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TITLE IV

BUSINESS REGULATIONS

Chapter 1

Handbills and Posted Advertisements

4-101. POSTING BILLS WITHOUT PERMISSION. It shall be unlawful for any person acting for himself or through an agent to print, paint, write or in any way post up any notice, card, advertisement or other device upon any tree, post, pole or fence upon streets, alleys, or property owned or controlled by the Town of Cokeville without first obtaining permission from the Town Mayor. It shall be unlawful for any person to post any such notice, card, advertisement or other device upon any wall, fence, tree, post, pole, building or other property without the permission of the owner or the per­son in charge thereof.

4-102. NAME ON POSTED BILL. No bill shall be posted on any post, pole, tree, wall, fence or building within the corporate limits and sur­rounding areas under the jurisdiction of the Mayor of the Town of Cokeville, except the name of the person responsible to remove such advertisement be legibly written in the lower right-hand corner of said advertisement.

4-103. DUTY TO REMOVE OBSOLETE BILLS. When a sign, bill, notice, card, or advertisement which has been posted in accordance with the terms of this Chapter becomes obsolete by reason of dilapidation or occurrence of the event advertised, such advertisement shall be promptly removed by the person whose name appears or should appear on the notice.

4-104. DISTRIBUTION OF HANDBILLS. It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commer­cial or non-commercial handbill within the corporate limits and surrounding areas under the jurisdiction of the Mayor of the Town of Cokeville, without first obtaining written permission of the Mayor. If, in the opinion of the Mayor, the contents of the handbill are misleading, untrue, or offen­sive to public morals, he may deny the request for permission to distribute such handbills.

TITLE IV

BUSINESS REGULATIONS

Chapter 2

Peddlers and Itinerant Merchants

4-201. SOLICITING AND PEDDLING A NUISANCE. The practice of going in or upon private residences, business establishments, public buildings and/or offices in the Town of Cokeville, Wyoming, by solicitors, peddlers, hawkers, professional men, practitioner healers, health purveyors, photographers, itinerant merchants, transient vendors of goods, wares, merchandise, books, pictures, insurance, periodicals, magazines, health aids or anything whatsoever, not having been requested to do so by the owner, manager or occupant of said private residence, business establishment, public building or office, for the purpose of selling or soliciting orders for any item herein before mentioned, or any other article of whatsoever kind, and for the purpose of disposing of or peddling, selling or hawking the same, is hereby declared to be a public nuisance, and punishable as such as a misdemeanor.

4-202. ATTEMPT TO OBTAIN INVITATION SHALL BE DEEMED A NUISANCE.

Any attempt to obtain an invitation to visit any residence, business establish­ment, public building or office by personal solicitation or promise of any demonstration, pecuniary profit or benefit, or any gift or advantage, shall be deemed a violation of the terms of this Chapter and punishable as a misdemeanor.

4-203. EXCLUSION. Any person who sells wholesale, direct to a dealer for the ultimate purpose of resale or gift by such dealer is hereby excepted from the provisions of this Chapter, as is also any person locally established selling produce or products raised by himself.

4-204. POLICE CHIEF TO ABATE. The Police Chief or his officer(s) are hereby required and directed to abate any nuisance or violation of this Chapter and upon conviction for violation of the provisions of this Chapter, the defendant shall be punished as provided in Section 1-108, of the Revised Ordinances of Cokeville, as amended.

TITLE IV

BUSINESS REGULATIONS

Chapter 3

Alcoholic Beverages

4-301. DEFINITIONS.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) ALCOHOLIC LIQUOR: Any spiritous or fermented fluid, substance, or compound, other than malt beverage, intended for beverage purposes, containing more than one percent (1%) of alcohol by volume, including alcohol, brandy, whiskey, rum, gin, wine, or other liquids and compounds.

(b) BUILDING: A roofed and walled structure set in place for per­manent use.

(c) CLUB: Any of the following organizations:

(1) A post, charter, camp, or other local unit composed only of veterans and its duly organized auxiliary, chartered by the Congress of the United States for patriotic, fraternal, or benevolent purposes, and, as the owner, lessee or occupant, operates an establishment for these purposes within the state;

(2) A chapter, lodge, or other local unit of an American national fraternal organization, and, as the owner, lessee or occupant, operates an establishment for fraternal purposes within the state. As used in this sub-paragraph, an American fraternal organization means an organi­zation actively operating in not less than thirty-six (36) states or having been in active continuous existence for not less than twenty (20) years, but does not mean a college fraternity;

(3) A hall or building association of a local unit specified in sub-paragraphs (I) and (2) of this paragraph, of which all of the capital stock is owned by the local unit or its members, operating clubroom facilities for the local unit;

(4) A golf club having more than fifty (50) bona fide members owning, maintaining or operating a bona fide golf course together with a clubhouse.

(5) A social club with more than one hundred (100) bona fide members who are residents of the county in which it is located, owning, maintaining or operating club quarters, incorporated and operating solely as a non-profit organization under the laws of this state and qualified as a tax exempt organization under the Internal Revenue Service Code and having been continuously operating for a period of not less than one (1) year. The club shall have had, during this one-year period, a bona fide membership paying dues of at least twenty-five dollars ($25.00) per year as recorded by the secretary of the club, quarterly meetings and an actively engaged membership carrying out the objectives of the club. A social club shall, upon applying for a license, file with the Town Council and the Wyoming Liquor Commission a true copy of its by-laws and shall further, upon applying for a renewal of its license, file with the Town Council and the Wyoming Liquor Commission a detailed statement of its activities during the preceding year which were undertaken or furthered in pursuit of the objects of the club, together with an itemized statement of amounts expended for such activities. Club members, at the time of application for a limited retail liquor license, pursuant to Section 4-311, shall be in good standing by having paid at least one full year in dues;

(6) Club does not mean college fraternities or labor unions.

(d) DRUG STORE: Space in a building maintained, advertised and held out to the public as a place where drugs and medicines are sold and prescriptions are compounded and where a registered pharmacist is regularly employed.

(e) INTOXICATING LIQUOR, ALCOHOLIC LIQUOR, ALCOHOLIC BEVERAGE, AND SPIRITOUS LIQUOR: Construed as synonymous in meaning and definition.

(f) LICENSEE: A person holding a (i) retail liquor license, (ii) limited retail liquor license, (iii) resort liquor license, (iv) malt beverage permit, (v) restaurant liquor license, or (vi) catering permit.

(g) LIMITED RETAIL LIQUOR LICENSE: The authority under which clubs shall be permitted to sell alcoholic and/or malt beverages.

(h) MALT BEVERAGE: Any fluid, substance, or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substitute therefore containing more than one percent (1%) of alcohol by volume.

