

CHAPTER 3

ALCOHOLIC BEVERAGES¹

1. For state law authorizing the town to regulate a license, tax and prohibit saloons, see W.S. 1977, §15-1-103 (xiv). For detailed licensing and regulatory authorizations, see W.S. 1977, § 12-2-101.

As to driving under the influence of intoxicating liquor, see Sec. 13-10 of this Code. As to intoxication generally, see Sec. 16-23.

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SEC. 3-1. PURPOSE AND PUBLIC POLICY OF REGULATIONS.²

For the protection of the welfare, health and safety of the people of the City of Buffalo, Wyoming, it is hereby declared to be the public policy of the City of Buffalo that the retail sale of alcoholic and malt beverages shall be regulated to the extent of prohibiting all sales thereof, except as hereinafter provided, and no retail sale of such alcoholic or malt beverages may be consummated in the City of Buffalo, Wyoming, except in compliance with the provisions hereof. It is further declared to be the purpose of this Chapter and the policy of the City of Buffalo, Wyoming, to act in accordance with and comply with all State laws relating to alcoholic beverages and specifically Title 12, Alcoholic Beverages, Wyoming Statutes, Annotated, 1977, as amended. (Ord. 923, §1, 6/79)

2. For similar state law see W.S. 1977, §12-1-101.

SEC. 3-1.1. DEFINITIONS.

a) As used in this Chapter:

i) "Alcoholic liquor" means any spirituous or fermented fluid, substance or compound other than malt beverage intended for beverage purposes which contains more than one percent (1%) of alcohol by volume;

ii) "Building" means a roofed and walled structure built or set in place for permanent use;

iii) "Club" means any of the following organizations:

A) A post, charter, camp or other local unit composed only of veterans and its duly organized auxiliary, chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes and, as the owner, lessee or occupant, operates an establishment for these purposes within the state;

B) A charter, lodge or other local unit of an American national fraternal organization and, as the owner, lessee or occupant, operates an establishment for fraternal purposes within the state. As used in this subparagraph, an American fraternal organization means an organization actively operating in not less than thirty-six (36) states or having been in active continuous existence for not less than twenty (20) years, but does not mean a college fraternity;

C) A hall or building association of a local unit specified in subparagraphs (a) and (b) of this paragraph, of which all of the capital stock is owned by the local unit or its members, operating clubroom facilities for the local unit;

D) A golf club having more than fifty (50) bona fide members and owning, maintaining or operating a bona fide golf course together with a clubhouse;

E) A social club with more than one hundred (100) bona fide members who are residents of the county in which it is located, owning, maintaining or operating club quarters, incorporated and operating solely as a non-profit corporation under the laws of this state and qualified as a tax exempt organization under the Internal Revenue Service Code and having been continuously operating for a period of not less than one (1) year. The club shall have had during this one (1) year period a bona fide membership paying dues of at least twenty-five dollars (\$25.00) per year as recorded by the secretary of the club, quarterly meetings and an actively engaged membership carrying out the objects of the club. A social club shall, upon applying for a license, file with the licensing authority and the commission, a true copy of its by-laws and shall further, upon applying for a renewal of its license, file with the licensing authority and the commission a detailed statement of its activities during the preceding year which were undertaken or furthered in pursuit of the objects of the club together with an itemized statement of amounts expended for such activities. Club members, at the time of application for a limited retail liquor license pursuant to W.S. 1977, §12-3-301, shall be in good standing by having paid at least one (1) full year in dues;

F) Club does not mean college fraternities or labor unions.

iv) "Council" means the City Council of the City of Buffalo, Wyoming;

v) "Commission" means the Wyoming Liquor Commission;

vi) "Drug store" means space in a building maintained, advertised and held out to the public as a place where drugs and medicines are sold and prescriptions compounded and where a registered pharmacist is regularly employed;

vii) "Intoxicating liquor", "alcoholic liquor", "alcoholic beverage" and "spirituous liquor" are construed as synonymous in meaning and definition;

viii) "Licensee" means a person holding a:

