

ORDINANCE NO. 276

AN ORDINANCE TO REPEAL ORDINANCE NUMBERS 68, SECTION 1 (1935); 48, SECTIONS 2, 3, 4, 5, 6, 7, 8, 9, 12 AND 13 (1935); 48-C, SECTION 1 (1951); 207, SECTION 1 (1972); 220, SECTION 1 (1973); 222, SECTION 2 (PART) (1973); AND 221, SECTION 1 (1973) AS APPEARING IN THE MILLS MUNICIPAL CODE AS SECTIONS 5.12.010 THROUGH 5.12.120 AND TO ENACT AN ORDINANCE TO REGULATE AND CONTROL THE LICENSING OF BUSINESSES SELLING ALCOHOLIC BEVERAGES AND THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE TOWN OF MILLS.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLS, WYOMING:

ARTICLE I.

DEFINITIONS

5.12.010 Definitions. As used in this title:

(a) "Alcoholic liquor" means any spirituous or fermented fluid, substance or compound other than malt beverage intended for beverage purposes which contains more than one (1%) percent of alcohol by volume;

(b) "Building" means a roofed and walled structure built or set in place for permanent use;

(c) "Club" means 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 town;

(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 town. As used in this subparagraph, an

American fraternal organization means an organ-

ization 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 subparagraphs (1) 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 and owning, maintaining or operating a bona fide golf course together with 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 nonprofit corporation 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 (1) year period a bona fide membership paying dues of at least Twenty-Five (\$25.00) Dollars per year as recorded by the secretary of the club, quarterly meeting and an actively engaged membership carrying out the objects of the club. A social club shall, upon applying for a license, file with the licensing authority and the commission, a true copy of its bylaws and shall further, upon applying for a renewal of its license, file with the licensing authority and the com-

mission 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 5.12.100, shall be in good standing by having paid at least one (1) full year in dues;

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

(d) "Commission" means the Wyoming Liquor Commission;

(e) "Drug store" means space in a building maintained, advertised and held out to the public as a place where drugs and medicines are sold and prescriptions compounded and where a registered pharmacist is regularly employed;

(f) "Industry representative" means and includes all wholesalers, manufacturers, rectifiers, distillers and breweries dealing in alcoholic liquor or malt beverage, and proscriptions upon their conduct shall include conduct by a subsidiary, affiliate, officer, director, employee, agent, broker or any firm member of such entity;

(g) "Intoxicating liquor", "alcoholic liquor", "alcoholic beverage" and "spirituous liquor" are construed as synonymous in meaning and definition;

(h) "Licensee" means a person holding a:

- (1) Retail liquor license;
- (2) Limited retail liquor license;
- (3) Resort liquor license;
- (4) Malt beverage permit;
- (5) Restaurant liquor license; or
- (6) Catering permit.

(i) "Licensing authority" means the Town Council of the

Town of Mills.

(j) "Malt beverage" means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substitute therefor, containing more than one (1%) percent of alcohol by volume;

(k) "Original package" means any receptacle or container used or labeled by the manufacturer of the substance, containing any alcoholic liquors or malt beverages;

(l) "Person" includes an individual person, partnership, corporation or association;

(m) "Resident" means 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 title;

(n) "Restaurant" means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on premise 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 licensing authority 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;

(o) "Room" means an enclosed and partitioned space within a building. Partitions may contain windows and doorways, but any partition shall extend from floor to

ceiling;

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

(q) "Wholesaler" means any person except the commission, who sells any alcoholic or malt beverage to a retailer for resale;

(r) "This title" means Sections 5.12.010 through 5.12.360, Mills Municipal Code.

ARTICLE II.

APPLICATIONS

5.12.020 Application for Licenses and Permits; Contents of Application, etc.; Signature and Verification.

(a) Any person desiring a license or permit authorized by this title shall apply to the Town of Mills. The application shall be made under oath upon a form to be prepared by the attorney general and furnished to the Town of Mills. The application shall be filed in the office of the Clerk of the Town of Mills 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 plans of the room and 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 (1) 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 for 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; and

(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 (10%) percent 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 subsection.