(i) ORIGINAL PACKAGE: Any receptacle or container used or labeled by the manufacturer of the substance, containing any alcoholic liquors or malt beverages.

(j) PERSON. An individual person, a partnership, a corporation, or an association.

(k) RESIDENT: A domiciled resident and citizen of Wyoming for a period of not less than one (1) year, who has not claimed residency else­where for any purpose within a one (1) year period immediately preceding the date of application for any license or permit authorized under this Chapter.

(1) RESTAURANT: 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. This means that the building shall have a dining room or rooms, a kitchen and the number and kinds of employees necessary for the preparing, cooking and serving of meals in order to satisfy the Town Council that the space is intended for use as a full-service restaurant. The service of only fry orders or such food and victuals as sandwiches, hamburgers or salads shall not be deemed a restaurant for the purposes of this section.

(m) RETAIL LIQUOR DEALER: A retail liquor dealer shall be any licensee who sells alcoholic or malt liquors under a retail liquor license.

(n) RETAILER: A person who sells or offers for sale any alcoholic or malt beverage for use or consumption and not for resale.

(o) ROOM: An enclosed, partitioned space within a building. Par­titions may contain windows and doorways, but any partition shall extend from floor to ceiling.

(p) SELL, SALE: Offering for sale, trafficking in, bartering, delivering or dispensing and pouring for value, exchange for goods, services or patronage or an exchange in any way other than purely gratui­tously. Every delivery of any alcoholic liquor or malt beverage made otherwise than by gift constitutes a sale.

(q) THIS ORDINANCE: Chapter 3 of Title IV of the Revised Ordinances of the Town of Cokeville, Wyoming.

4-302. APPLICATION OF PROVISIONS.

The general control and regu­latory provisions of this Ordinance apply to all licenses and permits authorized under this Ordinance, unless otherwise provided.

4-303. APPLICATION FOR LICENSE AND PERMITS.

(a) Any person desiring a license or permit authorized by this Ordinance shall apply to the Town Council of the Town of Cokeville. The application shall be made under oath upon a form prepared by the Attorney General of the State of Wyoming, filed in the office of the Town Clerk, and shall contain the following provisions:

(1) The location and a description of the room in which the applicant will sell under the license if the building is in existence at the time of application. If the building is not in existence, the loca­tion and an architect’s drawing or suitable plan of the room in the premises to be licensed;

(2) The age and residence of the applicant and of each appli­cant or partner if the application is made by more than one individual or by a partnership;

(3) A disclosure of any criminal record of the applicant or any partner equal to a felony conviction under Wyoming law and of any conviction of a violation of Wyoming law relating to the sale or manufac­ture of alcoholic liquor or malt beverages within ten (10) years prior to the filing of the application;

(4) If the applicant is a corporation:

(i) The name, age and residence of each officer, director and stockholder holding, either jointly or severally, ten percent (10%) or more of the outstanding and issued capital stock of the corporation; and

(ii) Whether any officer, director or stockholder with ten percent (10%) or more ownership has been convicted of a violation of law as provided in paragraph (3) of this sub-section;

(5) A statement indicating the financial condition and finan­cial stability of the applicant;

(6) The site and the zoning of the site where the applicant will sell under the license.

(b) Said application shall be accompanied by a fee sufficient to defray the cost of publication of the notice that such applicant has made application for such a license.

(c) No person or partner shall have any interest directly or indirectly in a license or permit unless he signs and verifies the application for the license or permit. No corporation shall be granted a license or permit unless two (2) or more of the officers or directors sign and verify upon their oath as individuals that the statements and provisions are true.

4-304. RESTRICTIONS UPON LICENSE AND PERMIT APPLICANTS.

(a) A license or permit authorized by this Ordinance shall NOT be held by, issued or transferred to:

(1) Any mayor, member of the Town Council or County Commissioner, within their respective jurisdictions;

(2) Any person employed by the State or a city, town or county as a law enforcement officer or who holds office as a law enforcement officer through election;

(3) Any person who does not own the building in which the sales room is located or hold a written lease for the period for which the li­cense will be effective containing an agreement by the lesser that alcoholic or malt beverages may be sold upon the leased premises, except as provided by paragraph (4) of this sub-section;

(4) Any licensee whose building in which alcoholic or malt beverages may be sold is not in existence or operational within two (2) years after the license or permit has been issued;

(5) Any licensee who does not annually purchase at least Two Hundred Fifty Dollars ($250.00) of alcoholic or malt beverages from the commission or any authorized malt beverage wholesaler except any licensee having a planned building not in existence or not operational pursuant to paragraph (4) of this sub-section;

(6) A manufacturer of alcoholic beverages or wholesaler of malt beverages;

(7) A minor;

(8) A college fraternity or organization created by one (1) or more college fraternities;

(9) A chamber of commerce;

(10) A corporation which is not qualified to do business in Wyoming;

(11) An individual who is not a resident; or

(12) Any partnership or group of two (2) or more persons unless each individual interested, directly or indirectly, is a resident.

(b) No licensing authority shall issue more than one (1) license or permit to any one (1) person.

4-305. PUBLICATION OF NOTICE OF APPLICATION; GRANT OR DENIAL OF LICENSE OR PERMIT.

(a) When an application for a license, permit, renewal or any transfer of location or ownership thereof has been filed with the Town Council, the Town Clerk shall promptly prepare a notice of application and place the notice conspicuously upon the premises shown by the application as the proposed place of sale and publish the notice in the newspaper of local circulation once a week for four (4) consecutive weeks. The notice shall state that a named applicant has applied for a license, permit, renewal, or transfer thereof and that protests against the issuance, renewal or transfer of the license or permit will be heard at a designated meeting of the Town Council. Each applicant shall, at the time of filing his application, pay the Town Clerk the amount sufficient to cover the costs of publishing notice.

(b) Any license or permit authorized under this Title shall not be issued, renewed or transferred until on or after the date set in the notice for hearing protests. If a renewal or transfer hearing, the hearing shall be held no later than thirty (30) days preceding the expiration date of the license or permit. A license or permit shall not be issued, renewed or transferred if the Town Council finds from evidence presented at the hearing:

(1) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously af­fected;

(2) The purpose of this Ordinance shall not be carried out by the issuance, renewal or transfer of the license or permit;

(3) The number, type and location of existing licenses or permits meet the needs of the vicinity under consideration;

(4) The desires of the residents of the Town of Cokeville will not be met or satisfied by the issuance, renewal or transfer of the license or permit; or

(5) Any other reasonable restriction or standards which may be imposed by the Town Council shall not be carried out by the issuance, renewal or transfer of the license or permit.

