

ENROLLED ORDINANCE NO. 19-005

AN ORDINANCE AMENDING TITLE 5 “BUSINESS LICENSES AND REGULATIONS”, TO REVISE CHAPTER 5.04 “ALCOHOLIC BEVERAGES”, SECTION 5.04.220 “REVOCATION”, OF THE RIVERTON MUNICIPAL CODE, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIVERTON, FREMONT COUNTY, WYOMING:

Section 1.

5.04.220 Revocation., is hereby revised to read as follows:

5.04.220 Revocation/suspension of a license or permit, violations, and penalties.

~~The violation of any provision of this chapter by any licensee under this article shall be sufficient cause for the revocation of the license. (Prior code § 3-18)~~

- A. If the licensee fails to adhere to the provisions of this chapter or applicable laws of the state, the liquor licensee shall be subject to the provisions herein. To provide for an orderly administration of this chapter, 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 building and/or premises in compliance with provision of the laws of Wyoming related to liquor and city code related to liquor.*
- C. Proof of violation of any provisions of this chapter or applicable laws of the state by a licensee or the licensee’s agent or employee 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 governing body, as outlined in subsection ‘F’.*
- D. The governing body may impose progressive penalties for multiple violations of any laws, city codes and rules within the preceding three-year period as specified unless mitigating circumstances indicate the penalty should be reduced, or aggravating circumstances indicate the penalty should be increased. The governing body 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 chapter.*
- E. Violation Chart:*

	<i>Type of Violation:</i>	<i>Code:</i>
1.	<i>Making a false statement on a liquor license or one-day liquor permit application</i>	<i>W.S. 12-4-102</i>
2.	<i>Failure to notify city of changes in application information for liquor license within thirty (30) days</i>	<i>W.S. 12-4-102(c)</i>
3.	<i>Sale or transfer of liquor license without permission of the city</i>	<i>RMC 5.04.130; 5.04.210 W.S. 12-4-601(a)</i>
4.	<i>Failure to post liquor license or one-day liquor permit</i>	<i>RMC 5.04.200 W.S. 12-5-702(c)</i>
5.	<i>Open after hours; sales or dispensing after hours</i>	<i>RMC 5.04.050 W.S. 12-5-101</i>
6.	<i>Refusal to permit entry or inspection</i>	<i>RMC 5.04.020(d) W.S. 12-5-201(a)</i>
7.	<i>Drive-in area conditions</i>	<i>RMC 5.04.020(e); 5.04.110; 5.04.120 W.S. 12-5-301</i>
8.	<i>Sale of alcoholic liquor or malt beverage to underage person</i>	<i>RMC 5.04.030 W.S. 12-6-101</i>
9.	<i>Unauthorized minors in licensed building or dispensing room</i>	<i>RMC 5.04.030(c) W.S. 12-5-201(a)</i>
10.	<i>Gambling or other prohibited acts</i>	<i>RMC 5.04.020(c)</i>

11.	<i>Failing to obtain a limited use permit for sexually oriented events.</i>	<i>RMC 9.08.210</i>
12.	<i>Limited retail liquor license: selling alcoholic liquor or malt beverages to non-members unless they are an accompanied guest of a member</i>	<i>W.S. 12-4-301(c)</i>
13.	<i>Failure to pay sales tax</i>	<i>RMC 5.04.220 W.S. 12-7-103</i>
14.	<i>All liquor licenses other than full retail or resort: selling alcoholic liquor or malt beverages for consumption off premises</i>	<i>W.S. 12-4-401; W.S. 12-5-201(e)(h)(j)</i>
15.	<i>Sale to an intoxicated person</i>	<i>RMC 5.04.110; 9.08.110 W.S. 12-5-301(v)</i>
16.	<i>Manufacturing, rectifying, or sale of alcoholic beverages without a license or permit</i>	<i>RMC 5.04.130; 5.04.250 W.S. 12-8-102</i>
17.	<i>Furnishing to a minor by allowing an employee under the age of eighteen (18) years to serve alcohol to customers</i>	<i>W.S. 12-6-101(a); W.S. 12-6-101(e)</i>
18.	<i>Failing to comply with regulations pertaining to out-of-jurisdiction catered events</i>	<i>RMC 5.04.230(b)(5)</i>
19.	<i>Failure to maintain operational status</i>	<i>W.S. 12-4-103 RMC 5.04.180</i>

