

ORDINANCE NO. 1023

AN ORDINANCE AMENDING CHAPTER 5.16 OF DOUGLAS MUNICIPAL CODE CONCERNING THE PROCESS FOR REGULATION AND ISSUANCE OF ALCOHOLIC LIQUOR OR MALT BEVERAGES AS IT RELATES TO SALES TAX DELINQUENCY OR COMPLIANCE VIOLATIONS AND TO FURTHERMORE AMEND THE CHAPTER IN ORDER TO COMPLY WITH ACTIONS TAKEN DURING THE 2023 LEGISLATIVE SESSION

WHEREAS, the City of Douglas, pursuant to Wyoming Statutes §12-4-101 *et seq.*, licenses and regulates the manner in which liquor licenses and permit are issued; and

WHEREAS, there must be a balance struck between the rights of license holders, economic development, and the health, safety, and welfare of all residents and visitors to the City of Douglas; and

WHEREAS, the City has determined that the existing laws within our municipal code need to be revised; and

WHEREAS, during the 2023 General Session, the 67th Wyoming Legislature made statutory amendments to Title 12, which the governing body desires to evaluate and address within our own municipal code; and

WHEREAS, after consideration by the governing body, including staff recommendations, the following are recommended changes to Chapter 5.16 of the Douglas Municipal Code.

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

Section 1. Section 5.16.020 of the Douglas Municipal Code is hereby amended to include the following:

5.16.20 Definitions.

“*Entertainment*” means any activity designed to provide diversion or amusement, regardless of the age required for the activity. “Entertainment” shall not include adult entertainment or gambling.

“*Adult Entertainment*” means any form of dancing, exhibition or display involving male or female nudity or partial nudity for any period of time intended to gratify the sexual desires of any entertainer or patron. For the purposes of this chapter, “adult entertainment” shall also include any “sexually oriented business.”

Section 2. Section 5.16.165 of the Douglas Municipal Code is hereby created to read as follows:

5.16.165 Annual License – Bar and Grill license.

5.16.165(A). Compliance with Other Laws. All provisions of law, including but not limited to this chapter, and all health and sanitary laws and regulations of the city, the state of Wyoming, and the United States, apply to bar and grill licenses.

Section 3. Section 5.16.210 of the Douglas Municipal Code is hereby amended to read as follows:

5.16.210 Suspension/Revocation of license or permit, violations, and penalties.

5.16.210(C). Proof of violation by a licensee or the licensee’s agent or employee of any of the provisions in Paragraph B is sufficient grounds for suspension or recommendations of revocation of the license and licensees and permittees may be reprimanded or assessed a civil penalty at the discretion of the governing body.

a. First time violations for violations of D.M.C. 9.08.070. Within ninety (90) days following a disposition of a charge which results in a conviction under D.M.C. 9.08.070 in municipal court, the court shall require the person convicted of a violation to obtain certification in TIPS training regardless of an existing certification, and to provide proof of the same to the City Clerk.

5.16.210(F)(2). Notice of Hearing before Governing Body. Upon receipt by the city clerk of a notice from the State of Wyoming issued pursuant to W.S. 12-2-306, as amended, and/or such information from the municipal court, the city clerk shall notify the liquor licensee **and the City Council** of the violation(s). ~~and a hearing shall be set before the governing body.~~ **Upon its own motion, the City Council may set a hearing regarding the violation(s). If such a hearing is set, the city clerk shall provide certified notice of the hearing date to the licensee.** The certified notice from the state and all evidence presented to the state in support of the certified notice and order of conviction from municipal court will be admitted and considered prima facie evidence of the liquor licensee's sales tax delinquency or conviction of municipal ordinance on liquor. The purpose of the hearing is to allow the liquor licensee to offer corrections to the information; and **to evidence what action will be taken by the liquor licensee to mitigate the violation(s) and for the governing body to determine whether liquor licensee should face restrictions or suspension of the liquor license.** Notice of such violation shall be served by certified mail to the address of the licensee listed on the licensee's most recent liquor license application to the city, and shall include a statement:

a. That the city received a notice for failure to pay sales tax or a criminal violation described in Paragraph D herein has occurred, and that a fine, suspension and/or revocation of the licensee's license is possible; and

b. Summarizing the nature and date(s) of the incident(s) resulting in a conviction and notice for failure to pay sales tax.

Section 5. Douglas Municipal Code Sections 1.04.050, 1.04.060 and 2.08.060, by reference, are incorporated herein and made a part thereof.

PASSED AND APPROVED ON FIRST READING this 14th day of August, 2023.

PASSED AND APPROVED ON SECOND READING this _____ day of _____, 20_____.

PASSED, APPROVED AND ADOPTED ON THIRD AND FINAL READING this _____ day of _____, 20_____.

Kim Pexton, Mayor

Attest:

Mary Nicol, Deputy City Clerk

Published: _____

ATTESTATION

I, Mary Nicol, the Deputy Clerk of the City of Douglas, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.

Mary Nicol, Deputy City Clerk