

TITLE 3
BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1
GENERAL BUSINESS LICENSES AND PERMITS

Section:

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3-1-1: COMPLIANCE REQUIRED:

All licenses that may be issued under any ordinance of this town, shall be subject to the ordinances and regulations which may be in force at the time of the issuing thereof, or which may be subsequently established by the town council. If any person so licensed shall violate any of the provisions thereof, he shall be liable to be proceeded against for any fine or penalty imposed thereby, and his license shall be subject to revocation in the discretion of the town council. (1960 Code § 10-101)

3-1-2: PERSONS SUBJECT TO LICENSE:

Whenever in this code, a license is required for the maintenance, operation or conduct of any business or establishment or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the town. (2005 Code)

3-1-3: APPLICATION:

- A. Forms: Forms for all licenses and permits, and applications therefore, shall be prepared and kept on file by the town clerk-treasurer. (2005 Code)
- B. Filing Of Petition; Fee: Before any license shall be issued, the petitioner shall deposit with the town clerk-treasurer the amount of the license fee

(\$50.00 Resolution 2010-06) together with a signed petition for said license.

- C. Contents Of Petition: Such petition setting forth:
1. The name of the person, firm or copartnership or corporation giving the names of the firm and the officers of the corporation desiring such license.
 2. The kind of license desired; stating the business, trade, calling or profession to be performed.
 3. The grade of license desired if such licenses are divided into grades.
 4. The place where such business is to be carried on, giving the street address, if such business is to be carried on in any building or enclosure.
 5. The time to which such license is desired to be issued.
 6. The petition shall also state any other matters required by ordinance or by the mayor and council.
- D. Endorsement; Council Action: The town clerk-treasurer shall endorse upon such petition the amount of such payment and shall present the license to the town council for action at their next regular meeting. If such license be refused by the mayor and council, the license fee so paid shall be returned to the petitioner by the town clerk-treasurer.
- E. Issuance: If license is issued by the mayor and town council, the license shall be issued and signed by the mayor and town clerk-treasurer. The fees which are collected with the petition for license shall be remitted to the town clerk-treasurer upon the issuance of the license and a receipt issued by the clerk-treasurer. (1960 Code § 10-103; amd. 2005 Code)

3-1-4: LICENSE:

- A. Contents: Every license issued shall show upon its face:
1. The name of the person, firm or corporation to whom the license is issued.
 2. The kind of license.
 3. The grade of the license, if such licenses are divided into grades.
 4. The time for which said license is issued, giving the date of expiration.
 5. The place where such business is to be carried on in any building, giving the street number, if such business is to be carried on in any building or enclosure.
- B. Posting: All licenses shall be posted during the period for which such licenses are issued in a conspicuous place where such business is conducted and such license shall be shown at any proper time upon proper request being made by any police officer.
- C. Transferability:

1. Consent Required: Such license is not transferable from one person to another or from one place to another without the written consent of the mayor and council.
 2. Transfer Fee: The fee for the transfer of any license from one person to another or from one place to another shall be as determined from time to time by resolution of the town council and shall be payable to the town clerk-treasurer at the time the request for such transfer is made in writing.
- D. Revocation: In case such license is revoked there shall be no rebate from any such license returned to the licensee. (1960 Code § 10-104; amd. 2005 Code)

3-1-5: TERM OF LICENSE:

No license shall be granted, at any one time, for a longer period than one year, and in all cases where it is not expressly otherwise provided, the town council shall have the power to hear applications for and to order the issuance of licenses upon the terms specified by the ordinances of the town. All annual licenses shall terminate on March 1 of each year where no provision is made to the contrary. (1960 Code § 10-105; amd. 2005 Code)

3-1-6: REGISTRY:

The town clerk-treasurer shall keep a license register in which shall be entered the name of each and every person licensed pursuant to the ordinances of the town, the date of the license, the purpose for which license is granted, the amount paid therefore and the time the same will expire. (1960 Code § 10-106; amd. 2005 Code)

3-1-7: INSPECTIONS OR INVESTIGATIONS:

Upon the receipt of an application for a license or permit where laws of the town necessitate an inspection or investigation before the issuance of such permit or license, the town clerk-treasurer shall refer such application to the proper officer for making such investigation within forty eight (48) hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof. (2005 Code)

3-1-8: BUILDING AND PREMISES:

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the town. (2005 Code)

3-1-9: NUISANCES:

No business, licensed or not, shall be conducted or operated as to amount to a nuisance in fact. (2005 Code)

3-1-10: REVOCATION OF LICENSE OR PERMIT; HEARING:

Any license or permit, for a limited time, may be revoked by the mayor and town council during the life of such license or permit for the violation by the licensee or permittee of any provision relating to the license or permit, the subject of the license or permit, or the premises occupied; such revocation may be in addition to any fine imposed. The mayor and the town council shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any business license or permit for a period not to exceed fifteen (15) days.