(c) The owner and holder of an expired liquor license or permit or one due for expiration has a preference right to a new license for the same location. After the required notice and public hearing, each appli­cation claiming renewal preference shall be promptly considered and acted upon by the Town Council.

(d) An applicant for a renewal license or permit may appeal to the District Court from an adverse decision by the Town Council. No appli­cant for a new license shall have a right of appeal from the decision of the Town Council denying an application.

4-306. SIGNING AND ATTESTATION; CONTENTS; DISPLAY.

(a) Each license issued by the municipality shall be signed by the Mayor and attested by the Clerk.

(b) The following shall be shown in each license:

(1) The name of the licensee;

(2) A description of the place in which alcoholic and/or malt beverages may be sold;

(3) The date of issuance;

(4) The amount of the fee and that the same has been paid.

(c) Each licensee shall display his license in a conspicuous place in the licensed room.

4-307. DISPOSITION OF LICENSE FEE. All fees for licenses and per­mits issued by the Town Council paid under this Title shall be deposited into the treasury of the Town of Cokeville. No refund of all or any part of a license fee shall be made at any time following issuance.

4-308. TERM OF LICENSES AND PERMITS.

(a) A license or permit is considered a personal privilege to the holder and the term of the license or permit is for one (1) year unless sooner revoked. When a valid license or permit is determined to be part of the estate of a deceased holder, the administrator or executor of the estate may exercise the privilege of the deceased under the license or permit until the expiration of the license or permit.

(b) The term of a license or permit may be less than one (1) year if specified by the Town Council to coincide with the annual date or dates set by the Town Council for consideration of license and permit issuance, renewal and transfer. For a license or permit issued by the Town Council for a period less than one (l) year, the annual fee shall be prorated accord­ingly. Any licensee not attempting to renew a newly-issued prorated license or permit valid for one (l) year shall not be eligible for any license or permit authorized under this ordinance for a period of two (2) years after the expiration of the prorated license or permit.

4-309. RETAIL LIQUOR LICENSES.

(a) A retail liquor license is the authority under which a licensee is permitted to sell alcoholic liquor or malt beverages for use or con­sumption but not for resale.

1. Every person granted a retail liquor license by the provisions of this ordinance shall pay annually in advance for a license hereunder, the sum of $500. The license fee shall be paid to the Town Clerk before the license is issued.

4-310. SALES BY DRUG STORES.

All sales of alcoholic or malt bever­ages by drug stores holding a retail liquor license under the provisions of this Ordinance shall be sold only in the original container received by the druggist. No container or original package shall be opened upon the premises where sold or in any room or building in connection with the drug store. Any sale shall be made only by a licensed pharmacist or an adult clerk. The drug store shall be limited in its sales to the amount that may be sold by holders of other retail licenses.

4-311. SALES BY CLUBS.

(a) Bona fide clubs as defined by Section 4-301(c) may be licensed by the Town Council under a limited retail liquor license for which the licensee shall pay a license fee of $500.00 annually in advance.

(b) At least fifty-one percent (51%) of the membership of a social club as defined by Section 4-30l(c)(5) shall sign a petition indicating a desire to secure a limited retail liquor license. The form of the petition shall be prescribed by the Wyoming Liquor Commission and shall include the residence address of each member signing the petition.

(c) A club holding a limited retail liquor license shall not sell alcoholic or malt beverages for consumption anywhere except within the licensed premises and for consumption by its members and their accompanying guests only. It shall be the duty and obligation of the club to check and regulate sales to members and their accompanying guests to insure that all alcoholic or malt beverages sold are consumed within the building space or premises.

4-312. BOTTLE CLUBS.

(a) Definition. A bottle club is an operation or enterprise giving or renting space to persons upon the club premises for the keeping or storage of alcoholic or malt beverages, for consumption upon the club pre­mises by the persons or their guests where the income, profits, or fees of the operator of the bottle club are derived from sales of or furnishing mixes, ice, food or glasses or from dues, charges, contributions, membership cards, or assessments

(b) Penalty for operating unlicensed bottle club. It is unlawful to operate an unlicensed bottle club in the Town of Cokeville. Any person operating an unlicensed bottle club is guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-108, as amended, of the Revised Ordinances of Cokeville.

4-313. RESORT RETAIL LIQUOR LICENSES.

(a) Authorized. The Town Council may issue resort retail liquor licenses to applicants who are owners or lessees of a resort complex meeting the qualifications of sub-section (b) of this section.

(b) Qualifications. To qualify for a resort retail liquor license, the Town Council shall require the resort complex to:

(1) Have an actual valuation, or the applicant shall have committed or expended on the complex, not less than one million dollars ($1,000,000.00), excluding the value of the land;

(2) Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons; and

(3) Include motel or hotel accommodations with a minimum of one hundred (100) sleeping rooms.

4-314. SALE OF BEVERAGES FOR OFF-PREMISES CONSUMPTION PROHIBITED.

Resort liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee. The dis­pensing of alcoholic or malt beverages licensed to be sold hereunder shall be controlled by Section 4-327 of this Ordinance.

4-315. RESORT LIQUOR LICENSE FEE.

The annual fee for a resort liquor license shall be $2,000, payable in advance.

4-316. APPLICABILITY OF OTHER PROVISIONS. The general control and regulatory provisions of this Ordinance shall apply to resort liquor li­censes except as otherwise provided.

4-317. RESTAURANT LIQUOR LICENSES; AUTHORIZED.

Restaurants as defined by Section 4-301(1) may be licensed by the Town Council under a restaurant liquor license. In addition to the application requirements required by this Ordinance, the license applicant shall submit a valid food service permit upon application.

4-318. REVENUES OF RESTAURANT LIQUOR LICENSEE TO BE DERIVED PRIMARILY FROM FOOD SERVICE AND NOT THE SALE OF ALCOHOLIC BEVERAGES.

(a) An applicant for a restaurant liquor license shall satisfy the Town Council that the primary source of revenue from the operation of the restaurant to be licensed will be derived from food services and not the sale of alcoholic or malt beverages.

(b) When renewing a restaurant liquor license, the Town Council shall condition renewal upon a requirement that not less than sixty percent (60%) of gross sales from the preceding twelve (12) months operation of a licensed restaurant be derived from food services.

(c) Upon application for a license renewal a license holder shall submit an annual report to the Town Council of the sales of the licensed restaurant. The report shall contain the annual gross sales figures of the restaurant and shall separate the gross sales figures into two (2) categories:

(1) Food service sales; and

(2) Alcoholic and malt beverage sales.

4-319. TRANSFER OF RESTAURANT LIQUOR LICENSES.

