

5.08 - Alcoholic Beverages

Chapter 5.08 - ALCOHOLIC BEVERAGES

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ARTICLE I. LOCAL LICENSING AUTHORITY DEFINITION

5.08.010 Colorado State Law applicable. Title 12, articles 46, 47 and 48, 1973 Colorado Revised Statutes, as amended, and the Rules and Regulations of the Executive Director of the Department of Revenue of the state of Colorado, as the State Licensing Authority shall apply to the licensing of fermented malt beverages and malt, vinous and spirituous liquors within the city, where applicable. (Ord. 1067-97: Ord. 687 87)

5.08.020 Licensing authority established. There is established a liquor licensing authority with the duty and authority to grant, renew or refuse licenses for the sale of malt, vinous and spirituous liquors or fermented malt beverages as provided by law, to conduct investigations as are required by law, and to suspend or revoke such licenses for cause in the manner provided by law. The liquor licensing authority shall consist of all members of the city council, and the term of each member shall be coincident with his term on the city council. Such authority shall have the powers and authority of the liquor licensing authority set forth in Articles 46, 47 and 48 of Title 12, C.R.S. 1973, as amended. All decisions are final, subject only to appeal to a court of competent jurisdiction. (Ord. 1067-97: Ord. 687 87)

5.08.025 Administrative Review Team. There shall be created an Administrative Review Team (ART) which shall include the City Clerk's Office, City Attorney's Office, Building Inspection Department, Fire Department and Police Department of the City of Evans who shall assist the Licensing Authority by Acting as the Administrative Review Team for all requests for renewals, special events permits, manager registrations, modification of premises and reports of changes. Each department will review these applications to assure that they are complete in every detail and will look for such things as appropriate fees, complete and signed application, possession of premises and applicable code compliance, police activity calls for establishment site and any other items deemed necessary to completely review the application. (Ord. 295-04)

5.08.030 Definitions. Certain terms and expressions used herein shall have the following meanings:

A. "Administrative Review Team" means the City Clerk's Office, City Attorney's Office, Building Inspection Department, Fire Department and Police Department;

B. "Applicant" means and includes:

1. If an individual, that person making an application for a license under this Chapter;
2. If a partnership, all the partners of the partnership which are making application for license under this Chapter;
3. If a corporation, any officer, director, manager or any stockholder therein holding more than ten percent of the outstanding shares of the corporation;
4. If limited liability company, any member therein.

C. "Authority" or "Licensing Authority" means the Local Liquor Licensing Authority of the City.

D. "Manager" means and includes that person or those persons who manage, direct, supervise, oversee and administer the acts, transactions and acts of servants of the establishments governed by this Chapter.

D. "Person" includes a natural person, partnership, association, company, corporation, limited liability company, organization, or manager, agent, servant, officer or employee of any of them.

All other words and phrases used in this Chapter shall have the meanings attached by the state statutes regulating the sale of liquor and fermented malt beverages, or if not otherwise defined by law, are used in their common, ordinary and accepted sense and meaning. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

ARTICLE II. LICENSES

5.08.040 License required. It is unlawful for any person to sell or to offer for sale at retail within the city any fermented malt beverage or any malt, vinous and spirituous liquors, as those terms are defined by state law, without first having been granted and issued a license so to do by the city. (Ord. 1067-97: Ord. 687 87)

5.08.050 City Clerk Secretary of the authority. The city clerk shall receive all applications for licenses, and shall issue all licenses granted by the authority, upon receipt of such license fees and taxes as are required by law and this chapter. The city clerk shall serve as the official secretary of the authority and shall designate a person or persons to provide the necessary secretarial and reporting services for the authority. All public notices by publication in a newspaper and by the posting of signs, as required by the Colorado Liquor Code of 1935, as amended, shall be accomplished by the city clerk. (Ord. 1067-97: Ord. 687 87)

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5.08.060 Application. The applicant shall fully complete an application for license as required by the State Licensing Authority and any application forms required by the Local Licensing Authority. No application for a new license or for the renewal of an existing license or for the transfer of location or ownership of an existing license shall be processed or considered until the application has been completed in all respects. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

5.08.070 Documents to accompany application. The City Clerk shall accept no application that is not complete in every detail; if any application is deposited with the City Clerk found upon examination to contain any omission or error, it shall be returned to the applicant for completion or correction without further action either by the City Clerk, ART or the Authority. No application shall be deemed complete unless accompanied by the following:

- A. An oath or affirmation that all information submitted has been given fully, accurately, truthfully and without concealment of any material fact or facts;
- B. All forms required by the State Licensing Authority and the City, complete in every detail;
- C. Payment in full of the City, State and any other applicable license fees;
- D. Plans and specifications of an existing building or proposed building, including points of ingress and egress, storage, bar location, fixed equipment and dimensions of area to be licensed;
- E. Lease, deed or contract of sale, showing possession of the premises to be licensed for period to cover term of the liquor license;
- F. Release of information. An authorization for applicant's financial institutions to release information to the city; and
- G. Such other information or evidence as may from time to time be required by the Licensing Authority for the purpose of insuring that the premises to be licensed will be lawfully operated and that the health, welfare, safety and morals of the community will not be adversely affected should the license be issued. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

5.08.075 Elimination of Hotel/Restaurant Licenses from the Five Hundred (500) Feet Distance Restrictions.

As authorized by Section 12-47-313(d)(III), C.R.S., the Licensing Authority hereby eliminates the distance restrictions for Hotel/Restaurant Licenses. (Ord. 295-04: Ord. 049-00)

5.08.080 Applicants to be fingerprinted. Each individual applicant, all general partners of a partnership, all limited partners owning ten percent (or more) of a partnership; all officers and directors of a corporation, all stockholders of a corporation owning ten percent (or more) of the stock of such corporation; all limited liability company managing members, or other limited liability company members with a ten percent (or more) ownership interest in such company and all managers of a Tavern and Hotel and Restaurant license. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

5.08.090 False application basis for revocation. Any information furnished to the licensing authority pursuant to this article which is done with the intent to mislead or misrepresent the true state of facts to the city shall be a basis for denial of application or suspension or revocation of the license. (Ord. 1067-97, 1997: Ord. 687 87, 1987)

5.08.100 Persons prohibited from obtaining a license. A license may not be issued to or held by any person as defined in 12-47-307 C.R.S., as amended. (Ord. 1067-97, 1997: Ord. 687 87, 1987)

5.08.110 License application Procedure.

- A. The procedures set forth in Title 12, Articles 46, 47 and 48, C.R.S., as amended and the regulations that may from time to time be adopted by the State Licensing Authority, shall be followed in all liquor license application hearings before the Licensing Authority.
- B. The date of receipt of a completed application, including the documents to be submitted with the application, shall be the date deemed as the date of filing (or receipt) of the application for the purposes set forth in state law. For the purpose of establishing boundary limits for the applicant to canvass a defined neighborhood in order to determine the reasonable requirements of the neighborhood for the type of license for which application has been made and the desires of the adult inhabitants within the defined neighborhood, a one mile radius from the site proposed for selling fermented malt beverage or malt, vinous and spirituous liquors shall be used. The City Clerk shall notify the applicant in writing of the boundary limits to be used for petitioning.
- C. Upon receipt of a completed application, a Public Hearing shall be held upon the application not less than thirty (30) days from the date of receipt of the completed application. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

5.08.120 Renewal provisions Fees.

- A. All applications for renewal of malt, vinous and spirituous liquors and fermented malt beverages shall be on forms provided by the State Licensing Authority and completed applications must be submitted to the City Clerk's

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Office no later than forty-five (45) days prior to the license expiration date, together with the required license fees, as well as a renewal fee as set by City Council. For good cause, the City Clerk's Office may waive this time requirement.

B. Upon receiving the completed renewal application, the City Clerk will forward it to the ART for review of appropriate fees, completeness, changes from the previous renewal application, legal possession of the premises, police activity summary, including an inspection of the premises and any other relevant matter.

C. If no concerns arise through the ART process, the application will be administratively approved, signed by the City Clerk and forwarded to the state for consideration.

D. If concern(s) arise through the ART process, the application will be forwarded to the Local Licensing Authority for review and consideration. The applicant will be requested, in writing, to be present to address said concerns or questions.

