

ORDINANCE #869

AN ORDINANCE OF THE TOWN OF GREYBULL, BIG HORN COUNTY, WYOMING, ESTABLISHING RULES AND REGULATIONS PERTAINING TO THE SALE OF ALCOHOLIC AND MALT BEVERAGES WITHIN THE TOWN LIMITS BY REPEALING CHAPTER 5.04 OF THE GREYBULL MUNICIPAL CODE AND REPLACING IT WITH A NEW CHAPTER 5.04. ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ARE HEREBY REPEALED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF GREYBULL, BIG HORN COUNTY, STATE OF WYOMING.

SECTION 1: Chapter 5.04 of the Greybull Town Code shall be repealed in its entirety and replaced with the following Chapter 5.04 to-wit:

5.04.10 – Definitions:

Except as otherwise noted below, definitions used in this chapter shall be as found in W.S 12-1-101:

“Division” means the WY Liquor division within the department of revenue created under W.S. 12-2-106.

"Clerk" shall mean the town clerk of the Town of Greybull.

“Licensing Authority” means the governing body of an incorporated town, town, or county in Wyoming with the responsibility to issue, control and administer a particular license, or the division.

“Licensee” means a person holding a:

- (A) Retail liquor license.
- (B) Twenty – four-hour (24) hour malt beverage permit.
- (C) Restaurant liquor license.
- (D) Catering permit.

“Malt beverage” means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in apart, or from any substitute therefor, containing at least one-half of one percent (.5%) of alcohol by volume.

“Intoxicating liquor”, “alcoholic liquor”, “alcoholic beverage” and “spirituous liquor” are construed as synonymous in meaning and definition.

“Original package” means any receptacle or container used or labeled by the manufacturer or the substance, containing any alcoholic liquor or malt beverages.

“Person” includes an individual person, partnership, corporation, limited liability company or any other association or entity, public or private.

“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-premises 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.

“Operational” means offering for sale on an ongoing weekly basis to the public alcoholic liquor and malt beverages as authorized under a license or permit issued as noted on the Liquor License Application filed with the Town Clerk.

“Dispensing area” means a fixed structure, area, counter, or surface where an alcoholic beverage is stored, prepared, and dispensed.

Sell or sale: 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 an alcoholic liquor or malt beverage made otherwise than by gift constitutes a “sale”.

“Building” means a roofed and walled structure built or set in place for permanent use.

5.04.20 Compliance Required

- A. For the protection of the health, safety and welfare of the residents, citizens and guests of the town, it is declared to be in the best interest 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 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 W.S. 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 W.S. Section 12-1-101 et seq., which regulate such substances.
- B. 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 provisions of W.S. Section 12-2-202.
- C. The provisions contained within W.S. Title 12 pertaining to the regulation of alcoholic and malt beverages which are being repealed by the state and which pertain to, and which shall be regulated by municipalities are hereby adopted in their entirety until such time that they are otherwise acted upon.

5.04.30 Hours of operation:

- A. Annual or Temporary License: 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. Limited Retail Liquor (Special Club) License: This section shall not apply to licensees holding limited retail liquor (special club) license who have been authorized by the Licensing Authority under Wyoming Statutes subsection 12-5-101(b) to have hours of operation other than those authorized by this section.
- C. Hours: The hours of operation for all licensees and permittees, subject to the exceptions in subsection B of this section, shall be as follows:
 - 1. Monday Through Saturday: On all days except Sunday, a licensee may open the dispensing room no earlier than 6:00 a.m. and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than 2:00 a.m. the following day, and the licensee shall clear the

dispensing room of all persons other than employees no later than 2:30 a.m.

2. Sundays: On Sundays, licensees may open the dispensing room no earlier than 10:00 a.m. and shall close the dispensing room and cease the sale of alcoholic and malt beverages not later than 2:00 a.m. on the following Monday, and the licensee shall clear the dispensing room of all persons other than employees no later than 2:30 a.m.
3. Modified Hours: The hours of operation designated above may be modified on no more than four (4) days each calendar year by resolution or agreement made each year between the town council and the licensee, when all licensees may operate their dispensing rooms different from the regular opening and closing times, for a period of twenty-four (24) hours. The requests by the licensees shall be made to the council at regular council meetings at least one (1) month prior to the event for which the licensee seeks to have this special privilege.