No restaurant liquor licenses shall be transferred to another location. License ownership may be transferred to the purchaser or lessee of the licensed premises with the approval of the Town Council.

4-320. REGULATIONS AND RESTRICTIONS ON RESTAURANT LIQUOR LICENSES.

(a) Restaurant liquor licenses shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee.

(b) Alcoholic and malt beverages shall be dispensed and prepared for consumption in one (1) room upon the licensed premises separated from the dining area in which alcoholic and malt beverages may be served. No consumption of alcoholic or malt beverages shall be permitted within the dispensing room, nor shall any person other than employees over twenty-one (21) years of age be permitted to enter the dispensing room. If a restau­rant has a dispensing room separate from the dining area which is licensed prior to February 1, 1979, for purposes of alcoholic or malt beverage sales and consumption, the restaurant may dispense alcoholic or malt beverages in the separate dispensing room under a restaurant liquor license and any person over twenty one (21) years of age is permitted to enter the separate dispensing room.

(c) All sales of alcoholic and malt beverages authorized by a restaurant liquor license shall cease at the time food sales and services cease or at the hours specified by Section 4-326 of this Chapter if food sales and services extend beyond the hours specified therein.

4-321. RESTAURANT LIQUOR LICENSE FEE.

The annual fee for a restaurant liquor license shall be $1000.00 payable in advance.

4-322. TWENTY-FOUR HOUR MALT BEVERAGE PERMIT AND CATERING PERMIT.

(a) A malt beverage permit authorizing the sale of malt beverages only may be issued by the Town Council to any responsible person or organi­zation for sales at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No person or organization holding the special permit shall sell any alcoholic liquor other than malt beverages on the premises described on the permit. Nor shall any malt beverage be sold or consumed off the premises authorized by the permit.

(b) A catering permit authorizing the sale of alcoholic and malt beverages may be issued by the Town Council to any person holding a retail liquor license authorizing the off-premises sale of both alcoholic and malt beverages, for sales at meetings, conventions, private parties and dinners, or at other similar gatherings not capable of being held within the licensee’s licensed premises. No licensee holding a catering permit shall sell or permit consumption of any alcoholic or malt beverages off the premises described in the permit.

(c) The permits authorized for this section shall be issued for one (1) twenty-four (24) hour period subject to the schedule of operating hours provided by Section 4-326 of this Ordinance, and shall not authorize sales or consumption on the premises described for more than six (6) twenty-four hour periods in any one (1) year by the same permittee.

(d) The malt beverage permit and the catering permit shall be issued on application to the Town Council without public notice or hearing. Any applicant applying for a permit authorized by this section and having licensed premises located within a jurisdiction other than the jurisdic­tion to which application is made, shall secure the written approval of the licensing authority of that jurisdiction in which the licensed premises are located prior to filing application for a permit.

(e) The fee for the malt beverage permit and the catering permit shall be $25.00 payable in advance.

4-323. HOSPITALS, RELIGIOUS ORGANIZATIONS, PHYSICIANS, AND DENTISTS.

An alcoholic beverage permit is required for the purchase from the Wyoming Liquor Commission or a wholesaler of alcoholic or malt beverages by hospitals, religious organizations, and licensed physicians and dentists, but the permit shall not authorize resale and shall be issued gratis by the Town Council.

4-324. TRANSFER OF LICENSED LOCATION AND OWNERSHIP.

(a) After public hearing and with the approval of the Town Council, a license or permit, except a restaurant license, may be transferred to or renewed on different premises on the same basis as the original appli­cation except that no additional license fee is required during the term of the license or permit. The transferred license or permit shall expire on the same date as the original license or permit.

(b) A licensee, or the executor or administrator of the estate of a deceased licensee, may assign and transfer the license or permit by a sale made in good faith. The assignment and transfer shall first have the approval of the Town Council, which consideration shall be based in part upon a public hearing and an application filed under oath by the assignee or the transferee showing the person or entity to be qualified to hold a license or permit under Wyoming law. The approval of the transfer shall not be given by the Town Council if proceedings are pending to suspend, revoke, or otherwise penalize the original license or permit holder. A transferable license or permit shall not require the payment of any addi­tional license fee for the transfer and upon assignment the assignee may exercise the privilege of continuing the business authorized by the license or permit.

4-325. TRANSFER OR SALE OF LICENSE ONLY AS PROVIDED ABOVE.

No license or permit shall be transferred or sold except as provided by Section 4-324, used for any place not described in the license or permit at the time of issuance, or subject to attachment, garnishment, or execution.

4-326. HOURS OF OPERATION; GENERALLY AND ON SUNDAYS; EXCEPTIONS.

(a) All licensees except trains holding liquor licenses shall be controlled by the following schedule for operating hours:

(1) On all days except Sunday, a licensee may open the dispensing room at 6:00 a.m. and shall close the dispensing room and cease the sale of both alcoholic and malt beverages promptly at the hour of 2:00 a.m. the following day and shall clear the dispensing room of all persons other than employees by 2:30 a.m.; and

(2) On Sundays, licensees may open the dispensing room between the hours of 12:00 noon and 10:00 p.m. and shall clear the dis­pensing room of all persons other than employees by 10:30 p.m.

(b) The hours of operation designated in sub-section (a) of this section may be modified on no more than four (4) days each calendar year by a resolution or agreement made each year by the Town Council designating those dates during town or county fairs, rodeos, pageants, jubilees, special holidays or similar public gatherings when all licensees may ope­rate their dispensing rooms for a period of twenty-four (24) hours begin­ning at 6:00 a.m. on days other than Sunday and beginning at 12:00 noon on Sundays.

4-327. LOCATION, REGULATION AND RESTRICTIONS AS TO PLACE OF SALE.

(a) The principal place in which alcoholic and malt beverages are sold under a license shall be located in one (1) room upon the premises for which the license is issued and as approved by the Town Council. Upon payment of an additional license fee equal to two thirds (2/3) of the fee paid for the original license, a licensee may have and maintain one (1) additional dispensing room in the same building under the authority of the original license. Alcoholic beverages secured in the licensed room by a server may be served only in the building in which the licensed room is located. Only alcoholic and malt beverages, non-alcoholic beverages, food, tobacco, and national alcoholic and malt beverage promotional sales items sold to the licensee bearing the name and trademark of the national alcoholic liquor and malt beverage firm or company whose products the item is advertising may be sold and served in the licensed room. The Town Council shall, as often as necessary, inspect the licensed room and ad­joining rooms where alcoholic beverages are served to ensure that the licensee is in compliance with sanitation and fire hazard requirements and other applicable laws. A licensee may separate the facility for the sale of alcoholic liquor and malt beverages for off-premises consumption from the facility used to serve customers for on-premise consumption without payment of an additional fee. A separated facility for making sales for off-premise consumption shall be located adjoining the facility for making sales for on-premise consumption. The two facilities may be separated by glass or other suitable partition.