E. A licensee whose license has been expired for not more than ninety (90) days, may file a late renewal application upon the payment of a nonrefundable late application fee each to the state and city. No state or local licensing authority shall accept a late renewal application more than ninety (90) days after the expiration of a licensee's permanent annual license. Any licensee whose permanent annual license has been expired for more than ninety days must apply for a new license and shall not sell or possess for sale any alcohol beverage until all required licenses have been obtained. (Ord. 295-04: Ord. 1067-97: Ord 739-89: Ord. 687 87)

Section 5.08.125 Authorizing retail or liquor-licensed drug stores to conduct alcoholic beverage tastings.

Pursuant to Section 12-47-301(10)(a), Colorado Revised Statutes, the City of Evans hereby authorizes alcoholic beverage tastings for licensed retail liquor stores and liquor-licensed drug stores within the City subject to the limitations contained in Section 12-47-301(10), C.R.S., with the following conditions:

A. The licensee of a retail liquor license or liquor-licensed drug store must file with the City Clerk an application for an Alcohol Beverage Tastings Permit prior to conducting their initial alcoholic beverage tasting. This permit will run concurrently with the licensee's liquor license and will be required to renew this permit in conjunction with their liquor license.

B. A valid Alcohol Beverage Tastings Permit must be posted prominently on the licensed premises during all tastings events. (Ord. 402-07)

5.08.130 Fees.

A. There is assessed local fees to be paid to the City Clerk prior to consideration by the Local Licensing Authority. Such fees are established by City Council by Resolution.

B. No rebate of any fees paid for any license issued shall be made except upon the affirmative vote of a majority of the Licensing Authority. (Ord. 295-04: Ord. 1124-98: Ord. 1067-97: Ord. 739-89: Ord. 687 87)

5.08.135 Designation of hearing officer.

A. The local licensing authority is hereby authorized to delegate its authority with regard to taking adverse actions on any license to an impartial and independent hearing officer.

B. Whenever the local licensing authority determines that a notice of adverse action on any license issued by the City of Evans may be taken against such license, the local licensing authority may appoint an impartial and independent hearing officer to determine if the allegations contained in the notice are substantiated or not substantiated. The hearing officer shall conduct the hearing in an informal manner without strict regard to the Colorado Rules of Civil Procedure, but shall insure that any licensee is afforded substantial due process before any adverse action is taken against any licensee. If any allegations contained in any notice to a licensee are substantiated, the hearing officer may consider all relevant evidence, including the gravity of the violation and the circumstances of prior operation of the licensee in making a determination as to adverse action against a licensee.

C. Any hearing officer conducting a hearing on behalf of the local licensing authority shall, after hearing the evidence and making appropriate findings, have the authority to revoke, suspend or deny a requested renewal of a license and in making any such determination, shall base his decision upon the Colorado Liquor Code and the regulations applicable to such Code promulgated by the Colorado Department of Revenue and other relevant law. The hearing officer is authorized to impose such penalties with regard to revocation, suspension, fine in lieu of suspension, denial, summary suspension or any other remedies authorized by the Colorado Liquor Code.

D. The decision of the hearing officer shall be final and any appeal of any order of the hearing officer shall be subject to review by the District Court of the 9th Judicial District of the State of Colorado upon application by the aggrieved party. The procedure for such review shall be in accordance with Rule 106 of the Colorado Rules of Civil Procedure and the applicable Colorado common law.

E. The City Council acting as the Liquor Licensing Authority specifically reserves to itself the duties relating to the granting or denial of an application for a new license and the right to issue a summary suspension, but may delegate such duties and any other duties to the hearing officer as the Authority may determine prudent. The

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Authority reserves to itself the duty to determine whether a notice to show cause to any licensee should be issued. F. The Authority may appoint any impartial person as hearing officer, but shall consider the use of the Municipal Judge or a licensed attorney. (Ord. 295-04: Ord. 1121-98)

5.08.140 Authority of licensing authority to suspend or revoke licenses. In addition to any other penalties pre-scribed in this code, and the laws of the state of Colorado, the licensing authority of the city shall have the power on its own motion, or after complaint, after investigation and public hearing, at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license issued by it for any violation by the licensee or by any of the agents, servants or employees of such licensees of the provisions of this chapter, or of any of the rules or regulations adopted by the State Licensing Authority, or the statutes of the state of Colorado. Procedures for suspension or revocation shall be as provided by state law and/or resolution of the authority. (Ord. 1067-97: Ord. 687 87)