- A. Hearing: Within ten (10) days after the town officials have so acted, the mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.
- B. Notice Of Hearing: Notice of hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be sent to the licensee or permittee by certified mail at his last known address or personally served at least five (5) days prior to the date of the hearing.
- C. Hearing Procedures: At the hearing, the licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross examine witnesses. The mayor shall preside and shall render the decision and recommendation.
- D. Causes For Revocation: Business licenses and permits issued under the ordinances of the town, unless otherwise provided, may be revoked by the mayor and town council after notice and hearing as provided in subsections B and C of this section for any of the following causes:
 - 1. Any fraud, misrepresentation or false statement contained in the application for the license or permit;
 - 2. Any violation by the licensee or permittee of ordinance provisions or state law relating to the license or permit, the subject matter of the license or permit, or the premises occupied;
 - 3. Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;
 - 4. Failure of the licensee or permittee to pay any fine or penalty owing to the town;
 - 5. Refusal to permit an inspection or investigation or any interference with a duly authorized town officer or employee while in the performance of his duties in making such inspections, as provided in the town code. (2005 Code)

3-1-11: APPEAL PROCEDURE:

- A. Right To Appeal: Any applicant aggrieved by the refusal of the town to issue a license or permit or by the revocation of a license or permit shall have the right to appeal the town's decision to the town council. Such appeal shall be requested by submitting a written request to the mayor within five (5) days of the action of the town which is appealed.
- B. Council Consideration: The town council shall consider the appeal at its next regularly scheduled meeting, at which time the applicant shall be entitled to present his appeal orally or in writing. The council shall act on the appeal within seven (7) days of the hearing and shall either uphold the action of the town or shall direct the issuance of a license or permit which the town has denied or the reissuance of a license or permit which the town had revoked. (2005 Code)

CHAPTER 2
REGULATION OF CERTAIN BUSINESSES

Section:

- 3-2-1: Application For License
- 3-2-2: Pawnbrokers
- 3-2-3: Junk Dealers
- 3-2-4: Auctioneers
- 3-2-5: Hawkers And Peddlers
- 3-2-6: Hotels And Rooming Houses
- 3-2-7: Theatrical Exhibition, Shows And Amusements
- 3-2-8: Taxicabs, Vehicles For Hire
- 3-2-9: Shooting Galleries
- 3-2-10: Billiard Tables
- 3-2-11: Bowling Alleys
- 3-2-12: Penalty

3-2-1: APPLICATION FOR LICENSE:

All licenses shall be applied for and issued by the town as provided in this chapter in accordance with and as provided for in chapter 1 of this title. (1960 Code § 10-201)

3-2-2: PAWNBROKERS ¹ :

- A. Definition: Any person who advances money or other valuable things on deposit of personal property as security thereof, or who deals in the purchasing of personal property on the condition of selling the same back at a stipulated price is hereby declared to be a "pawnbroker".
- B. License; Fee; Bond: The mayor is hereby authorized to order the issuing of a license for the purpose contemplated in the foregoing subsection to any person who shall apply therefor upon such person paying the sum as determined from time to time by resolution of the council for an annual license, and executing a bond to the town in the penal sum of in an amount to be determined from time to time by the council, to be approved by the town clerk-treasurer, conditioned that the party so licensed shall faithfully observe and keep the ordinances passed or to be passed during the period of such license relating to licensed pawnbrokers, and will pay all damages that may accrue to any person by reason of any fraud or misconduct in managing the said business.
- C. Violation; Penalty: Any person who shall carry on the business of a pawnbroker without first having obtained a license therefor shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code. (1960 Code § 10-203; amd. 2005 Code)

¹ See WS subsection 15-1-103(a)(xlili) for power to regulate.

3-2-3: JUNK DEALERS² :

It shall be unlawful for any person or persons to carry on and conduct the business of a junk dealer without first having obtained a license therefor and for which shall be paid a sum to be determined from time to time by resolution of the town council, payable in advance. (1960 Code § 10-204; amd. 2005 Code)

3-2-4: AUCTIONEERS:

- A. License Required; Fee: It shall be unlawful for any person to sell or attempt to sell at public auction, in this town, any goods, chattels or property whatever, without first having obtained a license therefor. The license fee shall be as determined from time to time by resolution of the town council.
- B. Bond: No license shall be granted or issued until person applying therefor shall have executed a bond to the town with security to be approved by the town clerk-treasurer, in an amount to be determined from time to time by resolution of the town council conditioned that said person will observe all the ordinances of the town relating to the sale of goods, chattels or property whatsoever.
- C. Exceptions: All sales made at public auction under and by virtue of legal process shall be exempt from the provisions of this chapter.
- D. Bona Fide Residents: The mayor, in his discretion, may cause to be issued gratis, a license to any bona fide resident of this town for the auction of their personal household property. (1960 Code § 10-205; amd. 2005 Code)