- A) Retail liquor license;
- B) Limited retail liquor license;
- C) Resort liquor license;
- D) Malt beverage permit;
- E) Restaurant liquor license;
- F) Catering permit; or
- G) Bar and Grill Liquor License.
(RO 1390 6/17)

ix) "Licensing authority" means the governing body of an incorporated city, town, or country in Wyoming with the responsibility to issue, control and administer a particular license, or the commission;

x) "Malt beverage" means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substitute therefore, containing more than one percent (1%) of alcohol by volume;

xi) "Person" includes an individual person, partnership, corporation or association;

xii) "Resident" means a domiciled resident and citizen of Wyoming for a period not less than one (1) year who has not claimed residency elsewhere for any purpose within a one (1) year period immediately preceding the date of application for any license or permit authorized under this title;

xiii) "Restaurant" means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on-premise consumption and 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. This means that the building shall have a dining room or rooms, a kitchen and the number and kinds of employees necessary for the preparing, cooking and serving of meals in order to satisfy the licensing authority that the space is intended for use as a full service restaurant. The service of only fry orders or such food and victuals, as sandwiches, hamburgers or salads shall not be deemed a restaurant for the purpose of this section;

xiv) "Sell" or "sale" includes offering for sale, trafficking in, bartering, delivering or dispensing and pouring for value, exchanging for goods, services or patronage or an exchange in any way other than purely gratuitously. Every delivery of any alcoholic liquor or malt beverage made otherwise than by gift constitutes a sale;

xv) "This section" or "Chapter" refers to Chapter 3 of the Code of the City of Buffalo, Wyoming. (Ord. 923, §2, 6/79)

SEC. 3-2. NUMBER OF LICENSES IN EFFECT; EXISTING LICENSES.³

The total number of liquor licenses in effect at any time in the City of Buffalo, Wyoming, shall be limited in accordance with the laws of the State of Wyoming then in effect. (Ord. 923, § 3, 6/79)

3. For state law in connection with this section, see W.S. 1977, §12-2-101, 12-2-102 and 12-2-104.

SEC. 3-3. LICENSE FEES.

a) Fees for various liquor licenses, except retail liquor licenses, which may be issued by the City of Buffalo, Wyoming, shall be as follows:

<u>Type of License</u>	<u>Annual Fee</u>
Limited Retail Liquor License	300.00 annually
Resort Liquor License	3,000.00 annually
Restaurant Liquor License	1,000.00 annually
Special Occasion Malt Beverage Permit	10.00 per permit
Catering Permit	100.00 per permit
Bar and Grill Liquor License	1,500.00 annually
Retail Liquor License	1,500.00 annually

Every person holding a liquor license issued by the City of Buffalo, Wyoming, shall pay the license fee annually and in advance for said license. (Ord. 1070, § 1, 1/89; RO 1390, 6/17)

SEC. 3-4. REVOCATION OF LICENSES.

a) Any violation of Chapter 3 of the Code of the City of Buffalo, Wyoming, 1980, as amended or any violation of Title 12 of the Wyoming Statutes, 1977, as amended, by any licensee, employee or agent thereof, is sufficient cause for suspension or revocation of the license of the licensee. (Ord. 923, § 4, 6/79)

b) In a proceeding for revocation of a liquor license and when a licensee is found guilty of violating any section of Chapter 3 of the Code of the City of Buffalo, Wyoming, 1980, as amended, or Title 12 of Wyoming Statutes, 1977, as amended, the City Council 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. (Ord. 949, § 2, 5/81)

c) Revocation proceedings initiated by the City Council shall be in accordance with the Wyoming Administrative Procedure Act. The administrative procedure shall be subject to judicial review under W.S. 1977, § 9-4-114 except that the review shall not operate to stay a revocation order of the Commission during the pendency of the District Court proceeding or during a later appeal to the Supreme Court. Should the license of a defendant expire during the pendency of appeal in any of the courts of this State, no new or renewal license shall be granted by the licensing authority to defendant pending the outcome of the appeal. In the event the license of a licensee is revoked all license fees paid by the licensee shall be declared forfeited by the City Council and such action for revocation shall be taken only when the violation or complaint against any licensee is brought before the Council by one of the members thereof, or by the Chief of Police, or some other authorized peace officer of the City of Buffalo, Wyoming, or upon affidavit signed and sworn to by some responsible citizen of the City of Buffalo. (Ord. 923, § 5, 6/79)

