

282 ORDINANCE NO. 2021-05

AN ORDINANCE REGULATING THE TRAFFIC OF INTOXICATING BEVERAGES AND REPEALING AND REPLACING 250 ORDINANCE NO. 2017-05 AND PROVIDING AN EFFECTIVE DATE.

**NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN
OF ALPINE, WYOMING IN A REGULAR SESSION DULY ASSEMBLED, THAT:**

Section 1: ORDINANCE REPEALED.

250 ORDINANCE NO. 2017-05 of the Municipal Code of the Town of Alpine and all amendments thereto are hereby repealed.

Section 2: DECLARATION OF POLICY.

For the protection of the welfare, health, peace, morals and safety of the residents of the Town of Alpine, Wyoming, it is hereby declared to be a public policy of said Town that the traffic in spirits, fermented, and malt liquor should be regulated to the extent of prohibiting all traffic therein except as is hereinafter provided. No sales at retail of such liquors may be consummated in the Town of Alpine except in compliance with the provisions of this chapter.

Section 3: DEFINITION OF TERMS.

Unless the context indicates otherwise, words and phrases in this chapter shall have the meanings indicated in the subsections following:

- (a) MALT BEVERAGE. Shall mean any fluid of any type or description that is manufactured from malt, wholly or in part, or from any substitute therefore containing more than one percentum of alcohol by volume.
- (b) INTOXICATING LIQUOR. Shall be construed as synonymous with alcoholic liquor, alcoholic beverage and spiritus liquor both in meaning and definition.
- (c) RETAIL LIQUOR LICENSE. Shall mean the authority under which a retailer shall be permitted to sell alcoholic and/or malt beverages for use and consumption but not for resale, and not for immediate consumption on the premises unless the establishment's primary source of income is derived from the sale of individual servings of alcohol or malt beverages.
- (d) LIMITED RETAIL LIQUOR LICENSE. Shall mean the authority under which private clubs shall be permitted to sell alcoholic and/or malt beverages.

(e) MALT BEVERAGE PERMIT. Shall mean the authority under which the sale of malt beverages only is authorized. Malt beverage permits under this subsection shall not be used to operate a continuing business.

(f) 24 HOUR MALT BEVERAGE PERMIT. Shall mean the authority under which the sale of malt beverages is authorized for specifically limited periods. 24 Hour malt beverage permits under this subsection shall not be used to operate a continuing business.

(g) CATERING PERMIT. Shall mean the authority under which the sale of alcoholic beverages is authorized for specifically limited periods by a retail license holder at a location not specified in the permit holder's original license. Catering permits under this subsection shall not be used to operate a continuing business.

(h) NON-OPERATIONAL PERMIT. A license or permit authorized by this ordinance shall not be renewed if the licensee or permittee did not, during the previous one (1) year term of the license or permit, purchase at least five hundred dollars (\$500.00) of alcoholic or malt beverages or a combination thereof from the commission or any authorized malt beverage wholesaler. A retail liquor license shall not be renewed if the licensee did not, during the previous one (1) year term of the license, purchase at least two thousand dollars (\$2,000.00) of alcoholic or malt beverages or a combination thereof from the commission or any authorized malt beverage wholesaler. Subsection (g) of this section shall not apply to any licensee or permittee having a planned but not physically functional building; or, holders of special permits issued under sections (e) and (f) of this section.

(i) CLUB. Means a fraternal organization not including college fraternities, labor unions, or associations organized for commercial purposes or profit, which is a member of and holds a charter from a national organization, and which owns or leases a building or space for the use and accommodation of its members.

(j) DRUG STORE. Means a suitable space in a building kept, used, maintained, advertised and held out to the public to be a place where drugs and medicines are sold and prescriptions compounded, and where a registered pharmacist is regularly employed.

(k) ORIGINAL PACKAGE. Means any bottle, flask, jug, cask, barrel, keg, hogshead or other receptacle or container used, corked or capped, sealed or labeled by the manufacturer of alcoholic beverages containing any alcoholic beverage.

(l) PERSON. Includes any individual person, partnership, corporation or association.

(m) RETAILER. Means any person who sells or offers for sale any alcoholic or malt beverage for use or consumption, who sells a minimum of two thousand dollars (\$2,000.00) worth of alcoholic or malt beverage in a one (1) year period of time, and not for resale.

(n) SUPER MARKET/GROCERY STORE RETAILER. Means any suitable space located within a super market or grocery store, wherein a separate area of purchase of alcoholic or

malt beverages, not for consumption on the premises, has been established. The purchase area shall not be located in any area within the store in proximity to goods or items that would attract minors.

