, or a restaurant license, which pursuant to W.S. 12-4-409 may not be transferred to another location, shall provide the city council, as part of the application, the following information:

1. A map of the city showing the proposed location and zoning of location, a site plan of the proposed construction, a proposed floor plan and a rendering or architect's drawing of the front elevation, or if the building in which the licensed room is located is in existence, a photograph of the building, an existing and proposed site plan, and an existing and proposed floor plan.
2. Each individual who owns 10% or more of the licensed premises/license shall provide, at the individual's expense, a current copy of a criminal background report as maintained by the Wyoming Bureau of Investigation. The City Council may consider the existence of felony convictions when determining whether to issue a license, but is not required to deny a license in such case.

C. License – Transferability - When permitted.

1. A person seeking to transfer a liquor license shall submit a new application form and shall pay to the city clerk at the time the application is filed a nonrefundable additional license fee of one hundred dollars (\$100.00). After a public hearing and with the approval of the city council, a liquor license may be transferred to different premises, a different licensee, or both. A transferred license shall expire on the same date as the original license.
2. No license transfer shall be approved if the license is suspended, or if proceedings to suspend or revoke the license are pending.
3. No license may be transferred unless the city council makes the findings required herein and in Title 12 of Wyoming statutes.
4. The city does not recognize any preference rights applicable to a transfer of location, ownership, or both.

D. License – Transferability - Generally.

Any transfer or sale of license not authorized by city council or contrary to the city code is declared to be in violation of law which may result in penalties issued to the offending licensee pursuant to 5.16.107 of this chapter.

E. No person or entity may hold a license hereunder in the interest of or for the benefit of another person or entity, and the person or entity applying for the license must intend to be the true and beneficial owner thereof and may not be acting for or on behalf of another undisclosed person or entity. This provision is to be construed liberally so as to prevent evasions and subterfuges of the intent of the ordinance codified herein. The lawful

ownership of a liquor license at the time of enactment of this provision may be continued even though the ownership does not conform to the requirements of this section.

- F. The city council may in its discretion permit a commercial lending institution to have rights in more than one liquor license if those rights were obtained pursuant to the Uniform Commercial Code and the institution holds the licenses for resale. No such institution may sell alcoholic beverages under a license so held.

Section 8. Section 5.16.070 of the Douglas Municipal Code is hereby created to read as follows:

5.16.070 Application for licenses and permits – Renewal.

- A. **License application - Change of ownership and other information; Compliance with all sections of W.S. 12-4-102.** Failure to update any renewed annual application information as required under this section within thirty (30) days of any change is declared to be a violation of law and may result in penalties for the offending licensee pursuant to 5.16.107 of this chapter.
- B. Upon application for a renewal liquor license, a licensee shall submit to the city clerk proof of alcohol training certification of the licensee and all managers and supervisory personnel, as well as provide an annual report to the city clerk at the time of submittal of the renewal application showing certified or dated completion of orientation training of all non-supervisory personnel.
- C. Compliance with the provisions of an alcoholic liquor and malt beverage review system, in addition to the requirements of state law and city code, will be evaluated by the governing body during the annual liquor license renewal process. Any violation or noncompliance of the provisions of the review system, state law or city code regulations will be considered by the governing body in its decision to renew, or not renew, an annual license.

Section 9. Section 5.16.080 of the Douglas Municipal Code is hereby created to read as follows:

5.16.080 Annual License – Retail license

- A. Retail liquor establishments offering pre-mixed alcoholic drinks or “slushies” shall be permitted. A “slushy” or other pre-mixed alcoholic drink that is to be removed from the premises for consumption shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises, so that it is visibly apparent that it has not been tampered with. A slushy which is resealed in accordance with the provisions of this subsection shall not be deemed an open container under this Ordinance.

Section 10. Section 5.16.090 of the Douglas Municipal Code is hereby created to read as follows:

5.16.090 Annual License - Restaurant license

- A. All applicants for a restaurant license, or the renewal thereof, shall comply with all requirements of W.S. 12-4-407 and W.S. 12-7-408.

- B. Applicants for new restaurant liquor licenses shall provide the city clerk with a copy of the menu, or proposed menu, of all food and beverage items for sale or proposed for sale during full-food service hours and a list of the hours or proposed hours of full-food service for weekdays and weekends.

Section 11. Section 5.16.100 of the Douglas Municipal Code is hereby created to read as follows:

5.16.100 Annual License - Bar and grill license.

- A. The annual fee for a bar and grill license shall be one thousand five hundred dollars, with the fee being assessed on a pro rata basis for the year of application based upon the date of approval and the renewal date. Renewals shall only be for a full year, with no refund in the event of nonuse, relinquishment or forfeiture.