D. Bottle Club:

1. Prohibited: It is unlawful for any person to operate a bottle club in the town.

5.04.40 Location, Regulation and Restrictions as to places of sale:

The principal place in which alcoholic liquor and malt beverages are sold under a license shall be in the licensed building upon the premises for which the license is issued. Alcoholic beverages secured in the licensed building by a server may be served only in the building and in an immediately adjacent fenced or enclosed area as approved by the Licensing Authority. This adjacent area shall not be in another building and shall be located on the licensed premises. The Town shall, as often as necessary, inspect the licensed building and adjacent areas where alcoholic beverages are served to ensure that the licensee is in compliance with sanitation and fire hazard requirements and other applicable laws.

5.04.50 Required.

No person, firm or corporation shall sell at retail any intoxicating liquor or malt beverages as defined by laws of the State of Wyoming, within the Town of Greybull unless the person, firm or corporation shall be the owner and holder of a license issued by the Town of Greybull in accordance with the terms of this article and the laws of the State of Wyoming; provided, however, this shall not apply to any business which holds a special permit issued by the Wyoming Liquor Commission in conformity with the state laws.

5.04.60 Sale, gift, or delivery of liquor to persons underage or drunkards.

The license, when granted, shall not authorize the sale, gift or delivery of an alcoholic or malt beverage to any person underage, as defined by W.S. Section 12-6-

101, or to any habitual drunkard, and such sale, gift or delivery shall be in violation of this article.

5.04.70 Conducting business in accordance with state law

Nothing in this article shall be construed to prohibit any person, firm or corporation holding a license direct from the Wyoming Liquor Commission from conducting his or her business in accordance with the license and the laws of Wyoming.

5.04.80 Open container in motor vehicle. (Refer to W.S. 31-5-235)

- A. No person shall consume, transport, or possess any alcoholic beverage in a motor vehicle while the motor vehicle is in motion on a public street or highway unless the beverage is:
1. In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed.
 2. In a trunk or any other outside compartment of the vehicle that is not readily accessible to any person in the vehicle while the vehicle is in motion.
 3. In the unoccupied back of a pickup truck out of reach of the driver even though access is available through a window.
 4. In an unoccupied rear compartment of a vehicle not equipped with a trunk or other outside compartment and the rear compartment is not readily accessible to the driver and not normally occupied by passengers while the vehicle is in motion; or
- B. Secured in a cabinet or compartment of a recreational vehicle, and the cabinet or compartment is not readily accessible to the driver while the recreational vehicle is in motion. The alcoholic beverage shall remain secured and shall not be accessible by the driver or any passenger at any time the vehicle is in motion.

ARTICLE III. LICENSE APPLICATION

5.04.90 Conditions of issuance.

No license shall be granted any person under this article unless the applicant shall have all the qualifications required by law for a licensee and unless the room or place in which he or she intends to conduct his or her business shall comply with the requirements of the Wyoming law, nor shall any licensee conduct his or her business in such manner as to violate any state law, nor shall he or she keep his or her place of business open, or sell or deliver any alcoholic and/or malt beverages, after hours permitted by state law or on days prohibited by state law.

5.04.100 Falsification of application.

- A. 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, and that each application is being submitted shall be sworn to be true to the best of the knowledge by the person submitting such application.
- B. If, in the opinion of the town attorney, a liquor license holder has acted in violation of this section, the town attorney shall upon action of the licensing authority act on behalf of the licensing authority pursuant to W.S. Section 12-7-201 seeking revocation of the license or permit. Such action shall be in addition to any other penalties which may accrue to the license holder for violation of this section.

5.04.110 Application for annual license.

The qualifications, restrictions, limitations and numbers of licenses and permits shall all be governed by Wyoming Statutes title 12, as amended.