3-2-5: HAWKERS AND PEDDLERS:

- A. Definition: A "hawker" or "peddler" is a person who carries goods, wares or merchandise with him either on his person or on some vehicle, and sells them or offers them for sale, barter or exchange on the public streets or public places or at stores or residences within the town; provided, that this section shall not be construed to include a person who sells at wholesale to regular dealers or those persons who sell milk or water.
- B. License Required: It shall be unlawful for any person to pursue the occupation of a hawker or peddler within the town without first having procured a license therefor.
- C. License Fees: The license fee for a hawker or peddler, as in this section provided, shall be as determined from time to time by resolution of the town council.
- D. Discretion Of Council And Mayor: Any person desiring to procure a license under the provisions of this section shall make application to the town council and state in his application the kind of goods, wares or

² See WS subsection 15-1-103(a)(xlili) for power to regulate.

merchandise he wishes to sell. The mayor, in his discretion, or the council, in its discretion, if the applicant be a person of good standing and reputation, shall order the town clerk-treasurer to issue a license to the applicant upon the payment of the license fee. (1960 Code § 10-206; amd. 2005 Code)

3-2-6: HOTELS AND ROOMING HOUSES ³ :

- A. License Required: It shall be unlawful for any person to conduct any hotel or rooming house within the town without first having procured a license therefor.
- B. Fee: Any person conducting any hotel or rooming house shall pay a license fee in a sum as determined from time to time by resolution of the town council, payable in advance. (1960 Code § 10-207; amd. 2005 Code)

3-2-7: THEATRICAL EXHIBITION, SHOWS AND AMUSEMENTS:

- A. License Required; Fees: It shall be unlawful for any person to be engaged in, own, manage or conduct any place where theatrical exhibitions are held, or moving picture shows, or any like amusement or show without first having procured a license therefor, and for which shall be paid a sum as determined from time to time by resolution of the town council, payable in advance.
- B. Circus, Street Show: It shall be unlawful for any person to be engaged in, own, manage, or conduct any circus or street show, within the town without first having procured a license therefor, which shall be issued for the number of performances to be given, and for which shall be paid a sum as determined from time to time by resolution of the town council, payable in advance, for each performance or exhibition. (1960 Code § 10-208; amd. 2005 Code)

3-2-8: TAXICABS, VEHICLES FOR HIRE:

- A. Fee For Transport Of Persons: It shall be unlawful for any person to engage in the business of a hackman, cab man or auto taxi business in the town without first having procured a license therefor, and for which shall be paid a sum as determined from time to time by resolution of the town council, payable in advance.
- B. Fee For Transport Of Goods: It shall be unlawful for any person to hire out, or keep for hire or to be kept for hire, for carrying or conveying any goods, wares, or merchandise within the limits of the town any dray, cart, wagon or other vehicle for the use of which compensation is to be received or is received by such person without first having procured a license therefor, and for which shall be paid a sum as determined from

³ See section 5-2-3-10 of this code for provisions requiring a guest registry.

time to time by resolution of the town council, payable in advance. (1960 Code § 10-209; amd. 2005 Code)

3-2-9: SHOOTING GALLERIES:

It shall be unlawful for any person to keep or conduct a shooting gallery within the town unless he has procured a license therefor, and for which shall be paid a sum as determined from time to time by resolution of the town council, payable in advance. (1960 Code § 10-210)

3-2-10: BILLIARD TABLES ⁴ :

A. License Required: Any person owning or keeping a billiard table, or any table used for pool, bagatelle, or any game not prohibited by ordinance of the town, when such table is not exclusively for private use of the owner and his family shall be required to pay a license fee in an amount to be determined from time to time by resolution of the town council on each table owned or kept.

B. Penalty: Any person who shall keep a billiard table, or pool table for the use within the meaning of this chapter, within this town, without first having obtained a license therefor, as required by this section shall, upon conviction, be subject to penalty as provided in section 3-2-12 of this chapter. (1960 Code § 10-211; amd. 2005 Code)

3-2-11: BOWLING ALLEYS ⁴ :

It shall be unlawful for any person to conduct a bowling alley, or like place where games are played, without first having procured a license therefor, which shall be issued for a period of one year, and for which shall be paid a sum to be determined from time to time by resolution of the town council for each 9-pin or 10-pin alley. The license shall be transferrable from one party to another. (1960 Code § 10-212; amd. 2005 Code)

3-2-12: PENALTY:

Any person violating the provisions of this chapter shall, upon conviction, be subject to penalty as provided by section 1-4-1 of this code. Upon failure to pay the same, execution shall be had against the person or persons. (1960 Code § 10-202; amd. 2005 Code)

⁴ See section 5-2-2-17 of this code for provisions prohibiting persons under 18.