Section 12. Section 5.16.101 of the Douglas Municipal Code is hereby created to read as follows:

5.16.101 Annual License - Microbrewery or winery permit

- A. **Compliance with other laws.** All provisions of law, including but not limited to this chapter, and all health and sanitary laws and regulations of the city, the state of Wyoming, and the United States, apply to microbrewery and winery permits and microbreweries and wineries, and to distilleries and rectifiers.
- B. Following receipt of a completed application, publication, and a public hearing as required by law, the city council shall issue or renew a microbrewery or winery permit if it finds:
 1. That the issuance of the permit would not cause the city to exceed the number of microbreweries or wineries allowed by W.S. 1977, 12-4-201(d), as amended.
 2. That the issuance of the permit would not violate the provisions of W.S. 12-4-103, except subsection (a)(vi).
 3. That the issuance of the permit will not adversely affect the health, safety, and general welfare of the citizens of the city. Issuance is subject to the same findings as city council must make for liquor licenses.

Section 13. Section 5.16.102 of the Douglas Municipal Code is hereby created to read as follows:

5.16.102 One day permits - General Provisions

- A. **Permit Fees.** The city administrator is authorized to issue or recommend denial of the following temporary permits pursuant to state law and this chapter:

1. Malt beverage permit for State Fair	\$100.00
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2. Catering permit	\$10.00
3. Malt beverage permit	\$10.00
4. Additional dispensing room permit	\$10.00
5. Open container permit	\$10.00
6. Applications for the above-listed permits requiring a special meeting of the governing body for approval; the governing body may, at its discretion, waive the special meeting fee.	\$250.00

- B. Issuance.** The city administrator or designee may issue a one-day permit per the provisions in W.S. 12-4-502. A one day permit shall not be held by or issued to any member of the city council or to any county commissioner; any state, county or city law enforcement officer; any manufacturer of alcoholic beverages or wholesaler of malt beverages; any minor; any college fraternity or organization created by one or more college fraternities; any corporation, limited liability company, limited partnership, or limited liability partnership which is not qualified to do business in Wyoming; any individual who is not a resident of the state; or any general partnership or group of two or more persons unless each person interested, directly or indirectly, is a resident or qualified to do business in the state.
- C. Hours.** A one-day permit may be issued for use between the hours of 6:00 a.m. to 2:00 a.m. of the following day.
- D. Posted sign.** When it is a condition of the issuance of a one-day permit, the permittee shall clearly post a sign notifying patrons that they must be twenty-one years of age to enter the premises. The type of sign and location for posting shall be as required by the city. The failure to post such sign shall not be used as a defense for violations of individuals under the age of twenty-one. Failure to post a sign as required in this section is declared to be in violation of law.
- E. Refunds.** No refund of all or any part of a temporary license or permit fee shall be made at any time following the issuance of the license.
- F. One-day permit in conjunction with a special events permit.** A person or organization may make application for a one-day liquor permit in conjunction with a special events permit in accordance with the procedures outlined in Chapter 5.18 of Douglas Municipal Code. An applicant applying for a one-day liquor permit in conjunction with a special event while having a licensed premises located within a jurisdiction other than the city shall secure the written approval of the licensing authority of that jurisdiction in which the licensed premises is located prior to filing an application for a one-day permit with the city.
- G. Denial of a one-day permit.** If the city administrator or designee recommends the denial of a one-day permit, the matter shall be scheduled for consideration at the next regularly scheduled city council meeting upon the written request of the applicant.
- H. Extended hours permit.** An extended hours permit is not permissible and shall not be issued within the city.

Section 14. Section 5.16.103 of the Douglas Municipal Code is hereby created to read as follows:

5.16.103 One-day additional dispensing room permit. A permit issued to any licensee authorizing the sale of alcoholic or malt beverages in one additional dispensing room in the same building licensed by the original liquor license.

- A. No one licensee shall be issued more than six (6) such permits in any one calendar year.

Section 15. Section 5.16.104 of the Douglas Municipal Code is hereby created to read as follows:

5.16.104 One-day malt beverage permits. A permit issued to any responsible person or organization authorizing the sale of malt beverages only for sales at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering.

- A. No licensee holding a malt beverage permit for special events shall sell or permit consumption of any malt beverage off the premises described in the malt beverage permit for special events.
- B. No person or organization shall receive more than a total of twelve (12) such permits at the same premises in any one calendar year, except that this limitation shall not be applicable to malt beverage permits issued for sales at any fair, rodeo, pari-mutuel event or other similar public event conducted by a public entity upon public premises.