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

(6) The site and the zoning of the site, if there is a zone, where the applicant will sell under the license.

(b) 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 the application on behalf of the corporation and also verify upon their oath as individuals that the statements and provisions are true.

5.12.030 Restrictions Upon License or Permit Applicants and Holders; License Limitation Per Person. (a) A license or permit authorized by this title shall not be held by, issued or transferred to:

(1) Any mayor, member of a city or town council or county commissioner within their respective jurisdiction;

(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 lessor that alcoholic or malt beverages may be sold upon the leased premises, except as provided by paragraph (4) of this subsection;

(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 a license or permit has been issued;

(5) Any licensee who does not annually purchase at least Two Hundred Fifty (\$250.00) Dollars 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 subsection.

(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 has 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.

5.12.040 Publication of Notice of Application for the Issuance, Renewal or Transfer of License or Permit; Grant or Denial; Renewal Preference; Copy of Application and Notice to Commission.

(a) When an application for a license, permit, renewal or any transfer of location or ownership thereof has been filed with the Town of Mills, the town clerk shall promptly prepare a notice of application, place the notice conspicuously upon the premises shown by the application as the proposed place of sale and publish the notice in a 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 an amount sufficient to cover the costs of publishing notice. Notices may be substantially in the following form:

NOTICE OF APPLICATION FOR A _____

Notice is hereby given that on the _____
day of _____, 19____, (name of applicant)

filed an application for a _____ license (permit), in the office of the Town Clerk of the Town of Mills of _____ for the following described place (and room) (insert description) and protests, if any there be, against the issuance (transfer or renewal) of the license (permit) will be heard at the hour of _____ .M., on the _____ day of _____, 19____, in the (meeting place of the governing body).

Dated: _____

Signed: _____

(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 licensing authority 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 title shall not be carried out by the issuance, renewal or transfer of the license or permit;

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

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

(5) Any other reasonable restrictions or standards which may be imposed by the Town of Mills 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 a public hearing, each application claiming renewal preference shall be promptly considered and acted upon by the Town of Mills.

(d) When any application is filed with the Town of Mills, the Town of Mills shall immediately forward a copy of the application to the commission. Upon approval or denial of an application, the Town of Mills shall promptly notify the commission.

(e) An applicant for a renewal license or permit may appeal to the district court from an adverse decision by the Town of Mills. No applicant for a new license shall have a right of appeal from the decision of the licensing authority denying an application.

(f) Upon an appeal the person applying for a license and claiming renewal preference shall be named as plaintiff, with the Town of Mills named as defendant. During the pendency of an appeal, a renewal license denied by the Town of Mills shall not be granted to any other applicant. Upon notice of appeal the town clerk shall transmit to the clerk of the district court a certified copy of the application of each protest, if any, and of the minutes recording the decision appealed from. The appeal shall be heard as a trial de novo with evidence taken and other proceedings had as in the trial of civil actions. The court may accept and consider as part of the record certified documents forwarded to the court by the Town Clerk of the Town of Mills. The

case shall be heard promptly and the procedure shall conform to the Wyoming Rules of Civil Procedure unless other procedures are provided for or required.

5.12.050 Disposition of License Fees; Refunds Prohibited. All fees for licenses and permits issued by a licensing authority paid under this title shall be deposited into the treasury of the Town of Mills. No refund of all or any part of a license fee shall be made any time following issuance.

5.12.060 Term of License and Permit; Exception. (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 of Mills to coincide with the annual date or dates set by the authority for consideration of license and permit issuance, renewals and transfers. The Town of Mills issuing a license or permit for a term less than one (1) year shall prorate the annual fee accordingly. Any licensee not attempting to renew a newly issued prorated license or permit valid for one (1) year shall not be eligible for any license or permit authorized under this title for a period of two (2) years after the expiration date of the prorated license or permit.

ARTICLE III.

RETAIL LIQUOR LICENSES

5.12.070 Retail Liquor License and Malt Beverage Permits; Population Formulas; Fees. (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.