F. Notification of Liquor Violation.

- 1. Municipal Court. Not later than thirty (30) days following disposition of a charge which results in a conviction to a liquor licensee, agent, or employee for a liquor violation 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; and*
 - 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 Violation to Liquor Licensee. Upon notice to the city clerk of a proof of violation of any one or more violation(s) as outlined in subsection 'E', the city clerk shall notify the liquor licensee of the violation(s) via regular mail to the address of the licensee listed on the licensee's most recent liquor license application to the city. The notice shall include the description of the violation and provide for a reasonable timeframe to mitigate the violation. If the licensee fails to correct the violation within a reasonable timeframe, the clerk shall submit the violation to the governing body and the governing body may hold a hearing as outlined in subsection 'F.3.'*
- 3. Notice of Hearing before Governing Body. If the governing body chooses to hold a hearing regarding violation(s), all evidence will be admitted and considered prima facie evidence of the liquor licensee's violation(s). The purpose of the hearing is to allow the liquor licensee the opportunity to offer corrections to the information and action taken by liquor licensee to mitigate the violation(s), and for the governing body to determine whether the liquor licensee should face restrictions or suspension of the liquor 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 the city received proof of violation(s), and that a fine, suspension and/or revocation of the licensee's license is possible; and*
 - b. Summarizing the nature and date(s) of the incidents resulting in the violation(s).**
- 4. Hearing Before Governing Body. The hearing before the governing body shall be conducted under the Wyoming Administrative Procedures Act (W.S. 16-3-101 et seq.) and rules as adopted from time to time by the governing body.*
- 5. Penalties. Following the hearing described in this section, and based upon the information considered and received at such hearing, the governing body may:

 - a. Issue a written warning and/or require a mitigation plan of the violation by licensee; or*
 - b. Order a fine and/or suspension of license: The suspension of the liquor license shall remain in effect until the governing body lifts the suspension, a court**

competent jurisdiction lifts the suspension, or the city clerk receives notice from the State of Wyoming that the sales tax liability has been satisfied. Penalties provided in this section are based on the violations of ordinances outlined in subsection E herein against a liquor licensee within a three-year period beginning each year on the first day of April through the last day of March of the following year. Any convictions of liquor law violations during this period of time involving the same licensed liquor building and/or premises may be used by the governing body to determine a gross violation and suspension or recommend revocation of a licensee's license. The maximum fine is seven hundred fifty dollars (\$750.00) per occurrence.

- 6. Revocation. If it appears to the governing body that a liquor license should be revoked, the governing body 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 W.S. 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 (1) copy of the suspension notice to the last known address of the liquor licensee and to the director of the state department of revenue. Additionally, the clerk shall post one (1) copy of the suspension notice on the liquor license or permitted building or premises. Immediately upon the posting of the suspension notice, the sale, offering to sell, distribution, or trafficking of liquor or malt beverages in unlawful. Further, the licensee shall either remove all of the alcoholic liquor and malt beverages from the licensed building and/or premises or secure the alcoholic liquor and malt beverages in a manner approved in writing by the chief of police or his designee.*
- 7. Appeal. Action by the governing body 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 of the appeal.*

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. This ordinance shall take effect from its adoption and publication as required by law and the ordinances of the City of Riverton.

PASSED ON FIRST READING	<u>May 21, 2019</u>
PASSED ON SECOND READING	<u>June 4, 2019</u>
PASSED ON THIRD READING	<u>June 18, 2019</u>

PASSED, ADOPTED AND APPROVED this 18th day of June 2019.

CITY OF RIVERTON

By: _____
Richard P. Gard, Mayor

ATTEST:

Kristin S. Watson
City Clerk/Human Resource Director

ATTESTATION

I, Kristin S. Watson, Clerk of the City of Riverton, attest that Ordinance No. 19-005 was passed, adopted, and approved by the Governing Body of the City of Riverton on the 18th day of June 2019. I further certify that the above proclamation ran at least once in the Riverton Ranger, a newspaper of general circulation within Riverton, Wyoming, the effective date of publication, and therefore the effective date of enactment being *June 21, 2019*.

Kristin S. Watson
City Clerk/Human Resource Director