Section 16. Section 5.16.105 of the Douglas Municipal Code is hereby created to read as follows:

5.16.105 One-day catering permits. A permit authorizing the sale of alcoholic and malt beverages to any person holding a retail or resort retail liquor license authorizing the off-premises sale of both alcoholic and malt beverages, for sale at special events such as meetings, conventions, private parties and dinners or at other similar gatherings not capable of being held within the licensee's licensed premises.

- A. No licensee holding a catering permit for special events shall sell or permit consumption of any alcoholic or malt beverage off the premises described in the catering permit for special events.
- B. No person or organization shall receive more than a total of twenty-four (24) such permits for sales at the same premises in any one calendar year.

Section 17. Section 5.16.106 of the Douglas Municipal Code is hereby created to read as follows:

5.16.106 One-day open container permit. A permit authorizing the consumption only of alcoholic or malt beverages upon public property.

- A. The city shall post appropriate signs in city public parks advising the public that the possession of an open container of an alcoholic beverage or the consumption of an

alcoholic beverage within the public park and its adjacent sidewalks and streets is not permitted except upon the issuance of an open container permit.

Section 18. Section 5.16.107 of the Douglas Municipal Code is hereby created to read as follows:

5.16.107 Suspension/revocation of license or permit, violations, and penalties.

- A. **Purpose.** The city, by enactment of this ordinance, states that it is the public policy of the city to balance the interest of its citizens and visitors to the City against the interest of the liquor licensee in operating and maintaining their business activities upon a licensed liquor establishment premises. If the licensee fails to adhere to certain minimum standards, or fails to abide by this ordinance or applicable law of the State, the liquor licensee shall be subject to the provisions herein. To provide for an orderly administration of this ordinance, and the maintenance of existing liquor licenses or permits, the city establishes a system for suspension and/or revocation of a liquor license or permit. Violations of this Chapter by any licensee or employee or agent of a liquor licensee, while acting in the service of the licensee, shall be imputed to the licensee for the purposes of this section.
- B. All liquor licensees, their agents, and employees must conduct the licensed liquor premises in compliance with:
 - 1. Provisions of the laws of Wyoming related to liquor;
 - 2. City ordinances related to liquor.
- C. Proof of violation by a licensee or the licensee's agent or employee of any of the provisions in Paragraph B is sufficient grounds for suspension or recommendation of revocation of the license and licensees and permittees may be reprimanded or assessed a civil penalty at the discretion of the city council.
- D. The city shall impose progressive penalties for multiple violations of any laws, ordinances and rules within the preceding three (3) year period as specified unless mitigating circumstances indicate the penalty should be reduced, or aggravating circumstances indicate the penalty should be increased. The city shall consider the licensee's prior violation history, the licensee's good faith effort to prevent a violation, and the existence of written policies governing the licensee's employee conduct as mitigating circumstances before taking an action against a licensee who is not in compliance with the provisions of this Section.
- E. Violations include, but are not limited to, those listed on the following chart.

VIOLATION CHART	
Type Of Violation:	Code:
1. Making a false statement on a liquor license or one-day liquor permit application	W.S. 12-4-102
2. Failure to notify city of changes in application information for liquor license or one-day liquor permit	W.S.12-4-102
3. Sale or transfer of liquor license without permission of city	W.S. 12-4-601 (a)
4. Sales or dispensing after hours	12-5-702 (c)
5. Failure to post liquor license or one-day liquor permit	W.S. 12-5-702 (c)
6. Open after hours	W.S. 12-5-101
7. Refusal to permit entry or inspection	12-5-201 (a)
8. Drive-in area conditions	Article 3, W.S. 12-5-301
9. Sale of alcoholic liquor or malt beverage to underage person	W.S. 12-6-101
10. Minors in dispensing room	W.S. 12-5-201 (a)

11. Failure to post sign indicating you must be 21 years of age to enter premises for one-day liquor permits	DMC 5-16-103 (D)
12. Gambling and other prohibited acts	W.S. 12-5-204
13. Limited retail liquor license: selling alcoholic liquor or malt beverages to non-members unless they are an accompanied guest of a member	W.S. 12-4-301 (c)
14. Failure to pay sales tax	W.S. 12-7-103
15. All liquor licenses other than full retail: selling alcoholic liquor or malt beverages for consumption off premises	W.S. 12-4-410; W.S. 12-5-201 (e), (h), and (j)
16. Sale to an intoxicated person via a drive-in area	W.S. 12-5-301 (v)
17. Allowing over-occupancy of licensed premise.	5-16-030 (O)
18. Habitual violation of allowing over-occupancy.	5-16-030 (P)
19. Habitual violations of parking laws, including parking in alleyways and no parking areas.	DMC Title 10
20. Manufacturing, rectifying, or sale of alcoholic beverages without a license or permit.	W.S. 12-8-102