(b) If a licensee is engaged in a business operation with convention facilities, the licensee may maintain more than one (1) additional dis­pensing room under the same fee referred to in sub-section (a) of this section. For purposes of this sub-section a convention facility shall have and maintain all of the following:

(1) Motel or hotel sleeping room accommodations;

(2) Restaurant facilities; and

(3) Conference facilities.

(c) The Town Council may issue a twenty-four (24) hour permit to any licensee authorizing the sale of alcoholic or malt beverages in one (1) additional dispensing room in the same building licensed by the original license for a twenty-four (24) hour period only. No one licensee shall be issued more than six (6) permits in any one year period. The fee for the period will be $ 25.00 payable in advance.

4-328. STORAGE OUTSIDE LICENSED PREMISES PROHIBITED; EXCEPTIONS.

Retail licensees shall not store alcoholic liquor outside of the licensed premises unless he files with the Wyoming Liquor Commission a written statement that he stores liquor in a place other than his place of business and states the exact location of the storage place.

4-329. MINORS RESTRICTED FROM DISPENSING ROOM; EXCEPTIONS; PENALTY.

(a) No licensee or agent, employee, or servant thereof shall know­ingly permit any person under the age of twenty one (21) to enter or remain in the licensed room or rooms where alcoholic or malt beverages are dis­pensed.

(b)When the licensed room or rooms are not open for the sale or dispensing of alcoholic or malt beverages, employees of the licensee under the age of twenty one (21) may be permitted in the course of their employment to work in the room or rooms.

(c) Any person violating sub-section (a) of this section or aiding, abetting, or inciting any violation thereof is guilty of a misdemeanor, and upon conviction, shall be fined not more than $750.00, imprisoned for not more than six (6) months, or both.

4-330. PROHIBITED ACTS WITHIN DISPENSING ROOMS.

No licensee or agent or employee thereof shall knowingly permit prostitution, lewdness, or assignation as defined by W.S. 6-5-106, any unlawful act pursuant to W.S. 6-5-107, or gambling as prohibited by W.S. 6-9-101 within any dispensing room, building, or premises licensed under this Ordinance.

4-331. DRIVE-IN AREAS; CONDITIONS FOR OPERATION.

A drive-in area adjacent or contiguous to the licensed room may be used by the holder of a retail liquor license for taking orders, making delivery of, and receiving payment for alcoholic or malt beverages under the following conditions:

(a) The holder of the retail liquor license shall own the area or hold a written lease for the period for which the license was issued.

(b) No part of the area used for orders, delivery, or making payment shall be more than forty (40) feet distant from the licensed room.

(c) The area shall be well lighted and subject to inspection by the Town Council at any and all times.

(d) No walls or screens shall interfere with observing and checking the part of the area used for orders, delivery, and payment.

(e) No orders shall be received from, nor delivery made to a minor or intoxicated person in the area.

(f) No part of a publicly-owned sidewalk, highway, street or alley shall be used for taking orders or conducting sales.

(g) Alcoholic liquor or malt beverages shall be sold and delivered in the drive-in area only in the original, unopened package and consump­tion of alcoholic liquor or malt beverages in the drive-in area shall not be permitted.

4-332. RESTRICTIONS OR DENIAL OF RIGHT TO USE DRIVE-IN AREAS.

The agents and officers of the Town Council administering the retail liquor license shall determine whether traffic conditions or physical circumstances hindering law enforcement should require a decision forbidding or restricting sales and delivery in any drive-in area. If by resolution of the Town Council the right of the licensee to use certain drive-in areas is forbidden or restricted, that resolution shall be complied with by the licensee.

4-333. SALE OR FURNISHING ALCOHOLIC LIQUOR OR MALT BEVERAGE TO MINORS.

Adopts Wyoming Statute [12-6-101](https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=155960bd-4594-4b27-a855-46ad2dfb31cc&config=00JABmMTEzODA5Zi0wOWExLTQ3NTAtOThmNy0xYjc5ZjUwYzRkZmIKAFBvZENhdGFsb2f3sjqEYfYX7EMD8yWYBYCu&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A62M6-VH03-GXJ9-3358-00008-00&pdcontentcomponentid=234174&pdteaserkey=sr0&pditab=allpods&ecomp=6s65kkk&earg=sr0&prid=a8e5a579-ed9f-4b71-913e-696570eee528)(a), as amended is hereby adopted by reference and incorporation as if set forth fully herein. Any and all future amendments to Wyoming Statute are adopted with no future notice.

4-334. PURCHASE AND POSSESSION BY MINORS.

Adopts Wyoming Statute [12-6-101](https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=155960bd-4594-4b27-a855-46ad2dfb31cc&config=00JABmMTEzODA5Zi0wOWExLTQ3NTAtOThmNy0xYjc5ZjUwYzRkZmIKAFBvZENhdGFsb2f3sjqEYfYX7EMD8yWYBYCu&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A62M6-VH03-GXJ9-3358-00008-00&pdcontentcomponentid=234174&pdteaserkey=sr0&pditab=allpods&ecomp=6s65kkk&earg=sr0&prid=a8e5a579-ed9f-4b71-913e-696570eee528)(b-j), as amended is hereby adopted by reference and incorporation as if set forth fully herein. Any and all future amendments to Wyoming Statute are adopted with no future notice.

4-335. TRANSPORTING OR POSSESSING IN MOTOR VEHICLE WITH INTENT TO FURNISH TO MINOR.

Adopts Wyoming Statute [12-6-102](https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=13725ce6-b784-4596-9f0f-3e4e98c67d78&config=00JABmMTEzODA5Zi0wOWExLTQ3NTAtOThmNy0xYjc5ZjUwYzRkZmIKAFBvZENhdGFsb2f3sjqEYfYX7EMD8yWYBYCu&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A56VF-GT41-73WF-60X5-00008-00&pdcontentcomponentid=234174&pdteaserkey=sr0&pditab=allpods&ecomp=6s65kkk&earg=sr0&prid=9c50e6ef-85d0-4cd0-9685-8cf000bae67d), as amended is hereby adopted by reference and incorporation as if set forth fully herein. Any and all future amendments to Wyoming Statute are adopted with no future notice.

4-336. PERSONS UNDER THE INFLUENCE.

Any person who is drunk or under the influence of intoxicating liquor or drugs or malt beverages, on any street or highway or in any public place is guilty of a misdemeanor.