SEC. 3-5. HOURS OF SALE; ENFORCEMENT.

a) All persons holding a liquor license or permit issued by the City of Buffalo shall close the Licensed Building and cease the sale of both alcoholic and malt beverages promptly at the hour of two (2:00) a.m. each day, and keep the same closed until six (6:00) a.m., and the licensee shall clear the Licensed Building of all persons other than employees no later than two-thirty (2:30) a.m., EXCEPT that such places may open the Licensed Building on Sunday no earlier than ten (10:00) a.m. and shall close the Licensed Building and cease the sale of alcoholic and malt beverages not later than twelve o'clock (12:00) a.m. (midnight, the next day), and the licensee shall clear the Licensed Building of all persons other than employees no later than twelve-thirty (12:30) a.m. (Ord. 1150, § 1, 6/96; RO 1390, 6/17)

b) All sales of alcoholic and malt beverages authorized by a restaurant liquor license shall cease at the time food sales and services cease or at the hour specified in subparagraph (A) above if food sales and services extend beyond the hours specified therein. (Ord. 923, § 6, 6/79; RO 1342, 10/10)

SEC. 3-6. REGULATIONS CONCERNING MINORS UNDER 21 YEARS OF AGE.

a) Except as provided otherwise by law, no licensee or agent, employee or server thereof shall 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 being dispensed in an establishment that is primarily intended for on-premise consumption of alcoholic and malt beverages, unless the establishment operates a commercial kitchen or persons under the age of twenty-one (21) year are accompanied by an adult and not later than 10:00 p.m. but not including seating at the bar itself. (Ord. 1150, § 2, 6/96; RO 1390, 6/17)

b) It shall be unlawful for any person to sell, furnish, give or cause to be sold, furnished or given away any alcoholic liquor 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 subsection does not apply to sales by the commission or a wholesaler to a licensee under State law. (Ord. 1065, 7/88)

c) It shall be unlawful for any person under the age of twenty-one (21) years to have any alcoholic or malt beverage in his possession or be drunk or under the influence of alcoholic liquor, malt beverages or a controlled substance on any street or highway or in any public place. Possession of alcoholic or malt beverages shall be defined as having consumed any portion thereof, or the present and immediate control and access to alcoholic or malt beverages for the purpose of consumption. Present and immediate control and access shall be construed to mean the ability to acquire possession from a source known to be available to and in the presence of the person. This subsection does not apply to possession of alcoholic or malt beverages by a person under the age of twenty-one (21) years:

i) When making a delivery of alcoholic or malt beverages pursuant to his employment;

ii) Who is in the physical presence of his parent or legal guardian;

iii) When dispensing or serving alcoholic or malt beverages or otherwise working in a Licensed Building pursuant to his employment, if the person was at least nineteen (19) years of age on the effective date of this act. This paragraph does not apply to persons otherwise authorized to serve alcoholic or malt beverages under paragraph (V) of this subsection; (RO 1390, 6/17)

iv) Who is a licensee under State law; or

v) When serving alcoholic or malt beverages pursuant to his employment in a restaurant which holds a license to serve alcoholic or malt beverages, if the person is at least eighteen (18) years of age. (Ord. 1065, 7/88)

d) It shall be unlawful for any person under the age of twenty-one (21) years to attempt in any manner to purchase alcoholic or malt beverages, by falsifying any identification or using any false identification in order to obtain such alcoholic or malt beverages. (Ord. 1065, 7/88)

SEC. 3-7. SALE, ETC., TO HABITUAL DRUNKARDS.

Section 3-7 of the Code of the City of Buffalo, 1964 is hereby repealed. (Ord. 802, § 4, 12/73)

SEC. 3-8. DEFINITION OF RETAIL LIQUOR LICENSES.