5.08.150 Fines in lieu of suspension. A license subject to suspension may request a fine in lieu of suspension. The standards for payment of a fine in lieu of suspension shall be provided for in Section 12-47-604, C.R.S. and shall apply to any licensee who violates or whose employees violate any terms of the Evans Municipal Code or of Title 12, Articles 46, 47, and 48, C.R.S. or the rules and regulations related thereto. (Ord. 295-04: Ord. 1124-98: Ord. 1067-97: Ord. 687 87)

5.08.160 Buildings to meet code standards. No license shall be issued, renewed or transferred unless the building in which the business or licensed activity is carried on meets all of the require-ments of the zoning, building, electrical, plumbing, fire, mechanical, housing and dangerous building codes and if applicable the Weld County Health Department rules and regulations. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

5.08.170 Continuation of existing licenses. Any license issued by the licensing authority of the city prior to the effective date of the ordinance codified in this chapter shall remain in full force and effect until the expiration of such license under the former law; provided, however, any suspension, revocation, renewal, or transfer of any such license shall be governed by this chapter. (Ord. 1067-97: Ord. 687 87)

5.08.180 Special events permit.

A. Required. It is unlawful for an organization to sell, by the drink only, malt beverages, or malt, spirituous or vinous liquors, at a special event, unless such organization has acquired a special events permit in accordance Article 48, Title 12, C.R.S. B. Application Form Handling Fee.

1. The applicant shall fully complete an applica-tion for special events permit as required by the state Licensing Authority. No application for a special events permit shall be submitted to the City until the applications have been completed in all respects.

2. There shall accompany each application for a Special Events Permit a handling fee to defray actual and necessary expenses and the cost of processing the application, together with such other fees as are required by the State Licensing Authority.

C. Documents to Accompany Application. Every application for a special events permit shall be accompanied by the following:

1. Appropriate fee.
2. A diagram of the area to be licensed.
3. Copy of lease, deed or written permission from the owner of the property giving consent for use of the property during all times of the special event.
4. Certificate of good corporate standing issued by the Secretary of State within the last two years; or;
5. In not incorporated, a Nonprofit charter; or
6. If a political candidate, copies of reports and statements that were filed with the Secretary of State.
7. Such other information or evidence as may, from time to time, be required by the Licensing Authority for the purpose of insuring that the special event will be lawfully conducted and that the health, welfare, safety and morals of the community will not be adversely affected by reason of the nature of the special event or its location within the community. (Ord. 295-04: Ord. 1067-97: Ord. 687 87)

5.08.190 Optional premises license.

A. The following standards for the issuance of optional premises license or for optional premises for a hotel and restaurant license are adopted pursuant to the provisions of Section 12 47 310, C.R.S., as amended.

B. These standards adopted herein shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code for optional premises licenses or for optional premises for a hotel and restaurant license. These two types of licenses for optional premises will collectively be referred to as "optional

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premises" in these standards unless otherwise provided.

C. Eligible Facilities. An optional premises may only be approved when that premises is located on or adjacent to an outdoor sports and recreational facility. The types of outdoor sports and recreational facilities which may be considered for an outdoor premises license shall not be limited. However, the authority may consider the type of particular outdoor sports or recreational facility in relationship to the number of optional premises requested for the facility.

D. There are not restrictions on the minimum size of the outdoor sports and recreational facilities which may be eligible for the approval of an optional premises license. However, the authority may consider the size of the particular outdoor sports or recreational facility in relationship to the number of optional premises requested for the facility.

E. Number of Optional Premises. There are no restrictions on the number of optional premises which any one licensee may have on this outdoor sports or recreational facility. However, any applicant requesting approval of more than one optional premises shall demonstrate the need for each optional premises in relationship to the outdoor sports or recreational facility and its guests.