4-337. OPEN CONTAINERS.

Adopts Wyoming Statute [31-5-235](https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=5ecff49b-c6d0-4296-8ab4-9945e943df9c&config=00JABmMTEzODA5Zi0wOWExLTQ3NTAtOThmNy0xYjc5ZjUwYzRkZmIKAFBvZENhdGFsb2f3sjqEYfYX7EMD8yWYBYCu&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A56VF-H211-73WF-60S9-00008-00&pdcontentcomponentid=234174&pdteaserkey=sr0&pditab=allpods&ecomp=6s65kkk&earg=sr0&prid=18508912-edb8-4968-814d-d0475454055c), as amended is hereby adopted by reference and incorporation as if set forth fully herein. Any and all future amendments to Wyoming Statute are adopted with no future notice.

4-338. PENALTY.

Any person who violates any provision of this Ordinance for which no specific penalty is provided is guilty of a misdemeanor, and upon conviction shall be punished as provided in Section 1-108, as amended, of the Revised Ordinances of Cokeville.

TITLE IV

BUSINESS REGULATIONS

Chapter 4

Transient Selling by Hucksters

4-401. DEFINITION OF HUCKSTER. A huckster as referred to in this Chapter shall be understood to be any person having no established place of business within the Town of Cokeville, who shall sell fruits, vegetables, poultry, eggs, or any farm products (exclusive of milk and milk products), whether the same be grown or produced by him outside of the State of Wyoming or purchased by him for sale to retail or wholesale establishments in the Town of Cokeville.

4-402. SALE TO CONSUMER PROHIBITED. No huckster as herein defined shall be permitted to sell to private individuals for their own consumption or use.

4-403. LICENSE REQUIRED. No business shall be solicited or sales made as herein provided, unless such huckster shall have a license therefore, to be secured in accordance with Town of Cokeville ordinance for business establishments.

4-404. LICENSE FEE.

(a) The fee for huckster’s license, as herein required, shall be $25.00 for a period of three (3) months or any part thereof.

(b) If, and when, any licensee under this Chapter shall have been engaged in such business in the Town of Cokeville for a period of one year, he shall no longer be deemed a temporary or transient business, and the Town Clerk is hereby authorized to refund to him (upon acknowledged official receipt) the amount of cash bond required by Section 4-410 hereof, less the amount of occupation tax for one year for the business engaged in; said sum to belong to the Town of Cokeville as license fee under this chapter; and thereafter said licensee shall be permitted to continue in such business within the Town of Cokeville upon yearly payments of further license fee as required by the town ordinances.

(c) Should the licensee discontinue any business for which he is licensed under this ordinance, before the expiration of one year, the Town Clerk is hereby authorized to refund to said licensee the amount, if any there be, remaining of the cash bond required under Section 4-410, after making deductions as follows: $150.00 as license fee for each and every month during which said licensee was engaged in such temporary or transient business, or for as many months thereof as the amount of said cash bond will cover.

4-405. SALE OF LOCAL FARM PRODUCTS. Any farmer or producer who is a bona fide resident of Wyoming, desiring to sell at wholesale or retail to local dealers, any vegetables, poultry, eggs, or any product grown or produced by him on land within the State of Wyoming, (exclusive of milk or milk products, which shall be governed by state statute) shall first secure a license therefore from the Town Clerk, with the approval of the Mayor or Council. Such license shall be solely as a means of identification, for the purpose of registering and approving such sales of local products, as distinguished from sales by hucksters.

4-406. REGISTRATION FEE. The fee for such registration or license shall be Five Dollars ($5.00) per year, or for any part thereof.

4-407. TEMPORARY OR TRANSIENT MERCHANDISING DEFINED.

(a) Any person, not a bona fide resident of the Town of Cokeville, who shall, either directly or indirectly, temporarily engage in the practice of selling merchandise, services or anything whatso­ever, or making sketches, reproductions, photographs or enlargements of portraits or pictures, or in any other retail business not otherwise covered by ordinance, is hereby deemed to operate contrary to “the benefit of trade,” and shall be classed as a temporary or transient merchant.

(b) Should it appear that any such stock of merchandise is not a part of the regular stock of such merchant as evidenced by the tax assessment on such stock, made by the Assessor of Lincoln County, but has been brought into the Town of Cokeville, either:

(1) for the purpose of auction, or

(2) to be sold by any person who is not an established resident and merchant of the Town of Cokeville, and it is claimed that merchandise will be on sale for a limited time only; such facts shall be prima facie evidence that the person so offering such goods for sale is a transient merchant as defined in this ordinance, even though the intention be to offer such stock for sale in the establishment of a local dealer.

(c) For the purposes of this section, “regular stock” is hereby defined as any stock of goods which is acquired in the ordinary course of business or trade of the owner, and maintained for the ordinary business of the owner, or for replenishment of such stock as required from time to time.

4-408. EVIDENCE OTHERWISE MAY BE ACCEPTED. The actual purchase of the Town of Cokeville property, or presentation to the Mayor or Town Council of a bona fide lease for one year or more upon the business location to be occupied, may, at the discretion of the Mayor or Council, be construed as evidence of intent to become a part of the permanent business and trade interests of the Town of Cokeville, in which case the person furnishing such evidence shall be released from further consideration under this ordinance.

4-409. ISSUANCE OF LICENSE. No person shall engage in temporary or transient merchandising in the Town of Cokeville, without first obtaining a license; therefore, said license to be issued by the Town Clerk with the approval of the Mayor, after the applicant has supplied bond, affidavit and statement as hereinafter required.

4-410. CASH BOND REQUIRED. Any temporary or transient merchant as herein defined, before engaging in any such business, shall, for each place of business so established, post a cash bond in an amount to be specified by the Mayor, of not less than $150.00 or more than $500.00, said bond to be in the form of a Cashier’s Check payable to the Town of Cokeville, and so held by the Town Clerk until disposed of as provided in Section 4-404 of this Chapter.

4-411. AFFIDAVIT REQUIRED. It shall be unlawful for any temporary or transient merchant to advertise or represent any merchandise as being sold as an insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale, or as a sale of merchandise damaged by smoke, fire, water, or otherwise, or distress merchandise, unless he shall file with the Town Clerk an affidavit showing all the facts relating to the reasons for and the character of such sale so to be advertised or represented, and showing that the goods, wares and merchandise of such sales are in fact in accordance with such advertisements and representations. Such affidavit shall be sworn to by the applicant before a person authorized to administer oaths. If the applicant be a partnership it shall be sworn to by a member of such partnership, or if applicant be a corporation it shall be sworn to by one of the officers of such corporation. Every person making a false statement of any fact in such affidavit shall be deemed guilty of perjury and shall be punished for such offense as provided by the laws of Wyoming

4-412. STATEMENT. Such affidavit shall include a statement of the names of the persons from whom the goods, wares and merchandise to be advertised or represented were obtained, the date of the delivery of said goods to the applicant, the place from which said merchandise was last taken, and all details necessary exactly to locate and fully to itemize all merchandise, so to be advertised and represented.