- A. All applications for a license, permit, renewal, or transfer shall be made to the Licensing Authority and shall be made upon the appropriate form prepared by the State of Wyoming and furnished to the Town. All completed, verified, and signed applications shall be filed in the Office of the town clerk. The license fee, or any other fees related to a license, shall be paid to the clerk at the time the application is filed, 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 W.S. Section 12-4-102.
- B. Each application for a new license, renewal of a license or transfer of an existing liquor license shall apply to the Licensing Authority. The application shall be made under oath upon a form to be prepared by the attorney general's office for the state and furnished to the Licensing Authority. The application shall be filed in the office of the town clerk and shall contain all information required by state statute and such other information or documentation as may be required by the Licensing Authority.
- C. On behalf of the licensing authority, the town clerk 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 various town department representatives as required by the town clerk. Representatives of town departments may enter licensed and permitted premises during regular business hours to make reasonable inspections.
- D. The Licensing Authority shall at the time and place set forth in the notice consider such application and may grant the license; provided, that no license may be granted in excess of the number permitted by the laws of Wyoming; and provided further, that the Licensing Authority may grant or may refuse to grant such

license as they may deem best. The license shall be for one year unless sooner revoked, shall be upon the form prescribed by the laws of Wyoming, and shall be deemed a personal privilege and cannot be transferred or sold except with the permission of the Licensing Authority and in accordance with Wyoming law.

5.04.120 Publication of notice of application for license; grant or denial, renewal preferences, appeals:

When an application for a liquor license is made to the Town Clerk as is required by Wyoming Statutes, the procedures as to publication of notice, the granting or denial of such license, renewal preferences and the right of appeal shall all be in accordance with Wyoming Statutes title 12

5.04.130 Restrictions upon applicants and license.

Licenses as issued under this article shall be in the form and content as prepared and furnished by the State. Each license issued by the Town shall be signed by the mayor and attested by the Town clerk. Each license shall show the name of the licensee; a description of the place in which alcoholic or malt beverages shall be sold; the date of issuance; the amount of the fee, and that the same has been paid. Except as provided in subsection A of this section, each licensee shall display his license in a conspicuous place in the licensed room or place of business.

- A. Any license issued pursuant to W.S. Section 12-4-103(a)(iv) shall be held by the clerk in the clerk's office, or other location as designated by the clerk, until the license can be placed in a physically functional building.

5.04.140 Grounds for denial of license.

A license shall not be issued, renewed, or transferred if the Licensing authority finds from evidence presented at the hearing required under W.S. Section 12-4-104 any of the conditions found under W.S. Section 12-4-104(b), including:

1. 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 W.S. Section 12-4-104(c). No other preference rights are authorized or recognized by the Town of Greybull. The preference right granted under this section shall expire 30 days after the expiration date shown on the most recently issued license or permit.

5.04.150 Transfer, Term and Sale.

A person seeking to transfer an annual license shall submit a new application form and shall pay to the clerk at the time of such application a nonrefundable additional license fee of \$100.00. The transfer applications shall be set for public hearing and otherwise considered by the Licensing Authority in a manner consistent with W.S. Section 12-4-601.

- A. Annual licenses shall be for a period of not more than one year, expiring each year on March 15th. Annual licenses shall be a personal privilege of the licensee.

- B. 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 un-issued license.

ARTICLE IV. LICENSES AND PERMITS

5.04.160 Types of Licenses and Permits pursuant to Wyoming Statutes title 12, the Town may issue the following types of licenses and permits pertaining to alcoholic beverages.

1. Retail liquor license, as defined in W.S. Section 12-4-201.
2. Limited retail liquor (special club) license, as defined in W.S. Section 12-4-301.
3. Restaurant liquor license, as defined in W.S. Section 12-4-407.
4. 24-hour malt beverage permit, as defined in W.S. Section 12-4-504.
5. Motel/hotel minibar license, as defined in W.S. Section 12-5-201(e).
6. Catering permit, as defined in W.S. 12-4-502(b)
 - A. The annual fee for each license shall be payable at the time of applications, shall be paid in cash or certified check and shall be in the full amount as established for each class of license.
 - i. All annual fees shall be established on an annual basis by the Licensing Authority upon adoption of the town's annual budget.
 - B. No refund of all or any part of any license fee shall be made at any time following the issuance of the license.
 - C. 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 to cover the cost of publishing public hearing notices.

5.04.170 Temporary licenses and permits.

- A. The Licensing Authority of the Town of Greybull is authorized to issue the following temporary licenses pursuant to state law and this chapter:
1. Malt beverage permit, as defined in W.S. Section 12-4-502(a).
 2. Catering permit, as defined in W.S. Section 12-4-502(b).
 3. Temporary dispensing room permit, as defined in W.S. Section 12-4-504 and Section 12-5-201(f), (g), (h), and (j).
 4. Bar and grill license, as defined in W.S. Section 12-4-502.