F. Submittal Requirements. When submitting a request for the approval of an optional premises, an applicant shall also submit the following information:

1. A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises requested;
2. A legal description of the approximate areas within which the optional premises shall be located;
3. A description of the method which shall be used to identify the boundaries of the optional premises when it is in use;
4. A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises;
5. Advance Notification. Pursuant to Section 12-47-310(4), C.R.S., as amended, no alcoholic beverages may be served on the optional premises until the licensee has provided written notice to the state and local licensing authorities forty eight hours prior to serving alcoholic beverages on the optional premises. Such notice must contain the specific days and hours on which the optional premises are to be used. In this regard, there is no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is more than one hundred eighty days from the notice date. (Ord. 1067-97: Ord. 687 87)

ARTICLE III. GENERAL PROVISIONS UNLAWFUL ACTS

5.08.200 Disorderly conduct to be reported by licensee.

A. Each licensee shall conduct his establishment in a decent, orderly and respectful manner, and shall not permit within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise, or other disturbance or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the establishment is located.

B. It is unlawful for any licensee, permit holder or their employee to fail to report immediately to the police department all violations of city, state or federal laws which constitute felonies and misdemeanors, such as disorderly conduct or other offenses involving breach of the peace, such as assault and harassment. (Ord. 264-04: Ord. 1067-97: Ord. 687 87)

5.08.205 Teen Night/Fight Night.

A. No business establishment holding a license of any classification pursuant to the Colorado Beer Code, §12-46-101, et seq., C.R.S., or the Colorado Liquor Code, §12-47-101, et seq., C.R.S., shall promote, hold, conduct or allow in its premises to be promoted, held or conducted any "teen night" or similar event, in which under-age persons are specially solicited, attracted and/or invited by the Licensee or anyone recruited by the Licensee on the Licensee's behalf to the licensed premises during business hours after 8:00 p.m. of any day during which the establishment is open for business, and during which time adult patrons are present primarily for the purpose of consuming alcohol beverages, except that this section shall not apply to licensed premises in which multiple facilities are located and at such times as two or more unrelated and otherwise lawful activities or events are taking place simultaneously.

B. No business establishment holding a license of any classification pursuant to the Colorado Beer Code, §12-46-101, et seq., C.R.S., or the Colorado Liquor Code, §12-47-101, et seq., C.R.S., shall promote, hold, conduct or allow in its premises to be promoted, held or conducted any "fight night" or similar event, in which persons are engaged, encouraged and or compensated for fighting in a manner creating a public display and intended or purported to serve as entertainment.

C. This section is not intended to prohibit or limit teenage activities which as otherwise provided and allowed by applicable law(s), may be advertised and/or held in or upon any such licensed establishment which ceases all

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alcohol sales for the time of each activity, making alcohol unavailable for sale or provision on the premises during that time. (Ord. 1110-98)

5.08.210 Lighting in licensed premises. All licensees shall be required to maintain a level of light within the licensed premises which would permit the checking of identification materials without resorting to other lighting. (Ord. 1067-97: Ord. 687 87)

5.08.220 Licensed premises to be open for inspection. All premises licensed under this chapter shall be open to inspection, by the police department of the city, the health department of the county, the State Licensing Authority, and any other federal, state, county or city agency which is permitted or required by law to inspect licensed premises. It is unlawful for the licensee, its employees or agents, or for any other person to refuse to permit any such inspection. (Ord. 1067-97: Ord. 687 87)

5.08.230 Unlawful acts- Open container, service or consumption in certain public areas. A. It is unlawful for any person to serve, consume or have any open container of liquor or fermented malt beverage (except as permitted by C.R.S. 12-47-411(3.5) for vinous liquor) when on, in or using, by conveyance or otherwise, any public street, parking lot, alley, park, public place, avenue or sidewalk within the city, with the exception that alcoholic beverages with 6% or less alcohol content may be consumed in the parks of the city outside of the Riverside Park Ball Fields and adjacent parking area and with the exception that alcoholic beverages may be consumed (upon issuance of a special permit - refer to §16.40.090) within the confines of the Evans Community Complex with a City issued permit approved by the Director of Parks and Recreation and with the permit holders signed agreement to adhere to certain regulations and policies as set forth by the City.