4-413. MISREPRESENTATION. If such affidavit shall fail to show that merchandise of such sale is in accordance with the proposed advertise­ments or representations as shown in such affidavit, or fails to disclose the facts as herein required, or if the Town Clerk learns that the said affidavit is untrue in any particular, then the Town Clerk shall refuse such applicant a license for such sale. Any license issued to such applicant shall state that such person is authorized and licensed to sell such merchandise, and advertise and represent the same as being sold as such insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer, or closing out sale of any merchandise, or as being damaged by smoke, fire, water or otherwise, or distress merchandise, or in any similar manner present any other fact, as shown by such affidavit.

4-414. EXCLUSIONS. The provisions of this Chapter shall not apply to sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business, or to sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy, or other public officers selling merchandise or property according to law, nor to any person who is a bona fide resident of the State of Wyoming selling fruits, vegetables, dressed meats, fowls or farm products which were produced on land within the State of Wyoming owned or controlled by said vendor.

4-415. MAY ATTACH STOCK. If any person who is liable for the deposit of such bond or payment of license fee as provided by this Chapter shall, after demand is made upon him by the Town Clerk or by the Police Chief, refuse or neglect to deposit such bond or pay such fee, the Town Attorney may, in his own name, but for the benefit of the Town of Cokeville, immediately commence and prosecute an action at law against such delinquent person for the recovery of such cash bond or license fee; and, for the purpose of securing any judgment which he might recover in such action, said Town Attorney may have the merchandise of such person attached upon the grounds and in the manner provided for in cases of attachment.

4-416. PENALTY. Any person violating any of the provisions of this Chapter, whether he be the owner of any merchandise sold or carried by him, or not, shall be punished as provided in Section 1-108, as amended, of the Revised Ordinances of Cokeville.

TITLE IV

CHAPTER 5

ADULT SEXUALLY ORIENTED BUSINESSES

DIVISION 1. PURPOSE, FINDINGS AND DEFINITIONS.

4-501. PURPOSE. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it Is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

4-502. FINDINGS. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the governing body of the Town of Cokeville, and on findings incorporated in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41(1986),Young v. American Mini Theaters, 426 U.S. 50 (1976), and Barnes v. Glen Theater, Inc., 501 U.S. 560.41991), and on studies and summary of studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; New York, New York; and also on findings from the Report of the Attorney General’s Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); the governing body finds as follows:

(a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often uncontrolled by the operators of the establishments. Further, there is presently no mechanism in the Town of Cokeville to make the owners of these establishments responsible for the activities that may occur on their premises.

(b) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(c) The documented evidence shows that sexually oriented businesses, because of their very nature, have a deleterious effect on both existing businesses around them and the surrounding residential areas adjacent to them, causing among other adverse secondary effects, increased crime and downgrading of property values.

(d) The evidence shows that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are operating in close proximity to each other, thereby contributing to crime, lower property values, urban blight and downgrading of the quality of life in the adjacent area.

(e) The evidence shows that sexually oriented businesses are frequently used for unlawful sexual activities including prostitution.

(f) The evidence shows increased crime and unhealthful conduct tend to accompany, concentrate around and be aggravated by sexually oriented businesses including but not limited to prostitution, pandering, public indecency, public disturbances and exposing minors to harmful materials.

(g) Sexually transmitted diseases, including Aids, are a legitimate health concern of the Town which requires reasonable regulations of sexually oriented businesses in order to protect the health and well being of the citizens.

(h) Sexually oriented businesses have operational characteristics which should be reasonably regulated In order to protect those substantial governmental concerns.

(i) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult video arcades and also promotes the safety of law enforcement personnel.

(j) The general welfare, health, morals and safety of the citizens of the Town will be promoted by the enactment of this ordinance.

Section 4-503. DEFINITIONS.

(a) “ADULT ARCADE” means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other Image-producing devices are maintained to show Images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

(b) “ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE” means a commercial establishment which, devotes a significant or substantial portion of Its stock-in-trade or interior floor space to; or devotes a significant or substantial portion of Its advertising expenditures to the promotion of: the sale, rental or viewing, for any form of consideration any one or more of the following:

(1) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities” or “specified anatomical areas or;

(2) instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities”.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental or material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as the provisions of Subsection (b) are otherwise met.

(c) “ADULT CABARET” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) persons who appear in a state of nudity or semi-nude; or

(2) bye performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or

(3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities: or “specified anatomical areas.”

(d) “ADULT MOTEL” means a hotel, motel or similar commercial establishment which:

(1) offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

(2) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(e) “ADULT MOTION PICTURE THEATER” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction of “specified sexual activities or “specified anatomical areas.”

(f) “ADULT THEATER” means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

(g) “EMPLOYEE” means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

(h) “ESCORT” means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(i) “ESCORT AGENCY” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of Its primary business purposes for a fee, tip, or other consideration.

(j) “ESTABLISHMENT” means and includes any of the following:

(1) the opening or commencement of any sexually oriented business as a new business;

(2) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) the additions of any sexually oriented business to any other existing sexually oriented business; or

(4) the relocation of any sexually oriented business.

(k) “MASSAGE PARLOR” means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations or any other treatment manipulation of the human body which occurs as a part of or in connection with “specified sexual activities”, or where any person providing such treatment, manipulation, or service related thereto, exposes their “specified anatomical areas”.

(l) “NUDE MODEL STUDIO” means any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not Include a proprietary school licensed by the State of Wyoming or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or In a structure:

(1) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) where no more than one nude or semi-nude model Is on the premises at any one time.

(m) “NUDITY” or a “STATE OF NUDITY” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernable turgid state.

(n) “PERSON” means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

(o) “SEMI-NUDE” or in a “SEMI-NUDE CONDITION” means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(p) “SEXUAL ENCOUNTER CENTER” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(q) “SEXUALLY ORIENTED BUSINESS” means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(r) “SPECIFIED ANATOMICAL AREAS” means:

(1) the human male genitals in a discernable turgid state, even if completely and opaquely covered; or

(2) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(s) “SPECIFIED SEXUAL ACTIVITIES” means any of the following:

(1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(3) excretory functions as part of or in connection with any of the activities set forth in (1) through (2) above.