F. Notification of licensee of liquor violation.

1. **Municipal Court.** Not later than thirty (30) days following disposition of a charge which results in a conviction for an liquor violation of Subsection C herein in Municipal Court, the Court shall report the following information to the City Clerk:
 - a. The fact that a licensee permittee, or employees and/or agents of a licensee or permittee have been convicted of a violation of the City Code as described in E., Violation Chart, herein;
 - b. The date of the alleged violation; and
 - c. Whether the Municipal Court disposition has been appealed. For purposes of this section, a conviction includes a finding of guilt after trial, a plea of guilty, or a plea of nolo contendere.

2. **Notice of Hearing before City Council.** Upon receipt by the clerk of a notice from the State issued pursuant to Wyoming Statutes §12-2-306, as amended, and/or such information from the Municipal Court, the clerk shall notify the licensee of alcoholic beverage violation and a hearing may be set before the City Council. The certified notice from the state and all evidence presented to the State in support of the certified notice and order of conviction from Municipal Court will be admitted and considered prima facie evidence of the liquor licensee's sales tax delinquency or conviction of municipal ordinance on liquor. The purpose of the hearing is to allow the licensee to offer corrections to the information; and action taken by liquor licensee to mitigate the violation and for City Council to determine whether liquor licensee should face restrictions or suspension of license. Notice of such violation shall be served by regular mail to the address of the licensee listed on the licensee's most recent liquor license application to the City, and shall include a statement:
 - a. That City received a notice for failure to pay sales tax or a criminal violation described in Paragraph D herein has occurred and that a fine, suspension and/or revocation of the licensee's license is possible;
 - b. Summarizing the nature and date(s) of the incidents resulting in the conviction and notice for failure to pay sales tax;

G. Hearing before City Council. The hearing before the City Council shall be conducted under the Wyoming Administrative Procedures Act (Wyoming Statutes 16-3-101 et seq.) and rules adopted by the governing body.

H. **Penalties.** Following the hearing described in this section, and based upon the information considered and received at such hearing, City Council may:

1. Issue a written warning and/or mitigation plan of the violation by licensee; or
2. Order a fine and/or suspension of license: the suspension of the license shall remain in effect until the City Council lifts the suspension, a court of competent jurisdiction lifts the suspension, or the clerk receives notice from the state that the sales tax liability has been satisfied. Penalties provided in this section are based on the violations of ordinances outlined in Section E herein against a licensee within a three (3) year period beginning the first day of April through the last day of March of each year. Any convictions of ordinances outlined in Section E during this period of time involving the same licensed liquor premises may be used by City Council to determine a gross violation and suspension or recommend revocation of licensee's license. The maximum fine is seven hundred fifty dollars (\$750.00).

I. **Revocation.** If it appears to the City Council that a liquor license should be revoked, the City Council may authorize the City Attorney to prepare and file with the District Court a petition to revoke the licensee's license. If a license is revoked, except as provided in Wyoming statutes section 12-7-201(d) concerning the expiration of a license while a revocation order is under appeal, the liquor licensee of such revoked license shall not be eligible to apply for a new liquor license for a period of twelve (12) months from the date of revocation. In the event a suspension occurs, the clerk shall send by certified mail one copy of each of the suspension notices to the last known address of the liquor licensee and to the Director of the Wyoming Department of Revenue.. Additionally, the clerk shall post one (1) copy of the suspension notice on the liquor license or permitted premises. Immediately upon the posting of the suspension notice, the sale, offering to sell, distribution, or traffic of liquor or malt beverages is unlawful. Further, the licensee shall either remove all of 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.

J. **Appeal.** Action by City Council suspending a liquor license of a licensee shall be subject to review in the District Court upon exhaustion of administrative appeals in accordance with the procedural rules heretofore or hereinafter adopted by the Wyoming Supreme Court concerning the review of administrative actions. Filing an appeal as provided in such rules, stays enforcement of the suspension decision pending final order on the appeal.

Section 19. Douglas Municipal Code Sections 1.04.050, 1.04.060 and 2.08.060, by reference, are incorporated herein and made a part hereof.

Passed and Approved on First Reading this 10th day of August, 2015.

Passed and Approved on Second Reading this 24th day of August, 2015.

Passed, Approved, and Adopted on third and final reading this 14th day of September, 2015.

/s/ Bruce A. Jones, Mayor

Attest:

/s/ Karen Rimmer, City Clerk

Published: September 23, 2015

ATTESTATION

I, Karen Rimmer, the Clerk of the City of Douglas, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.

/s/ Karen Rimmer, City Clerk