(o) WHOLESALER. Means any person except the Wyoming Liquor Division, who sells or offers for sale any alcoholic or malt beverage to the retailer.

(p) SELL OR SALE. Shall include offering for sale, trafficking in, bartering, delivering for value, exchanging for goods, or in any way other than purely gratuitously, and even delivery of any alcoholic and/or malt beverage made otherwise than by gift shall constitute a sale.

(q) RESTAURANT LIQUOR LICENSE: Shall mean the appropriate license requiring not less than Sixty (60) percent of gross sales for the preceding twelve (12) months of operation to be derived from food services. Alcoholic and malt beverage sales shall be for on premise consumption, not to be removed from the premises.

(r) RESTAURANT: Shall mean a 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.

Section 4. TOWN TO REGULATE LIQUOR TRAFFIC.

The Town of Alpine shall regulate, prohibit or license the sale of alcoholic and/or malt beverages within the town limits under the provisions of this chapter.

Section 5. NUMBER OF LIQUOR LICENSES TO BE ISSUED.

The Alpine Town Council may issue those authorized liquor licenses consistent with approval of the State Statutes and the Wyoming Liquor Division. The Town Council of Alpine may grant such additional licenses or reserve such licenses as they deem expedient, necessary and in the best interest of the Town. The Town Council shall be authorized to investigate, hold public hearings and take action as they deem in the best interest for the Town. No person or entity in the Town of Alpine shall be the recipient of more than one (1) liquor license.

Section 6. APPLICATION FOR LICENSE.

Any person desiring a retail liquor license under this chapter shall apply to the Alpine Town Council for the same. Such application shall be made on a form that conforms with the application form prepared by the Attorney General of the State of Wyoming. Among other things, the application shall contain a description in detail, of the place within which the alcoholic beverages will be sold, and a description of the location of said premises.

Section 7. PUBLICATION AND POSTING OF NOTICE.

Upon receipt of an application for a liquor license, modification, or transfer of existing license, the Town Clerk shall promptly publish once a week for two (2) consecutive weeks in a newspaper of general circulation in the Town, and also display conspicuously on the premises in which the applicant desires to use the license, a notice that such applicant has made an application for a license, and that protests against the issuance of such license to the applicant will be heard at a time certain which is stated in the notice.

Section 8. LICENSE.

After the notice time has expired and the public hearing has been held, a license may be issued by the Town Council, signed by the Mayor and attested to by the Town Clerk. The name of the licensee, a description of the place in which the alcoholic or malt beverages may be sold, the date of issuance, the amount of the license fee, type of license, license number, license term and an indication that the same has been paid in full shall appear on the face of the license. Each licensee shall display his license in a conspicuous place in the license premises.

Section 9. LICENSE A PERSONAL PRIVILEGE.

A liquor license issued by the Town of Alpine shall be valid for one year, commencing January 1 at 12:00 a.m. and ending December 31 at 11:59 p.m., unless sooner revoked and shall be considered a personal privilege and not a right.

Section 10. MODIFICATION, TRANSFER, OR RENEWAL OF LICENSE.

(a) In the event of a major loss or damage to the licensed premises by any unforeseen natural cause, the liquor license may be renewed on a different premise on the same basis as an original application except for the payment of license fee, which renewed license shall expire as of the expiration date of the original license. Any modification under this subsection shall be assessed a Two Hundred and Fifty dollar (\$250.00) license transfer fee.

(b) With the exception of the circumstances outlined in Section 9 (a) above, no license shall be transferred, sold, assigned or used for any place not described in the license at the time of issuance, without the filing of a new application, the publication of notice, and the official approving action of the Town Council. Any transfer under this subsection shall be assessed a Two Hundred and Fifty dollar (\$250.00) license transfer fee. Upon the expiration of any license, the owner thereof shall have a preference right to a new license that may then, in the discretion of the Town Council, be granted under the provisions of this chapter. All applications for renewals shall be published. Such application shall be made on a form that conforms with the application form prepared by the Attorney General of the State of Wyoming. Among other things, the application shall contain a description in detail, of the place within which the alcoholic beverages will be sold, and a description of the location of said premises.

Section 11. LICENSE AND PERMIT FEES, HOURS OF OPERATION, MANDATORY POSTINGS.

(a) The license and permit fees for the following classes of liquor and malt beverage permits shall be as follows:

<u>License Type</u>	<u>Fee</u>
Retail	\$1,000.00
Restaurant	\$ 750.00
Resort	\$ 500.00
Bar and Grill	\$1,500.00
Malt Beverage	\$ 500.00
Microbrewery	\$ 500.00
Winery	\$ 500.00
Malt Beverage (24 Hour)	\$ 25.00
Transfer Fee	\$ 250.00
Catering Permit	\$ 25.00

(b) With the exception of first-time license applications, the license fee for annual licenses shall not be prorated or reduced if the license is valid for only a portion of the year. First-time license fees shall be prorated from the date of approval until December 31st of the same year.