(b) A malt beverage permit is the authority under which the licensee is permitted to sell malt beverages only.

(c) Retail liquor licenses may be granted by the licensing authority in cities and towns, and the number of retail liquor licenses shall be based on a population formula as follows:

(1) Not more than two (2) licenses in incorporated towns of five hundred (500) population or less;

(2) Not more than one (1) additional license for each additional five hundred (500) population or major fraction thereof in incorporated cities or towns up to a population of nine thousand five hundred (9,500); and

(3) Not more than one (1) additional license for each additional full four thousand (4,000) population over nine thousand five hundred (9,500).

(d) Effective January 1, 1986, the number of retail liquor licenses issued shall be based on the following population formula:

(1) Not more than two (2) licenses in incorporated towns of five hundred (500) population or less;

(2) Not more than one (1) additional license for each additional five hundred (500) population or major fraction thereon in incorporated cities or towns up to a population of nine thousand five hundred (9,500); and

(3) Not more than one (1) additional license for each additional full three thousand

(3,000) population over nine thousand five hundred (9,500).

(e) The license fee to be assessed for a retail liquor license shall be Three-thousand
(\$ 3,000.00) Dollars payable annually in advance.

5.12.080 Provisions for Licenses Issued Prior to April 1, 1961. Retail liquor licenses or other permits issued prior to April 1, 1961 are not subject to nonrenewal due to the application of population formulas or municipal bounday requirements provided by Section 5.12.070. If a license or permit is not renewed for any other reason, it shall not be reissued until circumstances are in conformance with the requirements of Section 5.12.070.

5.12.090 Sales by Drug Stores. (a) All sales of alcoholic or malt beverages by drug stores holding a retail liquor license under the provisions of this title 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 by 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.

ARTICLE IV.

SPECIAL CLUB LICENSES

5.12.100 Sales by Clubs; License Fees; Petition; License Restrictions. (a) Bona fide clubs as defined by Section 5.12.010(c) may be licensed by the Town of Mills under a limited retail liquor license for which the licensee shall pay a license fee of Fifteen-hundred
(\$ 1,500.00) Dollars annually in advance.

(b) At least fifty-one (51%) percent of the membership of a social club as defined by Section 5.12.101(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 commission and shall include the residence address of each member signing the petition.

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

(d) Until January 1, 1983, a person holding a limited retail liquor license issued prior to May 25, 1979, shall have the right to renew the license notwithstanding the provisions of Section 5.12.101(c).

5.12.110 Bottle Club; Defined. 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.

5.12.120 Same; Operation Unlawful; Penalty. It is unlawful to operate an unlicensed bottle club in Wyoming and any person operating an unlicensed bottle club is guilty of a misdemeanor and upon conviction shall be fined not more than One Hundred (\$100.00) Dollars for each offense. Each day of operation shall be deemed a separate offense.

ARTICLE V.

RESORT AND RESTAURANT LIQUOR LICENSES

5.12.130 Resort Retail Liquor Licenses; Authorized; Qualifications; Provision for Licenses Issued Prior to January 1, 1980. (a) The Town of Mills may issue resort retail liquor licenses to applicants who are owners or lessees of a resort complex meeting the qualifications of subsection (b) of this section.

(b) To qualify for a resort retail liquor license, the Town of Mills shall require the resort complex to:

(1) Have an actual valuation of, or the applicant shall have committed or expended on the complex, not less than One Million (\$1,000,000.00) Dollars, 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.

(c) Nothing contained within this section shall have any effect on resort liquor licenses issued prior to January 1, 1980, or to the right or renewal of a resort liquor license.

5.12.140 Same; Transfer of Licenses. (a) The provisions authorizing resort liquor licenses have no application to the population formula limiting retail liquor licenses as provided by § 12-4-201, W.S.A., 1977.

(b) No resort liquor license may be transferred to another location. License ownership may be transferred to a purchaser or licensee of the licensed premises with the approval of the Town of Mills.