4-504. CLASSIFICATION.

Sexually oriented businesses are classified as follows:

(a) adult arcades;

(b) adult bookstores, adult novelty stores, or adult video stores;

(c)adult cabarets;

(d) adult motels;

(e) adult motion picture theaters;

(f) adult theaters;

(g) escort agencies;

(h) massage parlor

(i) nude model studios; and

(j) sexual encounter centers.

DIVISION 2. LOCATION OF SEXUALLY ORIENTED BUSINESSES.

4-505. ZONING *&* SPACING.

(a) A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than Highway Commercial District, as defined and described in C-2 of the Cokeville Town Code.

(b) A person commits an offense if the person operated or caused to be operated a sexually

oriented business within 500 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including but not limited to nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in the Town of Cokeville zoning ordinance;

(4)A boundary of a public district as defined in Town of Cokeville zoning ordinance or a public library;

(5) The property line of a lot devoted to a residential use.

(c) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 500 feet of another sexually oriented business.

(d) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(e) For the purpose of subsection (b) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the property line of the lot or parcel containing the premises where a sexually oriented business is conducted, to the nearest property line of the lot or parcel of the premises, of a use listed in subsection (b). Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

(f) For purposes of subsection (c) of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the property line of the lot or parcel In which each business is located.

1. Any sexually oriented business lawfully operating on June 9, 1998,shall not be required to

comply with subsection (a) through (f) of this Section.

DIVISION 3. ADDITIONAL REGULATIONS.

4-506. EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS.

(a) A misdemeanor is committed by a person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, if the person fails to comply with the following regulations:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager’s or employee’s station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager’s or employee’s stations designated, then the interior of the premises shall be configured In such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager’s stations. The view required in this subsection must be by direct line of sight from the manager’s or employee’s station.

(2) At least one employee shall be on duty at all times that any patron is present inside the premises.

(3) All viewing rooms and booths shall remain unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(4) No viewing room may be occupied by more than one person at any time

(5) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level.

(6) The illumination described above shall be maintained at all times that any patron is present in the premises.

(7) No openings of any kind shall be allowed to exist between viewing rooms or booths.

(8) No employee shall knowingly or with reasonable cause to know, permit or allow a patron to commit an on the premises an act of “public indecency” as set forth in Wyoming Statute 6-4-201.

4-507. NUDE MODEL STUDIOS.

(a) A person under the age of 18 years commits an offense If the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

(b) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(c) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

4-508. PUBLIC NUDITY. Public nudity is prohibited within the Town of Cokeville, including in any sexually oriented business.

4-509. REGULATIONS PERTAINING TO ADULT THEATERS, AND ADULT CABARETS.

(a) It shall be a misdemeanor for a person who knowingly or intentionally appears, entertains or performs in a semi-nude condition In an adult theater or adult cabaret unless the person Is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage elevated at least two (2) feet from the floor.

(b) It shall be a misdemeanor for a patron or customer to pay or give directly any gratuity to any employee, before, during or a after an employee has performed or entertained in a adult theater or cabaret A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performer.

(c) It shall be a misdemeanor for an employee, while semi-nude, to have physical contact with a customer or patron while on the premises. It shall be a misdemeanor for a customer to have physical contact with any employee while said employee is semi-nude in a sexually oriented business.

(d) Subsection (a) of this section shall not apply to an employee of a sexually oriented business, who, while acting in scope of their employment as a waiter, waitress, host, hostess or bartender comes within ten feet of a patron.

4-510. PROHIBITION AGAINST MINORS IN A SEXUALLY ORIENTED BUSINESS. A person commits a misdemeanor if the person knowingly or with reasonable cause to know, permits or allows

(a) A person under the age of 18 years to be admitted or remain on the premises of a sexually oriented business;

(b) A person under the age of 18 years to purchase goods or services at the business premises;

(c)A person under the age of 18 years to work at the business as an employee.

4-511. HOURS OF OPERATION. A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, except for an adult motel, and allows such business to remain open for business at any time between the hours of 11:30 p.m. and 10:00 a.m. daily, Monday through Saturday, or anytime on Sunday.

Section 4-512. EXEMPTIONS.

(a) It is a defense to prosecution under Section 4-508 that a person appearing in a state of nudity did so in a modeling class operated:

(1) by a proprietary school, licensed by the State of Wyoming; a college, junior college, or university supported entirely or partly by taxation;

(2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

(i) which has no sign visible from the exterior of the structure and no other

advertising that indicates a nude person is available for viewing; and

(ii) where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) where no more than one nude model is on the premises at any one time.

4-513. ADVERTISING.

(a) A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, and advertises the presentation of or depicts or exhibits any activity prohibited by any applicable state statute or local ordinance.

(b) A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, and displays or otherwise exhibits the materials or goods of such sexually oriented business in advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of sexually oriented business.

4-514. INJUNCTION. A person who operates or causes to be operated a sexually oriented business in violation of any section of this chapter of the Town Code is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation.

Section 4-515. SEVERABILITY. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

Section 4-516. CONFLICTING ORDINANCES REPEALED. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

4-517. TERRITORIAL JURISDICTION OF CHAPTER. The territorial jurisdiction of the regulations found in this chapter shall include all of the incorporated lands located within the Town, and, pursuant to W.S. 15-3-202, such other territory peripheral to the Town which is located within one-half mile of the corporate limits.

4-518. OPERATION STANDARDS.

(a) All windows, doors and other apertures shall be architecturally screened or otherwise obscured so as to prevent the viewing of the interior of the adult oriented entertainment business from without.

(b) No advertisement displays or merchandise available for sale or rent that includes or depicts specified sexual activities or specified anatomical areas shall be visible from any public right-of-way.

(c) All adult oriented businesses shall provide security personnel to control behavior of both indoor and outdoor patrons so they do not violate any laws. The security personnel shall be provided at a ratio of one per 10 parking spaces.

(d) No loitering or consumption of alcoholic beverages shall be allowed in sex oriented business parking lots. Parking lots shall contain signage stating that loitering and consumption of alcoholic beverages are prohibited in parking lots.

(e) Total wall sign area shall not exceed 20 square feet. No signage associated with the business shall be visible from a State Highway or County Road without the approval of the Town Council. No flashing lights shall be permitted on any sign advertising a sexually oriented business.

(f) Parking shall be provided at a ratio of one space per two seats and/or one space per 100 square feet or gross foot area as determined by the Planning and Zoning Commission. The Planning and Zoning Commission determination shall be based on the extent to which the adult oriented business provides seating for patrons. Each day of the violation constitutes an additional offence.