B. This section shall not apply to the purchase or consumption of alcoholic beverages from a group or organization holding a special event permit, which event is occurring on or near a designated public street, avenue, sidewalk, alley, parking lot, park or public place within the city for which a special event permit has been obtained pursuant to Section 5.08.180. (Ord. 292-04: Ord. 1124-98: Ord. 1067-97: Ord. 1044-97: Ord. 767-90: Ord. 687 87)

5.08.235 Unlawful acts—Serving Alcoholic Beverages to Minors or Persons Visibly Intoxicated.

A. To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard;

B. To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years;

C. To obtain or attempt to obtain any alcohol beverage by misrepresentation of age or by any other method in any place where alcohol beverages are sold when such person is under twenty-one years of age;

D. With knowledge, to permit or fail to prevent the use of his or her identification, including a driver's license, by a person who is under twenty-one years of age, for the unlawful purchase of any alcohol beverage. (Ord. 455-08)

ARTICLE IV. MANAGER REGISTRATION

5.08.240 Manager required, when Registration required One license per manager. Each hotel & restaurant licensee and tavern licensee shall himself manage or have a separate and distinct manager and shall register the manager of each liquor licensed premises with the state and the city. No person shall be registered manager for more than one hotel & restaurant license or for more than one tavern licensed location. (Ord. 1124-98: Ord. 1067-97: Ord. 687 87)

5.08.250 Manager ceasing function Notice to city and state New manager designation. When a person ceases to be a registered manager of a hotel & restaurant licensee and tavern licensee, for whatever reason, the hotel & restaurant licensee or tavern licensee shall notify the city clerk within five days and shall designate a new registered manager within thirty days. (Ord. 1124-98: Ord. 1067-97: Ord. 687 87)

5.08.260 Character, record and reputation requirements of manager Access of authorities to criminal history. Either the state or the city may refuse to accept any person as a registered manager unless the person is satisfactory to the respective licensing authorities as to character, record and reputation. In determining a registered manager's character, record and reputation, the state and local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. (Ord. 1067-97: Ord. 687 87)

5.08.270 Fee to licensee for character, record and reputation establishment. The hotel & restaurant licensee

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and tavern licensee shall pay a registration fee to the state and city to defray the expense incurred in investigating the character, record and reputation of each registered manager. (Ord. 1124-98: Ord. 1067-97: Ord. 687 87)

ARTICLE V. OCCUPATIONAL LICENSE TAX

5.08.280 Liquor and fermented beverage licenses Separate occupation finding. The city council finds, determines and declares that considering the nature of the business of selling malt, vinous or spirituous liquors and fermented beverages, and the relation of such business to the municipal welfare as well as the relation thereof to the expenditures required of the city and a proper, just and equitable distribution of the tax burdens within the city, and all other matters properly to be considered in relation thereto, that the classification of such business as a separate occupation is reasonable, proper, uniform and nondiscriminating, and necessary for a just and proper distribution of tax burdens within the city. (Ord. 1067-97: Ord. 687 87)

5.08.290 Liquor and fermented beverage licenses Tax levied and assessed. There is levied and assessed for each year an annual occupational license tax upon the business of selling malt, vinous or spirituous liquors and fermented malt beverages. Such tax is established by city council by resolution. (Ord. 1124-98: Ord. 1067-97: Ord. 687 87)

5.08.300 Occupational licenses Term Issuance conditions. Such occupational license tax shall be due and payable to the city clerk on January 1st of each year, and shall be delinquent on February 15th of the same year. In the case of licenses issued in the year 1970, the occupational license tax shall be prorated as provided in Section 5.08.310, and shall be due on the date the licenses are issued, and delinquent forty five days thereafter. Upon receipt of the tax, the city clerk shall execute and deliver to the licensee, the date of payment, the annual period for which the license is paid, the place at which the licensee conducts business. All persons licensed hereunder shall at all times post such receipt in a conspicuous place in the place of business stated in the license. (Ord. 1067-97: Ord. 687 87)

5.08.310 Occupational licenses Prorated conditions. Whenever any licensee begins business with a new license subsequent to January 1st in any year, the occupational license tax required herein shall be prorated on a monthly basis for the remaining portion of the year; but no refund shall be made to any person who discontinued business under a license before the expiration of the period covered by the tax. (Ord. 1067-97: Ord. 687 87)

5.08.320 Delinquency Not grounds for suspension or revocation- Excluded from licensing consideration. No delinquency in payment of the occupational license taxes provided for in this article shall be grounds for suspension or revocation of any license, granted hereunder, and in acting as a licensing authority, the city council shall exclude from consideration any delinquency in payment of such taxes. (Ord. 1067-97: Ord. 687 87)