5.12.150 Same; 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 5.12.200.

5.12.160 Annual Fee. The annual fee for a resort liquor license shall be \$ 3,000.00 .

5.12.170 Restaurant Liquor License; Authorized. (a) Restaurants, as defined by Section 5.12.010(n), may be licensed by the Town of Mills under a restaurant liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application.

(b) Notwithstanding § 12-4-101, W.S.A., 1977, based upon the 1979 state population estimate prepared by the Department of Administration and Fiscal Control, the appropriate licensing authority may issue a number of restaurant liquor licenses not to exceed twenty-five (25%) percent of the number of retail liquor licenses allowable under § 12-4-201(c), W.S.A., 1977, but not less than one (1) license, with the maximum allowable licenses to be certified by the commission.

(c) After the 1980 census has been completed and the maximum number of appropriate licenses has been certified by the commission, the number of restaurant liquor licenses issued shall not exceed fifty (50%) percent of the number of retail liquor licenses allowable under § 12-4-201(c) or (d), W.S.A., 1977, whichever is applicable, or two (2), whichever is greater.

(d) Any person presently holding a limited retail liquor license and otherwise qualified for a restaurant liquor license under Section 5.12.010(n) and Sections 5.12.170

through 5.12.210 may be issued a restaurant liquor license by the appropriate licensing authority. Licenses issued under this subsection shall not be considered in the number of licenses authorized under subsections (b) and (c) of this section.

5.12.180 Revenues of Licensee to be Derived Primarily From Food Services and Not the Sale of Alcoholic Beverages; Annual Report.

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

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

(c) Upon application for license renewal, a license holder shall submit an annual report to the licensing authority on 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.

5.12.190 Transfer of Licenses. No restaurant liquor license shall be transferred to another location. License ownership may be transferred to a purchaser or lessee of the licensed premises with the approval of the Town of Mills.

5.12.200 Sale of Alcoholic Beverages for Off-Premises Consumption Prohibited; Location, Regulation and Restrictions on Dispensing of Liquor; Exemptions; Sales to Cease When Food Sales Cease.

(a) Restaurant liquor licensees 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 nineteen (19) 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 nineteen (19) 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 5.12.260(a), if food sales and services extend beyond the hours specified therein.

5.12.210 License Fee. The annual fee for a restaurant liquor license shall be \$1,500.00.

ARTICLE VI.

SPECIAL PERMITS

5.12.220 Twenty-Four Hour Malt Beverage Permit and Catering Permit; Restrictions; Application Procedure; Fees.

(a) A malt beverage permit authorizing the sale of malt beverages only may be issued by the Town of Mills 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 of Mills 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 beverage off the premises described in the permit.

(c) The permits authorized by this section shall be issued for one (1) twenty-four (24) hour period, subject to the schedule of operating hours provided by Section 5.12.260, and shall not authorize sales or consumption on the premises described for more than six (6) twenty-four (24) 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 of Mills without public notice or hearing. Any applicant applying for a permit authorized by this section and having licenses premises located within a jurisdiction other than that 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 an application for a permit.

(e) The fee for the malt beverage permit and the catering permit shall be \$ 25.00 payable to the Town of Mills.

ARTICLE VII.

LICENSE TRANSFER

5.12.230 Transfer of License Location; Transfer of Ownership. (a) After public hearing and with the approval of the licensing authority, a license or permit 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. A 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 of Mills, which consideration shall be based in part upon a public hearing and an application filed under oath by the assignee or 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 of Mills if proceedings are pending to suspend, revoke or otherwise penalize the original license or permit holder. A transfer of a 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.

5.12.240 Transfer or Sale of License Only As Provided By §§ 12-4-601 Through 12-4-603, W.S.A., 1977. No license or permit shall be transferred or sold except as provided by §§ 12-4-601 through 12-4-603, W.S.A., 1977 used for any place not described in the license or permit at the time of issuance.

ARTICLE VIII.

FORM OF LICENSE

5.12.250 Contents, Signing, Attestation and Display of License. (a) Each license issued by the Town of Mills 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 or malt beverages may be sold;

- (3) The date of issuance;
- (4) The amount of the fee; and
- (5) That the fee has been paid.