(c) All Licensees holding a retail liquor licenses may begin dispensing at 6:00 a.m. and shall close and cease the sale of both alcoholic and malt beverages promptly at the hour of 2:00 a.m. the following day on Mondays through Sundays.

(d) The Town Council may, upon request and by resolution, designate and modify the closing hours on no more than three calendar days during city or county fairs, rodeos, pageants, jubilees, special holidays or similar public gatherings when all licenses may operate their dispensing rooms for a period of twenty-four (24) hours beginning at six o'clock A.M.

(e) With the exception of Catering and Malt Beverage permit holders, every licensee shall display at all times, in a prominent place at each public entrance, a printed card no less than eleven (11) inches in height, seventeen (17) inches in width (11" x 17"), with type no less than one-fourth (1/4) in height, containing the following warnings:

WARNING TO PERSONS UNDER 21 YEARS OF AGE

**YOU ARE SUBJECT TO A FINE OF UP TO \$750 AND
UP TO SIX (6) MONTHS INCARCERATION
IF YOU ARE UNDER THE AGE OF 21 AND YOU ATTEMPT TO PURCHASE,
PURCHASE, CONSUME, OR POSSESS ALCOHOLIC LIQUOR OR MALT BEVERAGE**

WARNING TO PERSONS OVER 21 YEARS OF AGE

**YOU ARE SUBJECT TO A FINE OF UP TO \$750 AND
UP TO SIX (6) MONTHS INCARCERATION
IF YOU PURCHASE OR PROVIDE ALCOHOLIC LIQUOR OR MALT BEVERAGE TO A
PERSON UNDER THE AGE OF 21**

(f) Individuals under the age of 21 must be accompanied by a parent/guardian who is 21 or older in the sales are in package liquor stores.

Section 12. MICROBREWERY PERMITS; AUTHORIZED; CONDITIONS;

Unless the context indicates otherwise, words and phrases in this chapter shall have the meanings indicated in the subsections following:

MICROBREWERY. Means a commercial enterprise producing not more than fifty thousand (50,000) barrels per year and no less than fifty (50) barrels per year of malt beverage

(a) Subject to restrictions imposed under W.S. 12-4-103 excluding W.S. 12-4-103(a)(vi), the Town may issue a microbrewery permit authorizing a permit holder to brew a malt beverage and dispense the brewed malt beverage for on-premises and limited off-premises personal consumption. Notwithstanding W.S. 12-5-201 and for the purposes of this subsection, "on-premises" may include a fenced or enclosed area immediately adjacent to the licensed brewing site as approved by the local licensing authority. The dispensing of malt beverages in an immediately adjacent area authorized by this paragraph shall be subject to the schedule of operating hours set pursuant to W.S. 12-5-101. Any microbrewery permit holder shall:

(i) File a monthly report of brewed malt beverage the permit holder produced on a form provided by the liquor division. The report shall be filed with the liquor division not later than the tenth day of each month following the month in which the brewed malt beverage was produced. Any report filed late with the liquor division shall be subject to a late filing fee of twenty-five dollars (\$25.00);

(ii) Maintain records for at least three (3) years that will permit the liquor division to ascertain the truthfulness of the information filed and permit the division to perform an audit of the licensee's records upon reasonable request.

(b) The local licensing authority:

(i) May allow the sale of malt beverage obtained through a contract brewing arrangement and other malt beverages under a microbrewery permit for on-premises consumption when obtained through licensed wholesale malt beverage distributors;

(ii) May allow the microbrewery to sell on site its brewed product and its malt beverage obtained through a contract brewing arrangement for off-premises personal consumption,

not for retail sale, in packaging of bottles, cans or packs of an aggregate volume not to exceed two thousand (2,000) ounces per sale;

(iii) In accordance with the process established under article 1 of this chapter, may allow the transfer of a microbrewery permit to another location and ownership of the microbrewery may be transferred upon approval by the local licensing authority; and

(iv) Shall assess a fee of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) payable annually in advance for each microbrewery permit. When dual ownership of a microbrewery permit and a liquor license exists no additional fee shall be assessed other than the retail, restaurant, bar and grill or resort license fee.

