

**APPROVED**

By John Brodie at 12:51 pm, Nov 22, 2022

ORDINANCE NO. 4475

**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, AMENDING PROVISIONS GOVERNING THE POSSESSION OF ALCOHOLIC LIQUOR OR MALT BEVERAGES IN AN OPEN CONTAINER AS SPECIFIED."**

**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, of the code of the City of Cheyenne, Wyoming, is hereby amended as set out in this ordinance.

**5.12.110 - Open container; Sales and consumption; Exceptions.**

- A. Unless authorized under Wyo. Stat. Sections 12-4-410(e) and 12-4-413(f) or otherwise authorized under this Chapter, including subsections (B), (D), (E) and (G) of this section and Section 5.12.120 of the city code, 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.
- B. The city clerk, with approval by the chief of police, may issue a catering or malt beverage permit, including a waiver of open container restrictions, to applicants requesting to have offered for sale:
  1. 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. 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; or

3. Alcoholic liquor and/or malt beverages in conjunction with an event or activity held within Frontier Park, which permit shall also authorize consumption and carry by patrons of the event or activity.
- C. Permits authorized under subsection (B) of this section shall not be issued unless:
1. 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;
  2. The applicant provides the city clerk with a written release, indemnification and hold harmless agreement as stated upon the permit application form; and
  3. Sales, dispensing and consumption boundaries are approved by the chief of police and city clerk.
- D. The city clerk, with approval by the chief of police, may issue a catering or malt beverage permit, with a waiver of open container restrictions, 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 malt beverages only.
- E. Subject to the requirements imposed under subsection (F) of this section, the chief of police may authorize the city clerk to issue a consumption permit to any applicant requesting to consume or carry:
1. An alcoholic liquor or malt beverage in an open container on foot or as a passenger within a motor vehicle or other means of conveyance as part of a ceremony, show, theatre, parade or similar public event. A consumption permit shall not authorize the permit holder to sell alcoholic liquor or malt beverages; or
  2. Champagne, wine and/or malt beverages in a park or facility with a space that 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. A consumption permit may be restricted to malt beverages only.
- F. Prior to the city clerk issuing a consumption permit under subsection (E) of this section, the permit applicant shall provide the city clerk with a written release and an 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.

G. 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 possession of open containers shall be permitted year-round within the downtown development authority's boundary defined in Section 2.76.040 of the city code subject to the following conditions:
  - a. The possession of open containers shall only be allowed between the hours of 12:00 p.m. and 10:00 p.m.;
  - b. This paragraph shall only allow for the possession of open containers of wine and malt beverages;
  - c. The possession of open containers shall only be authorized through the use of plastic cups or reusable containers provided by a wine or malt beverage vendor. The use of any glass container shall be strictly prohibited under this paragraph;
  - d. By resolution, the governing body may impose additional restrictions, or may modify the restrictions imposed under this subsection, on periods of time, boundaries of special areas or districts, beverage distribution, tracking, or event control;
  - e. A wine or malt beverage vendor shall refuse to sell or offer for sale wine or malt beverages in an open container to any person during an inclement weather event if in judgement of the vendor, the health and safety of the person will be endangered because of the effects of alcohol on the person and the dangers presented due to the inclement weather event; and
  - f. The possession of open containers shall only be permitted on foot within the downtown development authority's boundary defined in Section 2.76.040 of the city code. Open containers in motor vehicles or other means of conveyance shall be strictly prohibited.

Section 2. Sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or otherwise unlawful, such declaration shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases.

Section 3. That this ordinance shall be in full force and effect upon approval and publication but no sooner than December 31, 2022.

**FIRST READING:** \_\_\_\_\_ October 24, 2022 \_\_\_\_\_

**SECOND READING:** \_\_\_\_\_ November 14, 2022 \_\_\_\_\_

**THIRD AND FINAL READING:** \_\_\_\_\_ November 28, 2022 \_\_\_\_\_



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PATRICK COLLINS, MAYOR

(SEAL)  
ATTEST:

  
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KRISTINA F. JONES, CITY CLERK

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