CHAPTER 3
ALCOHOLIC BEVERAGES

Section:

- 3-3-1: Definitions
- 3-3-2: Compliance Required
- 3-3-3: Application For Annual License
- 3-3-4: Types Of Licenses; Fees
- 3-3-5: Term
- 3-3-6: Restrictions Upon Applicants And Licensees
- 3-3-7: Grounds For Denial Of License
- 3-3-8: Recognition Of Preference Rights
- 3-3-9: Transfer Of Annual License
- 3-3-10: Temporary Licenses And Permits
- 3-3-11: Hours Of Operation
- 3-3-12: Drive-In Facilities
- 3-3-13: Bottle Clubs
- 3-3-14: Dispensing Room Restrictions
- 3-3-15: Prohibited Acts
- 3-3-16: Delivery Of Alcoholic Liquors And Malt Beverages
- 3-3-17: Suspension Of License Of Permit For Failure To Pay Sales Taxes
- 3-3-18: Penalty

3-3-1: DEFINITIONS:

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

CLERK-TREASURER: The town clerk-treasurer of the town of Superior.

GOVERNING BODY: The mayor and council of the town of Superior.

PUBLIC PLACE: Any place within the jurisdictional limits of the town which is owned by the town or any other governmental entity, or has been dedicated to the town, another government entity or the public, or private property upon which the public has been invited for vehicular traffic. (Ord. 1005, 8-8-1996)

3-3-2: COMPLIANCE REQUIRED:

- A. State Statutes: For the protection of the health, safety and welfare of the residents, citizens and guests of the town, it is hereby declared to be in the best interests of the town, and the residents, citizens and guests hereof, that the sale, distribution, possession and traffic of alcoholic liquor and malt beverages shall be regulated to the extent that all such activity be, and the same hereby is, prohibited, except as provided in this chapter,

and that no sale at retail or possession of such substances shall occur within the jurisdictional limits of the town except as authorized herein and the exceptions provided in Wyoming Statutes section 12-1-101 et seq., reserving certain powers to the state of Wyoming. It is the intent of this chapter to comply and coincide with provisions of Wyoming Statutes section 12-1-101 et seq., which regulate such substances.

- B. Transportation Licenses: 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 the provisions of Wyoming Statutes section 12-2-202. However, nothing in this chapter shall be construed to limit or impair the authority of the town to enforce subsection 3-3-15C of this chapter which is commonly known as the "open container ordinance". (Ord. 1005, 8-8-1996)

3-3-3: APPLICATION FOR ANNUAL LICENSE:

- A. Form: Any person desiring an annual license as authorized by this chapter shall make application to the town by delivering to the town, on the form prepared by the attorney general pursuant to Wyoming Statutes section 12-4-701 and provided to the applicant by the clerk-treasurer, a completed, verified and signed form. The license fee, or any other fees related to a license, shall be paid to the clerk-treasurer at the time the application is filed or the clerk-treasurer 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 Wyoming Statutes section 12-4-102.
- B. Processing; Publication Of Notice: Upon receipt of an application, the clerk-treasurer shall send one copy of the application to the department of revenue by certified mail, return receipt requested, 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 within the community once a week for two (2) consecutive weeks. The notice shall comply with the provisions of Wyoming Statutes section 12-4-104.
- C. Supporting Documentation; Inspection Of Premises: On behalf of the licensing authority, the clerk-treasurer 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 town representatives as required by the clerk-treasurer. Representatives of the town may enter licensed and permitted premises during regular business hours to make reasonable inspections. (Ord. 1005, 8-8-1996)

3-3-4: TYPES OF ANNUAL LICENSES; FEES:

- A. Types Authorized: The governing body is hereby authorized to issue the following annual licenses pursuant to state law and this chapter:
1. Retail liquor licenses as defined in Wyoming Statutes section 12-4-201;
 2. Limited retail liquor (special club) licenses as defined in Wyoming Statutes section 12-4-301;
 3. Resort retail liquor licenses as defined in Wyoming Statutes section 12-4-407;
 4. Restaurant liquor licenses as defined in Wyoming Statutes section 12-4-407;
 5. Microbrewery permits as defined in Wyoming Statutes subsection 12-4-413;
 6. Winery permits as defined in Wyoming Statutes section 12-4-412;
 7. Special malt beverage permits for public auditoriums as defined in Wyoming Statutes section 12-4-504; and
 8. Motel/hotel minibar licenses as defined in Wyoming Statutes subsection 12-5-201(e).
- B. Annual Fee: The annual fee for each license described in A above shall be payable at the time of application, shall be paid in cash or certified check, and shall be in the full amount as determined by the Town Council. The Town Council, may from time to time, by resolution, set the annual license fees for all licenses described in A above:
1. For a **retail liquor license**, the annual fee shall be seven hundred fifty dollars (\$750.00). (*Res. 2010-15 07/08/2010*)
 2. For a limited retail liquor (special club) license, the annual fee shall be one hundred dollars (\$100.00).
 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 a microbrewery permit, the annual fee shall be three hundred dollars (\$300.00).
 6. For a winery permit, the annual fee shall be three hundred dollars (\$300.00).
 7. For a special malt beverage permit for public auditoriums, the annual fee shall be one thousand five hundred dollars (\$1,500.00).
 8. For a motel/hotel minibar license, the annual fee shall be one-half (1/2) the fee paid for the original license.
- C. Refunds: No refund of all or any part of any license fee shall be made at any time following the issuance of the license.
- D. Publication Fee: 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 clerk-treasurer to cover the cost of publishing public hearing notices. (Ord. 1005, 8-8-1996)