Section 3-8 of the Code of the City of Buffalo, 1964 is hereby repealed. (Ord. 780, 1/73)

SEC. 3-9. RESTRICTIONS AND LIMITATIONS ON SALES UNDER RETAIL LIQUOR LICENSES.

Section 3-9 of the Code of the City of Buffalo, 1964 is hereby repealed. (Ord. 789, 1/73)

SEC. 3-10. CONSUMPTION AND POSSESSION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES ON CITY STREETS, SIDEWALKS, ETC.; PENALTY.

Section 3-10 of the Code of the City of Buffalo, 1964 is hereby repealed. (Ord. 1000, 7/83; Ord 720, § 1 to 4, 9/70; Ord 949. § 4, 5/81; RO 1342, 10/10)

SEC. 3-11. ADOPTION OF STATE ALCOHOL BEVERAGE LAWS.

Except as otherwise provided in this code or other City Ordinances the sale, possession, furnishing or use of alcoholic and malt liquors in the City shall be in compliance with Wyoming Statute 1977, Title 12, as of this date, with the exception of Chapters 2 and 3 of said Title and the same shall apply to the City. A copy of such laws and of any subsequent laws and amendments thereto shall be kept on file in the office of the City Clerk, and the same are made a part of this section by reference, as though incorporated herein at length. (Ord. 1341, 10/10)

SEC. 3-12. STANDARDS IN ASSOCIATION WITH THE SALE AND POSSESSION OF ALCOHOLIC BEVERAGES.

A) Public Policy.

The public policy of the City of Buffalo requires that the use of alcoholic beverages be controlled in order to reduce associated problems affecting the welfare of the community and public safety. The following standards will be employed by the City Council to decide whether it is in the public interest to request that the State Liquor Commission or the district Court revoke or suspend the liquor license of an establishment which is a danger to the public welfare. The performance record of a licensed establishment and its compliance with these standards will be considered in proceedings to renew liquor licenses as well as to request that one be revoked or suspended.

B) Standards.

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

1. Standards.

- (a) Refuse to serve any patron who is obviously intoxicated, or is endangering people or property in the licensed establishment.
- (b) Order any patron to leave and depart who is endangering people or property in the licensed establishment and notify the Buffalo Police Department by telephone immediately when an assault, aggravated assault or assault and battery occurs in the establishment's property. Licensees shall cooperate fully in the Police Investigation of the incident.
- (c) Refuse to sell, give, or deliver alcoholic liquor or malt beverage to any person under the age of 21 years.
- (d) Refuse admittance to any person under the age of 21 years except as allowed by Section 3-6.
- (e) Prohibit criminal activity on the Licensed Building as established by Local, State or Federal law. (RO 1390, 6/17)
- (f) Immediately notify the Buffalo Police Department of any attempts by a person under the age of 21 years to acquire alcoholic liquor or malt beverages in violation of this ordinance. Licensees shall, when possible, retain the identification presented by any individual under the age of 21 years who attempts to acquire alcoholic liquor or malt beverages.
- (g) Post in a prominent location, a conspicuous notice to the public required in Section 3-16.

C) Public Responsibility.

- 1. No person shall consume or carry in open containers of alcoholic liquor or malt beverages, inside or outside of any motor vehicles on any street, highway, alley or sidewalk, except within a commercial limousine as described in Section 3-12(D), or in any restaurant, hotel dining room or any other public place whatsoever within the City, except places where the sale or service of alcoholic liquor or malt beverages is authorized by the Wyoming State Law or City Ordinance.

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

D. Limousine.

Alcoholic liquor or malt beverages may be consumed by adult passengers within commercial limousines. A limousine is a passenger car pursuant to Wyoming Statute § 31-1-101, with a closed passenger compartment seating three or more passengers which is separated from the driver's seat with a partition which may be of glass. No fee may be charged for any alcoholic liquor or malt beverage consumed in the limousine. (Ord. 1341, 10/10)

SEC. 3-13. CATERING AND MALT BEVERAGE PERMITS.

Applications for catering permits authorized by § 12-4-502(b) W.S. 1977 and malt beverage permits authorized by § 12-4-502(a) W.S. 1977 shall be made by completing a form available from the City Clerk. (Ord 1341, 10/10)

SEC. 3-14. RIGHT OF ENTRY – INSPECTION.

