

**ORDINANCE NO. 4351**

**ENTITLED: “AN ORDINANCE AMENDING SECTION 5.12.110, OPEN CONTAINER–SALES AND CONSUMPTION–EXCEPTIONS, OF CHAPTER 5.12, ALCOHOLIC LIQUOR AND MALT BEVERAGES, OF TITLE 5, BUSINESS LICENSES AND REGULATIONS, OF THE MUNICIPAL CODE OF THE CITY OF CHEYENNE, WYOMING.”**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:**

Section 1. That Section 5.12.110, Open container–Sales and consumption–Exceptions, of Chapter 5.12, Alcoholic Liquor and Malt Beverages, of Title 5, Business Licenses and Regulations, is hereby amended as set out in this ordinance.

**5.12.110 Open container–Sales and consumption–Exceptions.**

A. Except in compliance with Wyo. Stat. Sections 12-4-410 (e) and 12-4-413 (f) and other provisions of this chapter, including Section 5.12.120 Special use areas–Special event permit, no person shall consume or carry in their immediate possession an alcoholic liquor or malt beverage in an open container, either on foot, within a motor vehicle or other means of conveyance, upon city streets, sidewalks, parks, public parking lots, public school property, or without the consent of the owner upon any private parking lot or any private areas that are open to the public, except:

1. The chief of police may authorize the city clerk to issue a consumption permit to applicable applicants requesting to consume or carry an alcoholic liquor or malt beverage in an open container on foot or within a motor vehicle or other means of conveyance as part of a ceremony, show, theatre, parade, or similar public event. A consumption permit does not allow the “sell” or “sale” of alcoholic liquor or malt beverages.

2. The chief of police may authorize the city clerk to issue a consumption permit to applicants requesting to consume or carry malt beverages only in parks and facilities with spaces which may be individually reserved when approved by the city’s department director or authorized representative, overseeing the grounds or responsible for reserving the grounds for applicant use in accordance with facility reservation policies.

3. The chief of police may authorize the city clerk to issue a consumption permit to applicants to consume or carry champagne and/or wine only in parks and facilities with spaces which may be individually reserved when approved by the city’s department director, or authorized representative, overseeing the grounds or responsible for reserving the grounds for applicant use in accordance with facility reservation policies.

4. Prior to consumption permits being issued, an applicant shall provide the city clerk with a written release, indemnification and hold harmless agreement and agree to assume responsibility relative to liquor liability coverage as approved by the city risk manager or city attorney.

B. The city clerk, with approval by the chief of police, may issue a catering or malt beverage permit, including waiver of open container, to:

1. Applicants requesting to sell alcoholic liquor and/or malt beverages at the Cheyenne-Kiwanis Community House, Cheyenne Botanic Gardens and affiliated facilities, located within Lions Park; the community center located within the David R. Romero South Cheyenne Community Park; Cheyenne Civic Center; and the city-owned ice and events center, when under lease, as authorized by city staff responsible for reserving the facility for applicant use in accordance with facility reservation policies.

2. Applicants requesting to sell malt beverages in conjunction with adult softball/baseball games and tournaments held at the Pioneer Park Baseball Complex and Powers Field Complex, as authorized by city staff responsible for reserving the facility for applicant use in accordance with facility reservation policies. Sales provided under a catering permit shall be restricted to malt beverages only.

3. The chief of police, and city clerk ~~and city risk manager~~ may approve catering permits and malt beverage permits for sales, and to consume and carry, in conjunction with events and activities held within Frontier Park. ~~Unless approved by the chief of police and city clerk, catering permits will be restricted to the sale and consumption of wine, including champagne, and malt beverages only.~~

4. Permits issued under Section 5.12.110 of this chapter shall not be issued unless:

a. The applicant submits proof of general liability coverage, including liquor liability, as approved and in an amount determined by the city risk manager or city attorney. Proof of coverage document must name the city of Cheyenne as an additional insured and certificate holder for the date and location of the event or activities for which the permit will be issued;

b. The applicant provides the city clerk with a written release, indemnification and hold harmless agreement as stated upon the permit application form; and

c. Sales, dispensing and consumption boundaries are approved by the chief of police and city clerk.

C. The city clerk, with approval by the chief of police, may issue a catering or malt beverage permit with waiver of open container for community-based events and activities proposed to be held upon city-owned property, including the Depot Plaza; streets; sidewalks; and rights-of-way. A catering permit may be restricted to sales of wine and ~~or champagne~~ ~~malt beverages~~ only.

D. Exceptions.

1. It shall not be unlawful for any person to consume or have in his or her possession any alcoholic liquor or malt beverage in a container that has been open or unsealed where a state limited transportation liquor license has been issued by the Wyoming Liquor Division. While traveling within the city, each vehicle operating under a state limited transportation liquor license must have a copy of the license conspicuously displayed in the rear window of the vehicle.

2. Alcoholic liquor or malt beverages may be consumed by those who are of legal drinking age within a limousine or horse-drawn carriage traveling within the city for the purposes of special private activities, as approved by the chief of police, in which there is no fee for the alcoholic liquor or malt beverages assessed by the owner or operator of the limousine or horse-drawn carriage.

3. ~~The Governing Body may, by resolution, create special areas or districts in which the possession of open containers is permitted within the Downtown Development Authority's boundary defined in Section 2.76.040 of the city code, between the Friday Thursday preceding Memorial Day and to the Monday of Labor Day of each calendar year; however the periods of time, as well as the boundaries of special areas or districts, may be established and/or modified by resolution adopted by the Governing Body.~~

a. This shall be allowed between the hours of 8:00 a.m. and 10:00 p.m.

b. This section allows for the possession of open containers of wine and malt beverages only.

- c. Only the possession of plastic cups for open container is permitted. Glass containers are strictly prohibited.
- d. Additional restrictions on periods of time, boundaries of special areas or districts, beverage distribution, tracking, and event control may also be established by resolution of the Governing Body.
- e. Possession of open containers shall always be allowed on the following holidays between the hours of 8:00 a.m. and 10:00 p.m.:
  - i. 4<sup>th</sup> of July;
  - ii. Cheyenne Day; and
  - iii. Founder's Day or Statehood Day.

Section 2. That sections currently existing in Chapter 5.12 not set out within this ordinance remain unchanged.

Section 3. That this ordinance shall become effective upon its passage and publication.

FIRST READING: March 8, 2021

SECOND READING: March 22, 2021

THIRD AND FINAL READING: April 12, 2021



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Patrick Collins, Mayor

(SEAL)

ATTEST:

  
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Kristina F. Jones, City Clerk

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