3-3-5: TERM:

- A. Annual Licenses: Annual licenses shall be for a period of not more than one year, expiring each year on April 1. Annual licenses shall be a personal privilege of the licensee.
- B. Estate Of Deceased Licensee: The executor or administrator of the estate of a deceased licensee, when the estate consists in whole or in part of a business selling alcoholic or malt beverages under an annual license issued by the town, may exercise the personal privilege of the deceased licensee under terms of the license until the expiration date of the license. If the license of the deceased licensee has not been transferred prior to the annual expiration date, the governing body shall consider the license of the deceased licensee as an unissued license. (Ord. 1005, 8-8-1996)

3-3-6: RESTRICTIONS UPON APPLICANTS AND LICENSEES:

- A. Posting Required: Except as provided in subsection B of this section, all permit and license recipients must post the license or permit in a conspicuous place within the licensed dispensing room described in the application.
- B. License Held By Clerk-Treasurer: Any license issued pursuant to Wyoming Statutes subsection 12-4-103(a)(iv) shall be held by the clerk-treasurer in the clerk-treasurer's office, or other location as designated by the clerk-treasurer, until the license can be placed in a physically functional building. (Ord. 1005, 8-8-1996)

3-3-7: 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 Wyoming Statutes section 12-4-104 any of the conditions found under Wyoming Statutes subsection 12-4-104(b). (Ord. 1005, 8-8-1996)

3-3-8: RECOGNITION OF PREFERENCE RIGHTS:

The holder of an expired annual license, or one due for expiration, has a preference right to a renewal of that license for the same location, but such preference exists only to the extent explicitly authorized under Wyoming Statutes subsection 12-4-104(c). No other preference rights are authorized or recognized by the town of Superior. The preference right granted under this section shall expire thirty (30) days after the expiration date shown on the most recently issued license or permit. (Ord. 1005, 8-8-1996)

3-3-9: TRANSFER OF ANNUAL LICENSE:

A person seeking to transfer an annual license shall submit a new application form and shall pay to the clerk-treasurer 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 Wyoming Statutes section 12-4-601. (Ord. 1005, 8-8-1996)

3-3-10: TEMPORARY LICENSES AND PERMITS:

- A. Types Authorized: The governing body is hereby authorized to issue the following temporary licenses pursuant to state law and this chapter:
1. Malt beverage permits as defined in Wyoming Statutes subsection 12-4-502(a);
 2. Catering permits as defined in Wyoming Statutes subsection 12-4-502(b);
 3. Temporary dispensing room permits as defined in Wyoming Statutes section 12-4-504 and subsections 12-5-201(f), (g), (h), and (j);
 4. Extended club hours permits as defined in Wyoming Statutes subsection 12-5-101(b); and
 5. Open container waiver permits as provided in subsection 3-3-15C2 of this chapter. (Ord. 1005, 8-8-1996; amd. 2005 Code)
- B. Annual Fee: The annual fee for each license described in A above shall be payable at the time of application, shall be paid in cash or certified check, and shall be in the full amount as determined by the Town Council. The Town Council, may from time to time, by resolution, set the annual license fees for all license described in A above.
1. **Malt Beverage Permit:** For a malt beverage permit, the fee shall be fifty dollars (\$50.00) per twenty four (24) hour period. (*Res. 2010-15 07/08/2010*)
 2. **Catering Permit:** For a catering permit, the fee shall be fifty dollars (\$50.00) per twenty four (24) hour period. (*Res. 2010-15 07/08/2010*)
 3. **Temporary Dispensing Room Permit:** For a temporary dispensing room permit, the fee shall be ten dollars (\$10.00).
 4. **Extended Club Hours Permit:** For an extended club hours permit, there shall be no fee, but the town may charge a fee to recover administrative expenses.
 5. **Open Container Permit:** For an open container permit, the applicant shall pay a fifty dollar (\$50.00) deposit to be returned to the applicant if the premises are not damaged and are cleaned to the satisfaction of the town.
 6. **Street Closure Permit:** For a street closure permit, the applicant shall pay a two hundred dollar (\$200.00) deposit to be returned to

the applicant if the premises are not damaged and are cleaned to the satisfaction of the town.