(c) W.S. 12-4-410 shall apply to any person holding a microbrewery permit and a restaurant liquor license and W.S. 12-4-413 shall apply to any person holding a microbrewery permit and a bar and grill liquor license, except that either dual holder:

(i) May sell the brewed malt beverage for limited off-premises personal consumption pursuant to paragraph (b)(ii) of this section;

(ii) May upon cessation of full service restaurant operations, serve a limited menu and continue to serve malt beverages authorized under the microbrewery permit;

(iii) Shall not include sales of malt beverages authorized under the microbrewery permit, or sales other than food service and alcoholic beverages, in the annual gross sales report required under W.S. 12-4-408(c).

(d) The Town may allow a permit holder to operate at more than one (1) location. The permit holder is required to pay an additional permit fee of one hundred dollars (\$100.00) regardless of the number of locations authorized for the microbrewery. All locations shall be subject to all provisions of this title related to the operation of a microbrewery.

Section 13. DELIVERY OF ALCOHOLIC LIQUORS AND MALT BEVERAGES.

(a) Retail liquor licensees and microbrewery permit holders may deliver or contract to have delivered alcoholic liquors and malt beverages to customers provided:

(i) All sales of alcoholic liquors and malt beverages under this subsection shall take place in the licensed building. Orders of alcoholic liquors and malt beverages may be placed by phone, online or through a mobile application. All deliveries under this subsection shall be completed during the licensee's remaining operating hours on the same day the alcoholic liquors or malt beverages are removed from the inventory of the licensed premise;

(ii) No order shall be received nor shall any delivery be made to or by a person under the age of twenty-one (21) years. All deliveries shall require the purchaser to provide to the deliverer a valid government issued identification demonstrating the purchaser is twenty-one (21) years of age or older;

(iii) All package sales and deliveries of alcoholic liquors and malt beverages for off-premises consumption shall be sealed. For purposes of this paragraph, "sealed" means a product enclosed:

(A) In its original package and unopened;

(B) In a plastic bag and heat sealed closed; or

(C) In a container that has a breakable seal incorporated in the container cap.

(iv) Any contract delivery service shall adhere to the requirements of this subsection when delivering alcoholic liquors and malt beverages; and

(v) Microbrewery permit holders shall only deliver or contract to have delivered their respective manufactured products.

Section 14. EVACUATION.

All persons not employed by the liquor licensee shall be evacuated and removed from the premises within thirty (30) minutes of the time set in this chapter for the closing of such business. No intoxicating liquor and/or malt beverage shall be dispensed in any matter after said closing hours.

Section 15. DUTY OF PROSECUTING ATTORNEY.

It shall be the duty of the Prosecuting Attorney of the Town of Alpine to prosecute by complaint in the Town of Alpine Municipal Court all violations of this ordinance in manner now provided for by law for the prosecution of criminal offenses under the general statutes of this State and the ordinances of the Town of Alpine.

Section 16. REVOCATION OF LICENSE - GROUNDS.

The violation of any of the provisions of this chapter by any wholesaler, retailer or other licensee shall be sufficient cause for the revocation of the liquor license granted under the provisions of this chapter.

Section 17. PENALTIES.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall upon conviction thereof, be punished by a fine in the sum of not less than Two

Hundred Fifty (\$250.00) dollars nor more than Seven Hundred and Fifty (\$750.00) dollars or by imprisonment in jail for a term not to exceed six (6) months. Revocation of a liquor license shall not be construed in any way so as to reduce the penalty herein imposed.

Section 18. APPLICATION OF PROVISIONS.

The general control and regulatory provisions of this ordinance shall apply only to those provisions stated in this ordinance. Wyoming statutory provisions, as contained in Title 12, not specifically addressed by this ordinance shall govern.

Section 19. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 20. EFFECTIVE DATE.

This ordinance will establish an effective date at its passing on the third and final reading.

Passed on first reading this 15th day of June, 2021.

VOTE: 5 YES, 0 NO, 0 ABSTAIN, 0 ABSENT

Passed on second reading this 20th day of October, 2021.

VOTE: 5 YES, 0 NO, 0 ABSTAIN, 0 ABSENT

Passed on third reading this 17th day of August, 2021.

VOTE: 4 YES, 0 NO, 0 ABSTAIN, 1 ABSENT (Dickerson)

SIGNED: 
W. KENNIS LUTZ, MAYOR

ATTEST:




SHARON L. BACKUS, CLERK/TREASURER

ATTESTATION OF THE TOWN CLERK

STATE OF WYOMING)
COUNTY OF LINCOLN)
TOWN OF ALPINE)

I hereby certify that the forgoing 282 Ordinance No. 2021-05 shall be duly posted for ten (10) days in the Town Clerk's Office.

I further certify that the forgoing Ordinance was duly recorded in the BOOK OF ORDINANCES VI, TOWN OF ALPINE, LINCOLN COUNTY, WYOMING.

ATTEST



Sharon L. Backus

SHARON L. BACKUS, CLERK/TREASURER