5. Special malt beverage permits for public auditoriums, as defined in W.S. Section 12-4-504.
- B. The annual fee for each license shall be payable at the time of application, shall be paid in cash or certified check and shall be in the full amount as established for each class of license.
 1. All annual fees shall be established on an annual basis by the governing body upon adoption of the town's annual budget.
- C. 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. 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 to cover the cost of publishing public hearing notices.

ARTICLE V. RESTRICTIONS

5.04.180 Display of liquor prohibited.

There shall be no display of any alcoholic or malt liquor of any kind of character in any window or door of any place of business in the Town of Greybull.

5.04.190 Excessive Drinking or Disorderly Conduct.

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 the code or state law, excessive drinking or disorderly conduct may be cause for the initiation of suspension and/or revocation procedures.

5.04.200 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 or 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 W.S. Section 12-5-301.

5.04.210 Sales, etc., to or entry upon premises by minors and attempts by minors to enter or purchase.

- A. It is unlawful for any person under the age of 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.
- B. It is unlawful for any person to sell, give, deliver, or to permit, allow, or aid and abet the sale, delivery or consumption of any alcoholic liquor or malt beverage to any person under the age of 21 years. Such prohibition, however, shall not apply

to any parent or guardian providing child stays in the confines of their home under parent or guardian supervision.

- C. It is unlawful for any person under the age of 21 years to make, use or possess any identification which falsely indicates the person's age as greater than 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.

5.04.220 Suspension of license or permit.

- A. The Licensing Authority may suspend any license or permit issued under this chapter if the licensee or permittee fails to pay taxes and the Wyoming Liquor Division has ceased sales of alcoholic liquor to the licensee or permittee pursuant to W.S. Section 12-2-306. Upon receipt by the clerk of a certified notice from the State of Wyoming issued pursuant to W.S. Section 12-2-306, and upon order of the Licensing Authority, the clerk 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. The suspension hearing shall be conducted under the Wyoming Administrative Procedures Act (W.S. Section 16-6-101 et seq.) and rules adopted by the Licensing Authority. 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 considered prima facie evidence of the licensee's or permittee's tax delinquency.
- B. The Licensing Authority may suspend any license or permit under this chapter if the licensee or permittee fail to operate or maintain business in compliance with W.S. Title 12 and or Town ordinances.
- C. 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 W.S. Section 12-7-103.
- D. The suspension of the license or permit shall remain in effect until either the Licensing Authority lifts the suspension, a court of competent jurisdiction lifts the suspension, or the clerk receives certified notice from the State of Wyoming that the sales tax liability has been satisfied.
- E. In the event a suspension occurs, the clerk shall send by certified mail one copy each of the suspension notice to the last known addresses of the license or permit holder and to the Director of the Wyoming Liquor Division for the State of Wyoming. Additionally, the clerk shall post one copy of the suspension notice on the licensed or permitted premise. Immediately upon the posting of the suspension notice, the sale, offering to sell, distribution, or traffic of alcoholic liquor or malt beverages is unlawful. Further, the licensee or permittee shall either remove all 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 or her designee.

5.04.230 Delivery of alcoholic liquors and malt beverages

- A. Any retail licensee wishing to offer delivery services must request in writing to the Licensing Authority a business plan and request outlining procedures.
- B. All approved requests will be subject to random inspections by the Licensing Authority and or local police enforcement.
- C. Licensing Authority reserves the right to revoke or suspend approved requests if failure to operate or maintain business is not in compliance with W.S. title 12 and or town ordinances.

5.04.240 Violation—Penalty.

Any person, persons, partnership, corporation, or association who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$10.00 nor more than \$750.00 and court costs for each violation.

Section 2: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3: If any portion of this ordinance is held or found to be invalid, the remainder of the ordinance shall continue to be in full force and effect.

This Ordinance shall take effect and be in full force and effect on November 1, 2022, after having been published in the GREYBULL STANDARD.

First Reading:	August 8, 2022
Second Reading:	September 12, 2022
Third Reading:	October 10, 2022

Passed, approved, and adopted this 10th day of October 2022.

Myles Foley, Mayor

ATTEST: _____

Jessica Fink, Town Clerk