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

ARTICLE IX.

HOURS

5.12.260 Hours of Sale Generally and on Sunday; Excep-
tions; Designation of Dates for Unrestricted Operation. (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, with the approval of the appropriate licensing authority, 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) Clubs holding liquor licenses may be exempt from the hours of operation specified in subsection (a) of this section by local ordinance or regulation of the Town of Mills.

(c) The hours of operation designated in subsection (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 of Mills designating those dates

during city 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.

ARTICLE X.

DISPENSING ROOMS

5.12.270 Location, Regulation and Restrictions as to Place of Sale; Inspections; Additional Dispensing Rooms.

(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 of Mills. 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, nonalcoholic beverages, food, tobacco and national alcoholic liquor 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 product the item is advertising, may be sold and served in the licensed room. The Town of Mills shall, as often as necessary, inspect the licensed room and adjoining rooms where alcoholic beverages are served to insure 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-premise 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 (2) facilities may be separated by a 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 subsection (a) of this section. For purposes of this subsection, 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 of Mills 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 (1) licensee shall be issued more than six (6) permits in any one (1) year period. The fee for the permit shall be \$25.00.

5.12.280 Storage Outside Licensed Premises. Retail licensees shall not store alcoholic liquor outside of the licensed premises unless he files with the commission a written statement that he stores liquors in a place other than his place of business and states the exact location of the storage place.

5.12.290 Minors Restricted From Dispensing Room; Exception; Penalty. (a) No licensee or agent, employee or servant thereof shall knowingly permit any person under the age of nineteen (19) 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 nineteen (19) may be permitted in the course of their employment to work in the room or rooms.

(c) Any person violating subsection (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 Two Hundred (\$200.00) Dollars, imprisoned for not more than ninety (90) days, or both.

5.12.300 Prohibited Acts Within Dispensing Room; Violation Cause for Suspension or Revocation. (a) No licensee or agent or employee thereof shall knowingly permit prostitution, lewdness or assignation as defined by § 6-5-106, W.S.A., 1977, any unlawful act pursuant to § 6-5-107, W.S.A., 1977, or gambling as prohibited by § 6-9-101, W.S.A., 1977 within any dispensing room, building or premises licensed under this title.

(b) Any licensee or agent or employee thereof violating subsection (a) of this section, or aiding, abetting or inciting any violation thereof, is in addition to other penalties provided by law, sufficient cause for the suspension or revocation of a license or permit.

ARTICLE XI.

DRIVE-INS

5.12.310 Conditions for Operation. (a) Upon approval of the Town of Mills, 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 liquor or malt beverages under the following conditions:

(1) 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;

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

(3) The area shall be well lighted and subject to inspection by the Town of Mills at any and all times;

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

(5) No order shall be received from nor delivery made to a minor or intoxicated person in the area;

(6) No part of a publicly owned sidewalk, highway, street or alley shall be used for taking orders or conducting sales; and

(7) 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.

5.12.320 Control Over Drive-In Facilities. The agents and officers of the Town of Mills 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 of Mills the right of a licensee to use certain drive-in areas is forbidden or restricted that resolution shall be complied with by the licensee.

ARTICLE XII.

RESTRICTIONS UPON SALE

5.12.330 Sale, etc., Prohibited; When Possession Unlaw-

ful; Public Drunkenness; Falsification of Identification; Penalties; Prima Facie Identification as Defense. (a)

Every person who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic liquor or malt beverage to any person under the age of nineteen (19), who is not his legal ward, medical patient or member of his own immediate family, is guilty of a misdemeanor.

(b) Any person under the age of nineteen (19) who has any alcoholic or malt beverage in his possession, or who is drunk or under the influence of alcoholic liquor, malt beverages or drugs on any street or highway or in any public place is guilty of a misdemeanor. This subsection shall not apply to possession of alcoholic or malt beverages by a person under the age of nineteen (19):

(1) When making a delivery of alcoholic or malt beverages pursuant to his employment;
or

(2) Who is in the physical presence of his parent or legal guardian.

