

ORDINANCE # 383

AN ORDINANCE ADDING MANDATORY ALCOHOL COMPLIANCE TRAINING WITHIN THE CITY LIMITS OF WYOMING, IOWA AND CHANGING THE TITLE OF CHAPTER 45 TO ALCOHOL CONSUMPTION, INTOXICATION AND MANDATORY ALCOHOL COMPLIANCE TRAINING

WHEREAS, alcohol sales to individuals who are or about to become intoxicated, pose a significant risk of serious injury or death to the motoring public and financial liability to the business serving the alcohol. Alcohol servers and sellers who receive alcohol compliance training should be less likely to sell alcohol to persons underage or who have consumed too much alcohol by virtue of their training in state and Federal liquor laws and regulations and recognition of characteristics of intoxication; and

WHEREAS, alcohol compliance training would inform alcohol servers and sellers of the consequences of the illegal sale of alcohol to persons under age or who have consumed too much alcohol. This training would be more effective through the participation of owners or managers of businesses selling alcohol in courses on the development of effective policies, which reduce youth access to alcohol and support employees in refusing the sale or service of alcohol to persons under age or who have had too much alcohol; and

WHEREAS, to insure that all sales of alcoholic beverages within the City of Wyoming are made in a responsible and educated manner, the City now desires that the alcohol compliance training program approved by resolution of the City Council be required and all persons selling, serving or dispensing alcohol be certified in this program offered by the Iowa Alcoholic Beverage Division's approved training, the Jones County Sheriff's Office or its designee.

BE IT ENACTED by the City Council of the City of Wyoming, Iowa:

SECTION 1. ORDINANCE AMENDED. The Code of ordinances of the City of Wyoming, Iowa, 2012, is amended by adding Sections 45.04 – 45.06, which is hereby adopted to read as follows:

45.04 ALCOHOL COMPLIANCE TRAINING. All persons involved in the selling, serving, or dispensing of alcoholic beverages shall participate in and complete a free alcohol training program (in-person or online) offered by the Iowa Alcoholic Beverage Division's approved training, Jones County Sheriff's Office, or its designee. All persons required to complete training shall do so within ninety (90) days of the date on which the person becomes subject to the training requirement (date of hire or enactment of this ordinance). If such training is not offered within ninety days, the person subject to the requirements of this ordinance shall notify the Wyoming City Hall of that fact and the date upon which the employee can complete the required training. All persons completing the training required by this section shall maintain active certification. Approval of liquor license applications is contingent on all servers/sellers completing the required training within the 90 day timeframe mentioned above. If a business fails a compliance check, all servers/sellers who do not hold the in-person certification must complete the in-person classroom training with the Jones County Sheriff's Office, or its designee, within 90 days of the violation.

- A. AFFIRMATIVE DEFENSE.** Establishments that participate in either training are granted an affirmative defense, which may be used once in a four-year period. A business may avoid civil prosecution if an alcohol sale-to-minor violation occurs in their establishment. In order for the business to take advantage of the affirmative defense, the employee guilty of the violation must have been certified prior to the time the offense occurred. However, the affirmative defense cannot be used if the employee sold to a minor under the age of 18. Only the business is eligible to avoid a civil penalty; the guilty employee will still be subject to a criminal fine and the Iowa Alcoholic

Beverage Division (IA ABD) will automatically revoke the employee's online certification (in accordance with the administrative rules of IA ABD).

Upon the business's failure of the alcohol compliance check, the in-person training from the Jones County Sheriff's Office, or its designee, will be required for all servers/sellers of that business who are not currently certified in the in-person training at-cost paid to the Jones County Sheriff's Office, or its designee.

- B. SPECIAL EVENTS.** Persons involved in the selling, serving, or dispensing of alcoholic beverages at festivals, carnivals, fundraisers, and other temporary events are not required to take the training, but is strongly recommended.

45.05. CERTIFICATE OF COMPLETION. All persons completing the training shall receive a certificate of completion, which shall be kept on file at the location where the person sells, serves, or dispenses alcoholic beverages, and maintained by that person's employer. The certificate shall remain on file as long as the person is employed at that location, and shall be returned to the employee when his or her employment ends. These certificates shall be available for inspection during business hours to law enforcement personnel authorized to enforce Federal, State, and local liquor laws and regulations.

45.06 PENALTIES. Consistent with the provisions of the Wyoming City Ordinances, the Jones County Sheriff's Office is charged with primary responsibility for enforcement of this ordinance. Penalties for violation of this ordinance shall be assessed against the person or entity holding a license for the sale of alcoholic beverages under the State of Iowa. The penalties assessed against the licensee for violations of this Ordinance are as follows:

- a. For the first violation, a fine not exceeding one hundred dollars (\$100).
- b. For subsequent violations within a two year period, a fine not exceeding two hundred dollars (\$200) and a written report sent to the Iowa Alcoholic Beverages Division for possible suspension of the liquor license.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjusted invalid or unconstitutional.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in effect from and after its final passage, approval and publication as provided for by law.

Passed and approved this 9th day of February, 2015.

1st Reading 2-9-15

Ayes: Agnitsch, Gravel, Hollingshead and Willman

Nays: Taylor

Waive 2nd^d Reading 2-9-15

Ayes: Agnitsch, Gravel, Hollingshead and Willman

Nays: Taylor

Final Reading 2-9-15

Ayes: Agnitsch, Gravel, Hollingshead and Willman

Nays: Taylor

By: _____

Keith Somerville, Mayor

Attest: _____

Sheri Tjaden, City Clerk