- C. Refunds: 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. Notice Publication Fee: 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-treasurer to cover the cost of publishing public hearing notices. (Ord. 1005, 8-8-1996)

3-3-11: HOURS OF OPERATION:

- A. Applicability: All licensees and permittees holding an annual or temporary license under this chapter shall be controlled by the schedule of hours set forth in subsection C of this section.
- B. Special Club Licenses: This section shall not apply to licensees holding limited retail liquor (special club) licenses who have been authorized by the governing body under Wyoming Statutes subsection 12-5-101(b) to have hours of operation other than those authorized by such section.
- C. Hours Designated: The hours of operation for all licensees and permittees, subject to the exceptions in subsection B of this section, shall be as follows:
 - 1. On all days except Sunday, a licensee may open the dispensing room no earlier than six o'clock (6:00) A.M. and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than two o'clock (2:00) A.M. the following day, and the licensee shall clear the dispensing room of all persons other than employees no later than two thirty o'clock (2:30) A.M. (Ord. 1005, 8-8-1996)
 - 2. On Sundays, licensees may open the dispensing room no earlier than ten o'clock (10:00) A.M. and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than twelve o'clock (12:00) midnight, and the licensee shall clear the dispensing room of all persons other than employees no later than twelve thirty o'clock (12:30) A.M. (Ord. 1005, 8-8-1996; amd. 2005 Code)
- E. Modification Of Hours: The hours of operation designated above may be modified on no more than four (4) days each calendar year by a resolution or agreement made each year by the appropriate licensing authority designating those dates during town or county fairs, rodeos, pageants, jubilees, special holidays or similar public gatherings when all licensees may operate their dispensing rooms for a period of twenty four (24) hours beginning at six o'clock (6:00) A.M. (Ord. 1005, 8-8-1996)

3-3-12: DRIVE-IN FACILITIES:

Upon approval of the original application by the governing body, or the renewal thereof, a drive-in area adjacent to or contiguous with the licensed room may be used by the holder of a retail liquor license for taking orders, making delivery of, and receiving payment for alcoholic or malt beverages under the terms and conditions found in Wyoming Statutes section 12-5-301. (Ord. 1005, 8-8-1996)

3-3-13: BOTTLE CLUBS:

- A. Definition: As used herein, the term "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 and malt beverages is provided for individual club members who bring alcoholic liquor and 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 or glasses, or from dues, charges, contributions, membership cards or assessments.
- B. Prohibited: It is unlawful for any person to operate a bottle club in the town. (Ord. 1005, 8-8-1996)

3-3-14: DISPENSING ROOM RESTRICTIONS:

- A. Minors ⁵ :
 - 1. Entering Or Remaining Prohibited: It is unlawful for any person under the age of twenty one (21) years to enter or remain in the dispensing room or brewing area of any premises licensed or permitted under this chapter to dispense or brew alcoholic liquor or malt beverages, except as provided for in this section.
 - 2. Allowing To Enter Or Remain Prohibited: No licensee, permittee or agent, employee or servant of a licensee or permittee shall permit any person under the age of twenty one (21) years to enter or remain in a dispensing room or brewing area of a licensed premises owned, operated, leased or managed by them.
- B. Exception:
 - 1. In Course Of Employment: This subsection shall not apply to a licensee's employee under the age of twenty one (21) years when, in the course of his employment, the employee is in the dispensing room and the dispensing room or brewing area is not open for the sale or dispensing of alcoholic beverages or brewing of malt beverages.
 - 2. With An Adult:
 - a. Definitions: As used in this subsection, the following words and terms shall have the meanings ascribed to them in this section:

⁵ See also section 5-2-2-19 of this code for minor remaining after being asked to leave.

3. ADULT: A person over the age of twenty one who is the parent or legal guardian of the person under the age of twenty one (21).
4. DINING OR WAITING AREA: A specifically delineated area which has been submitted with the licensee's application and has been approved by the governing body.
 - a. 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 within the dispensing area with an adult not later than ten o'clock (10:00) P.M. (Ord. 1005, 8-8-1996)

3-3-15: PROHIBITED ACTS:

- A. Excessive Drinking: Excessive drinking of alcoholic liquor and 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 this chapter or state law, excessive drinking or disorderly conduct may be cause for the initiation of suspension and/or revocation procedures.
- B. Falsification Of Application: Each application shall be sworn to be true to the best of the knowledge by the person submitting such application. 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. If a liquor license holder acts in violation of this section, the governing body may take action pursuant to Wyoming Statutes section 12-7-201 seeking revocation of the license or permit.
- C. Public Consumption Or Possession; Open Container Ordinance: It is unlawful for any person to consume or possess any alcoholic liquor or malt beverage in a container that has been opened or unsealed from the original factory closure or sealing while in or upon any public place within the town, or while in any vehicle upon the public streets, highways, roads, alleys or places open to the public or vehicular traffic, except as follows:
 1. Within the confines of such places where the sale, dispensing or consumption of alcoholic liquors or malt beverages has been licensed or permitted pursuant to Wyoming Statutes section 12-2-202 or this chapter.
 2. At such other places and times as may be specially licensed by the governing body pursuant to an open container waiver permit.
- D. Possession By Underage Persons ⁶ : 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 liquor or malt beverages in the town. As used in this section, possession shall also include alcohol which has been consumed and is present within the body at the time of determination.