5.08.330 Delinquency Unlawful Recovery right of city. It is unlawful to operate any malt, vinous or spirituous liquor establishment or fermented malt beverage establishment within the city without paying the applicable tax imposed by this article and any person doing so shall be punished as provided in Section 1.16.010, and each day that the delinquency continues shall constitute a separate violation. In addition, the city shall have the right to recover all sums due under this article by judgment and execution thereon in a civil action in any court of competent jurisdiction. (Ord. 1067-97, 1997: Ord. 687 87, 1987)

ARTICLE VI. TEMPORARY PERMITS

5.08.340 Definitions. As used in this article, unless the context otherwise requires:

- A. "Applicant" means the proposed transferee of any license for the sale of fermented malt beverages or alcoholic beverages and, once issued, the holder of a temporary permit under this article.
- B. "Department of Revenue" means the department of revenue of the state of Colorado.
- C. "Temporary Permit" means a permit which authorizes the applicant to continue to sell fermented malt beverages or alcoholic beverages as permitted under the permanent license for a licensed premises during the period in which an applicant to transfer the ownership of such license to the applicant is pending. (Ord. 1067-97: Ord. 847-92)

5.08.350 Requirements for issuance of temporary permit. A temporary permit shall not be issued unless or until the city clerk determines that the following conditions have been satisfied:

- A. The premises have been previously licensed by the State and the city, and such license was valid at the time the application for transfer of ownership was filed with the city clerk.

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B. The applicant has filed with the city clerk a properly completed application for the transfer of the license.

C. A preliminary background review has been conducted by the police department and a written report of findings has been provided to the city clerk which shall be filed with the application for transfer. (Ord. 295-04: Ord. 1067-97: Ord. 847-92)

5.08.360 Time for filing of application for temporary permit. An application for a temporary permit shall be filed no later than thirty (30) days after the filing of the application for transfer of ownership with the city clerk. (Ord. 1067-97, 1997: Ord. 847-92, 1992)

5.08.370 Temporary permit fee. Each application for a temporary permit shall be accompanied by the appropriate application fee. Such fee is established by city council by resolution. Such fee shall be refunded if the temporary permit is not issued, but once the temporary permit is issued, such fee shall be non-refundable. (Ord. 1124-98: Ord. 1067-97: Ord. 847-92)

5.08.380 Application for temporary permit. An application for the issuance of a temporary permit shall be submitted to the city clerk on forms provided by the city clerk for such purpose. (Ord. 1067-97: Ord. 847-92)

5.08.390 Issuance of temporary permit by city clerk. The city clerk may issue a temporary permit to the applicant if he/she determines that all of the conditions of this article have been satisfied. Such permit shall be issued within five (5) working days after the city clerk's receipt of the application for issuance of a temporary permit. (Ord. 295-04: Ord. 1067-97: Ord. 847-92)

5.08.400 Duration of temporary permit. A temporary permit issued pursuant to this article shall be valid only until such time as the application to transfer ownership is granted or denied, or for one hundred twenty (120) days, whichever occurs first; except that if the application to transfer the license has not been granted or denied within the one hundred twenty (120) day period and the applicant demonstrates good cause, the city council may, in its discretion, extend the validity of said permit for an additional period not to exceed sixty (60) days. (Ord. 1067-97: Ord. 847-92)

5.08.410 Other transfers for which a temporary permit is available. A temporary permit may also be issued by the city clerk, subject to the requirements of this article, in the event of a transfer of possession of a licensed premises by operation of law; or the filing of a petition in bankruptcy pursuant to federal bankruptcy law; by the appointment of a receiver; by a foreclosure action by a secured party; or by a court order dispossessing the prior licensee of all rights of possession pursuant to Article 40 Title 13, C.R.S. (Ord. 1067-97: Ord. 847-92)

5.08.420 Cancellation, revocation or summary suspension of temporary permit. A temporary permit may be cancelled, revoked or summarily suspended by the city council if it determines that there is probable cause to believe that the transferee has violated any provision of the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or the Colorado Liquor Code (Article 47 of Title 12, C.R.S.), whichever statutes govern the license of the licensed premise, or any rule or regulation promulgated by the department of revenue thereto, or any city ordinance governing the operation of the licensed premises, or if the applicant has failed to truthfully disclose those matters required pursuant to the application forms required by the department of revenue or the city. (Ord. 1067-97: Ord. 847-92)

Code Documents



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