The holders of liquor licenses or permits issued by the City of Buffalo shall at all times permit the law enforcement officials of the City of buffalo to inspect and examine the premises for which such liquor licenses are held for the purpose of ascertaining whether or not compliance is being made with the terms of Chapter 3.

A refusal to permit entry or inspection pursuant to this Section will result in a hearing before the City Council and may result in the revocation of the liquor license. (Ord. 1341, 10/10)

SEC. 33-15. DUTY TO MAINTAIN ORDER.

The Chief of Police or his designee may order any establishment operating with a City liquor license closed until the following 6 A.M. 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. (Ord 1341, 10/10)

Sec. 3-16. MINORS WARNING NOTICE.

(A) Every Licensee, other than those operating under a license for a restaurant, bar and grill or package store that does not dispense alcohol or malt beverages, shall display at all times in a prominent place at each public entrance a printed card with a minimum height of 11 inches and a width of 17 inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21

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

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

ENTER OR ATTEMPT TO ENTER LIQUOR ESTABLISHMENT

WARNING TO ADULTS

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

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

(B) Every Licensee operating under a license for a restaurant, bar and grill or a package store that does not dispense alcoholic or malt beverages shall display at all times in a prominent place at each public entrance a printed card with a minimum height of 11 inches and width of 17 inches, with each letter to be a minimum of one-fourth inch in height, which shall read as follows:

WARNING TO PERSONS UNDER 21

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

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

WARNING TO ADULTS

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

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

SEC. 3-17. ADMINISTRATIVE FEE.

(A) Any licensed establishment in which violations of City, State or Federal laws occur requires the expenditure of greater municipal resources to control and police than establishments which are operated in accordance with the law. Those extra enforcement and other social costs include police, judicial and prosecutor salaries, and victim impacts.

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

- (B) 1. Upon first conviction of a violation of Standards in Section 3-12(B), the Licensee shall pay to the City Clerk, an administrative fee in the amount of Five Hundred Dollars (\$500.00).
2. Upon second conviction of a violation of Standards in Section 3-12(B), arising within a twelve (12) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of One Thousand Five Hundred Dollars (\$1,500.00). The Licensee shall also submit a Plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.
3. Upon a third or subsequent conviction of Standards in Section 3-12(B), arising within a twenty four (24) month period, the Licensee shall pay to the City Clerk, an administrative fee in the amount of Four Thousand Dollars (\$4,000.00). The Licensee shall also submit a revised plan of Operation, acceptable to the City, specifically addressing the conviction including actions they will take to prevent further violations.
4. Convictions of violations of Category 1 or Category 2 standards which violations occur before November 15, 2010, shall not apply after that date.
- (C) 1. For first and second convictions of violations occurring within one year this fee shall be waived if the Licensee takes training or preventive measures approved by the City.
2. For convictions of violations of Section 3-6(a) or Section 3-6(b), this fee will be waived if the person who committed the violation attends an alcohol server training program as approved by Wyoming Statute Section 12-2-402 (whether or not that person has previously attended such training) if the person is still employed by the Licensee, and if the Licensee and all employees authorized to serve alcoholic liquor or malt beverage have been to an alcohol server training program within the previous two years.

3. The Licensee shall notify the City Clerk of their intent to substitute the training within ten days of notification and submit proof of the training to the City Clerk within three months of the notification or pay the administrative fee by that day. (Ord 1341, 10/10)

SEC. 3-18. LIQUOR LICENSE REVOCATION AND RENEWAL.

If any administrative fee is not paid, Plans of Operation are not submitted on time, or in case of gross violations of this Chapter, the Licensee may be directed to appear before the City Council at a time set by Council Resolution to review the evidence of violations of this chapter. The City Council shall receive evidence of the convictions and charges pursuant to which the Administrative Fees have been assessed and their nonpayment and the failure of the Licensee to submit appropriate Plans of Operation and may, on that record, apply the provision of Section 3-4 regarding suspension or revocation. (Ord. 1341, 10/10)