⁶ See also section 5-2-2-20 of this code.

- E. Sales To Underage Persons ⁷ : It is unlawful for any person to sell, give or deliver any alcoholic liquor or malt beverage to any person under the age of twenty one (21) years; provided, however, that such prohibition shall not apply to any parent or guardian providing such to his or her child in the confines of their home.
- F. 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 to attempt to obtain any alcoholic liquor or malt beverage using any false identification. (Ord. 1005, 8-8-1996)

3-3-16: DELIVERY OF ALCOHOLIC LIQUORS AND MALT BEVERAGES:

- A. Location Restricted: 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. Making Deliveries Prohibited: No person shall engage in the business of making deliveries of alcoholic liquor or malt beverages from the place of any retail liquor licensee in the town. (Ord. 1005, 8-8-1996)

3-3-17: SUSPENSION OF LICENSE OR PERMIT FOR FAILURE TO PAY SALES TAXES:

- A. Power To Suspend: The governing body may suspend any license or permit issued under this chapter if the licensee or permittee fails to pay sales taxes and the Wyoming liquor division has ceased sales of alcoholic liquor to the licensee or permittee pursuant to Wyoming Statutes section 12-2-306.
- B. Notice Of Hearing: Upon receipt by the clerk-treasurer of a certified notice from the state of Wyoming issued pursuant to Wyoming Statutes section 12-2-306, and upon order of the governing body, the clerk-treasurer shall notify the licensee or permittee, by certified mail, that the town intends to hold a hearing on whether the license or permit should be suspended.
- C. Hearing: The suspension hearing shall be conducted under the Wyoming administrative procedures act ⁸ and rules adopted by the governing body.
- D. Prima Facie Evidence Of Tax Delinquency: The certified notice from the state of Wyoming and all evidence presented to the state of Wyoming in support of the certified notice will be admitted and

⁷ See also section 5-2-2-18 of this code.

⁸ WS § 16-6-101 et seq.

considered prima facie evidence of the licensee's or permittee's tax delinquency.

- E. Appeal: In the event a license or permit is suspended in accordance with this section, the holder of the license or permit may appeal the suspension in accordance with the provisions of Wyoming Statutes section 12-7-103.
- F. Term Of Suspension: 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-treasurer receives certified notice from the state of Wyoming that the sales tax liability has been satisfied.
- G. Actions Required Upon Suspension:
 - 1. Notice Of Suspension: In the event a suspension occurs, the clerk-treasurer shall send, by certified mail, one copy each of the suspension notice to the last known addresses of the licensee or permit holder and to the director of the Wyoming liquor division for the state of Wyoming. Additionally, the clerk-treasurer shall post one copy of the suspension notice on the licensed or permitted premises.
 - 2. Sale Or Distribution Prohibited: Immediately upon the posting of the suspension notice, the sale, offering to sell, distribution, or trafficking of alcoholic liquor or malt beverages shall be unlawful.
 - 3. Removal Of Alcoholic And Malt Beverages: Further, the licensee or permittee 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. (Ord. 1005, 8-8-1996)

3-3-18: PENALTY:

Violation of this chapter is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00). Repeated violations by a licensee or permittee may result in the forfeiture or suspension of the license or permit. (Ord. 1005, 8-8-1996)

CHAPTER 4
OCCUPATION TAX

Section:

- 3-4-1: Definitions
- 3-4-2: Levy; Purpose
- 3-4-3: Evidence Of Doing Business
- 3-4-4: Application
- 3-4-5: Payment
- 3-4-6: Exemptions; Adjustments
- 3-4-7: Penalty

3-4-1: DEFINITIONS:

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section:

BUSINESS: Includes all and every kind of lawful business, trade, calling, profession, or occupation.

PERSON: Includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business trusts, societies, and individuals transacting and carrying on any business in the town other than as an employee. (Ord. 952, 11-16-1987)

3-4-2: LEVY; PURPOSE:

For the purpose of raising revenue, the town of Superior, a municipal corporation, duly incorporated under the laws of the state of Wyoming, does levy an occupation tax on any business whatsoever conducted, carried on or trafficked, within the limits of the town pursuant to the provisions of Wyoming Statutes subsection 5-1-103(a)(xiii), as amended. (Ord. 952, 11-16-1987)

3-4-3: EVIDENCE OF DOING BUSINESS:

Whenever any person, by the use of signs, circulars, cards, telephone books, or newspapers, advertises, holds out, or represents that he is in business in the town, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the town, and such person fails to deny by a sworn statement given to the town clerk-treasurer that he is not conducting a business in the town, after being requested to do so by the town clerk-treasurer, then these facts shall be considered prima facie evidence that he is conducting a business in the town. (Ord. 952, 11-16-1987)

3-4-4: APPLICATION:

- A. Filing Application: Prior to commencing business within the town, and after January 1 and before February 15 of each and every year, every person wishing to conduct business in the town shall file with the clerk-treasurer an application to conduct business.
- B. Form Of Application: Such application shall be in the form prescribed by the town clerk-treasurer and shall include information on the planned business activities of the person within the town.
- C. Council Consideration: The town council shall consider each application and if the proposed business is to be operated in accordance with law, upon payment of the tax prescribed, the town council shall grant the person authority to conduct business in the town of Superior. (Ord. 1007, 10-10-1996)

3-4-5: PAYMENT:

- A. Annual Tax Established: The town council, by resolution, shall establish the annual tax to be imposed on all business being conducted in the town.
- B. Due Date: The occupation tax shall be due and payable on January 1 and must be paid by March 1 of each year.
- C. Proration: When a person has not engaged in the business until after expiration of part of the current tax year, the tax shall be prorated by quarters and paid for each quarter or fraction thereof during which the business has been or will be conducted. (Ord. 1007, 10-10-1996)

3-4-6: EXEMPTIONS; ADJUSTMENTS:

- A. Adjustment: The occupational tax imposed by this chapter shall be so applied as not to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the constitutions of the United States and the state of Wyoming. In any case where the tax is believed by any person required to pay the tax to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the town council for an adjustment of the tax.
- B. Exemption: The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage or carry on any business, occupation, event or activity, from any institution or organization which is conducted, managed or carried on for the benefit of religious, charitable, philanthropic or educational purposes. (Ord. 952, 11-16-1987)

3-4-7: PENALTY:

- A. Misdemeanor: Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not exceeding seven hundred fifty dollars (\$750.00) for

- each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 952, 11-16-1987; amd. 2005 Code)
- B. Additional Remedies: The imposition of any fine shall not bar institution of appropriate legal actions or proceedings by the town to restrain, correct or abate the violations through injunctions, mandamus or otherwise, nor shall the institution of such legal actions or proceedings be deemed a bar to the imposition of such fine.
- C. Costs Of Action: Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss, or damage occasioned by the town by reason of such violation and the town may institute appropriate civil action to recover any such expense or loss, together with reasonable attorney fees and costs incurred by the town in bringing such action. (Ord. 952, 11-16-1987)

CHAPTER 5
TOBACCO⁹

Section:

- 3-5-1: Definitions
- 3-5-2: Sales Or Delivery To Person Under Eighteen
- 3-5-3: Purchase By Person Under Eighteen
- 3-5-4: Possession By Person Under Eighteen

3-5-1: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

TOBACCO PRODUCTS: Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

VENDING MACHINE: Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment dispenses tobacco products. (Ord. 1009, 11-14-1996)

3-5-2: SALE OR DELIVERY TO PERSON UNDER EIGHTEEN:

- A. Prohibited: No person shall sell, offer for sale, give away or deliver tobacco products to any person under the age of eighteen (18) years. (Ord. 1009, 11-14-1996)
- B. Penalty: Any person violating this section is guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 1009, 11-14-1996; amd. 2005 Code)
- C. Affirmative Defense: It is an affirmative defense to a prosecution under this section that:
- D. In the case of a sale, the person who sold the tobacco product was presented with, and reasonably relied upon, an identification card which identified the person buying or receiving the tobacco product as being over eighteen (18) years of age; or
- E. The tobacco product was given or delivered to the person under eighteen (18) years of age by his parent or guardian and the tobacco product was given or delivered to the person for use in the privacy of his parent's or guardian's home or under the direct supervision of the parent or guardian. (Ord. 1009, 11-14-1996)

3-5-3: PURCHASE BY PERSON UNDER EIGHTEEN:

⁹ WS §§ 14-3-301 to 14-3-306.

- A. Prohibited: No person under the age of eighteen (18) years shall purchase tobacco products, or misrepresent his identity or age, or use any false or altered identification for the purpose of purchasing tobacco products. (Ord. 1009, 11-14-1996)
- B. Penalty: Any person violating this section is guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 1009, 11-14-1196; amd. 2005 Code)

3-5-4: POSSESSION BY PERSON UNDER EIGHTEEN:

- A. Prohibited: It is unlawful for any person under the age of eighteen (18) to possess or use any tobacco products. (Ord. 1009, 11-14-1996)
- B. Penalty: Any person violating this section is guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 1009, 11-14-1196; amd. 2005 Code)
- C. Affirmative Defense: It is an affirmative defense to a prosecution under this section that the defendant possessed or used the tobacco product in the home of, or under the direct supervision of, his parent or guardian. (Ord. 1009, 11-14-1996)