(c) Any person under the age of nineteen (19) who attempts in any manner to purchase alcoholic or malt beverages, who falsifies any identification or uses any false identification in order to obtain alcoholic or malt beverages is guilty of a misdemeanor.

(d) Any person who violates this section, or aids, abets or incites any violation hereof, is guilty of a misdemeanor and upon conviction shall be fined not more than One Hundred (\$100.00) Dollars, imprisoned for not more than ninety (90) days, or both.

(e) A motor vehicle driver's license, a registration certificate issued under the Federal Selective Service Act, an identification card issued to a member of the armed forces or an identification card issued by the Department of

Revenue is prima facie evidence of the age and identity of a person. Proof that a licensee or his employee or agent demanded, was shown and acted in reasonable reliance upon the information contained in any one (1) of the above documents as identification is a defense to any criminal prosecution or action for the suspension or revocation of a license.

5.12.340 Transporting or Possessing in Motor Vehicle with Intent to Furnish to Minor; Penalties. (a) No adult shall transport, or have in his possession or control, any alcoholic liquor or malt beverage, with the intent of furnishing the same to any minor, while operating or occupying a motor vehicle.

(b) Any person who violates subsection (a) of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, imprisonment in the county jail for not more than ninety (90) days, or both.

ARTICLE XIII.

LICENSE REVOCATIONS--GENERALLY

5.12.350 Revocation and Suspension. The mayor and council of the town shall have the right to revoke any license issued pursuant to this section for violation of any of the provisions contained in this section, or for the making of any statement or statements in connection with application for the mayor and council, by so doing, the public morals, public safety or general welfare will be best served.

5.12.360 Penalty for Violation. Any person violating any of the provisions of this section is guilty of a misdemeanor and shall, upon conviction thereof, be punished as

provided in Section 1.01.115, Mills Municipal Code.

PASSED on FIRST READING the 23 day of May, 1979.

PASSED on SECOND READING the 6 day of June, 1979.

PASSED, APPROVED and ADOPTED on THIRD and FINAL READING the 11 day of July, 1979.

TOWN OF MILLS, a Municipal Corporation

Attest:

By Robert L. Moore
Robert L. Moore, Mayor

Norene Kilmer
Norene Kilmer, Town Clerk

I, Norene Kilmer, Town Clerk of the Town of Mills, Wyoming, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 276 entitled "AN ORDINANCE TO REPEAL ORDINANCE NUMBERS 68, SECTION 1 (1935); 48, SECTIONS 2, 3, 4, 5, 6, 7, 8, 9, 12 AND 13 (1935); 48-C, SECTION 1 (1951); 207, SECTION 1 (1972); 220, SECTION 1 (1973); 222, SECTION 2 (PART) (1973); AND 221, SECTION 1 (1973) AS APPEARING IN THE MILLS MUNICIPAL CODE AS SECTIONS 5.12.010 THROUGH 5.12.120 AND TO ENACT AN ORDINANCE TO REGULATE AND CONTROL THE LICENSING OF BUSINESSES SELLING ALCOHOLIC BEVERAGES AND THE SALE OF ALCOHOLIC BEVERAGES WITHIN THE TOWN OF MILLS." Passed on Third Reading by the Town Council of the Town of Mills, Wyoming, at a regular meeting held at the Council Chambers on the 11 day of July, 1979.

(Seal)

Sign: Norene Kilmer
Norene Kilmer, Town Clerk

I, regularly appointed, duly qualified and acting Town Clerk of the Town of Mills, Wyoming, do hereby certify that

Hand, Hand & Hand, P.C.
Casper,
Douglas, and
Glenrock, Wyoming

signed, attested, sealed and certified copies of this Ordinance No. 276 approved and passed as certified above, were, following its passage by the Town Council, posted in the Town Clerk's office and the Mills Post Office for a period of ten (10) days as required by law; that it took effect and became in force as a legal Ordinance of the Town of Mills, Wyoming, on the 20 day of September, 1979.

(Seal)

Sign: Norene Kilmer
Norene Kilmer, Town Clerk