

ORDINANCE NO. 17-_____

AN ORDINANCE AMENDING ARTICLE 5 (ALCOHOL BEVERAGES) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO LOCAL LICENSING AUTHORITY

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 104 (Local Licensing Authority) of Part 1 (General Provisions) of Article 5 (Alcohol Beverages) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.5.104: LOCAL LICENSING AUTHORITY:

A. ~~Liquor And Beer Licensing Board~~**Local Licensing Authority:** The ~~Liquor and Beer Licensing Board~~**Colorado Springs Municipal Judges** shall **serve in an administrative hearing officer capacity as** be the ~~Local Licensing Authority~~ of the City for the licensing of the sale of fermented malt beverages and alcohol beverages as authorized by Colorado Revised Statutes, title 12, articles 46, 47 and 48, the rules and regulations of the State licensing authority, this Code and local rules of procedure, and shall possess all powers given to local licensing authorities by the provisions of State statutes, City Code, and State and local rules and regulations.

B. City Clerk: The City Clerk shall be the ~~Local Licensing Authority~~ for the purpose of reviewing and granting or denying applications for all liquor permits, authorizations, certifications, and license or permit changes authorized by Colorado Revised Statutes, title 12, articles 46, 47 and 48, the rules and regulations of the State licensing authority, this Code and local rules of procedure. The City Clerk, as the ~~Local Licensing Authority~~, shall be governed by the requirements of the applicable State statutes, any appropriate City Code provisions or City Council resolutions, and State and local rules and regulations.

C. **The City Clerk shall have the power to recommend to City Council the adoption of rules and regulations which shall govern the conduct of investigations as are required by law, the conduct of hearings before the Local**

Licensing Authority, and the procedures for ruling upon license applications, transfers, renewals, and suspensions or revocations of licenses. Consistent with the authority delegated by State statute, the City Clerk may recommend related ordinances for City Council adoption.

Section 2. Section 203 (Applications) of Part 2 (License or Permit Required) of Article 5 (Alcohol Beverages) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.5.203: APPLICATIONS:

All applications for licenses, permits, authorizations, or certifications shall be filed with the City Clerk's Office on forms to be approved by the City Clerk and accompanied by all applicable fees, together with other information and documents as may be required by Liquor and Beer Rules and Regulations for the City of Colorado Springs. The City Clerk or designee shall act as secretary to the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** and all the records shall be kept in the City Clerk's Office.

Section 3. Part 4 (Creation, Procedures of Liquor and Beer Licensing Board) of Article 5 (Alcohol Beverages) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is repealed.

Section 4. Part 5 (Issuance of Licenses) of Article 5 (Alcohol Beverages) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.5.501: HEARING ON APPLICATIONS:

A. The ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** shall have the power to hear and determine applications for new licenses, change of locations and modifications, alterations or expansion of the licensed premises.

B. All hearings of the ~~Board~~**Local Licensing Authority** shall be conducted pursuant to and in accord with State statutes or any rules and regulations issued

thereunder, the provisions of this article and the rules and regulations governing the conduct of ~~Board~~**Local Licensing Authority**.

2.5.502: APPLICATIONS; FACTORS TO CONSIDER:

A. Before entering any decision approving or denying an application, the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** shall consider the following:

* * *

C. When considering an application for an optional premises license or a hotel and restaurant license with optional premises, in addition to the factors outlined in subsection A of this section and the applicable requirements of the provisions of State statutes and any rules and regulations issued thereunder, the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** shall consider the following:

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3. Any other facts and evidence required to satisfy the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** that the applicant will adequately maintain control over each area designated as an optional premises.

2.5.503: FINDINGS OF THE ~~BOARD~~**LOCAL LICENSING AUTHORITY**:

A. The ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** may specify terms, conditions or provisions upon granting of a license as the **Local Licensing Authority**~~Board~~ may deem necessary to carry out the exercise of police powers, provided these terms, conditions or provisions do not conflict with the laws of the State or rules and regulations provided by the State liquor licensing authority, local rules or ordinances and resolutions of the City.

B. The decision of the **Local Licensing Authority**~~Board~~, shall constitute final agency action of the local licensing authority for all purposes under the applicable State statutes, City Code, and State and local rules and regulations.

2.5.504: RECORDS:

The **Local Licensing Authority**'s~~Board~~'s proceedings shall be recorded.

2.5.505: DECISIONS BY ~~BOARD~~**THE LOCAL LICENSING AUTHORITY**; APPEAL:

The decision of the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** or an ~~appointed hearing officer~~ shall in all cases be final and conclusive. A

decision of the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority** or an appointed hearing officer may only be reviewed by the District Court in accord with the Colorado Rules of Civil Procedure. There shall be no stay of execution of the **Local Licensing Authority's** ~~Liquor and Beer Licensing Board's~~ or the appointed hearing officer's decision pending review by the District Court, except by court order.

2.5.506: DISTANCE RESTRICTIONS FOR HOTEL AND RESTAURANT LICENSES:

The five hundred foot (500') distance restriction from schools, colleges, universities or seminaries as provided by State statutes is hereby eliminated for hotel and restaurant licenses only. However, the **Local Licensing Authority**~~Board~~ shall, in any case where a proposed hotel and restaurant license is located within the prescribed distance restrictions, make a specific finding as to the impact, if any, upon any school, college, university or seminary, as applicable, in the neighborhood, by the granting of the license. The **Local Licensing Authority**~~Board~~ shall deny the license if it finds an adverse impact upon a school, college, university or seminary, as applicable. If the **Local Licensing Authority**~~Board~~ finds no adverse impact it shall then consider the other criteria required by law.

Section 5. Part 6 (Suspension or Revocation of Licenses) of Article 5 (Alcohol Beverages) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.5.601: INVESTIGATION; HEARING ON COMPLAINT:

A. The ~~Liquor and Beer Licensing Board~~**Local Licensing Authority**, upon the filing of a notice and order to show cause by the City, and after a hearing **or stipulated agreement** on the matter, shall have the power to suspend, revoke or deny renewal of any license issued by the **Local Licensing Authority**~~Board~~ for any violation by the licensee, its agents, servants or employees. The power to summarily suspend a license exists only in ~~the~~ **a Municipal Court Judge when serving in an administrative hearing officer capacity as the Local Licensing Authority pursuant to § 2.5.104(A)**~~Liquor and Beer Licensing Board~~.

B. Action may be based on a violation of State statutes, City Code, or State or local rules and regulations, or any of the terms, conditions or provisions issued by the ~~Liquor and Beer Licensing Board~~**Local Licensing Authority**, provided that an investigation and **any applicable** public hearing be granted at which the licensee and any protestant shall be afforded an opportunity to be heard,

present evidence, cross-examine witnesses, and in the case of the licensee, offer evidence in defense of any violations.

C. The action of the **Local Licensing Authority**~~Board~~ shall constitute final agency action of the local licensing authority for all purposes under the applicable State statutes, City Code and State and local rules and regulations.

~~2.5.602:~~ HEARING OFFICER:

~~The Board may appoint a hearing officer at the City's expense, to conduct hearings and issue findings and conclusions.~~

~~2.5.603~~**602:** HEARING PROCEDURES:

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B. The **Local Licensing Authority** ~~Board or hearing officer~~ shall have the power to require an oath and to issue subpoenas. Compliance with any subpoena issued may be enforced by application of the **Local Licensing Authority** ~~Board or hearing officer~~ to the Municipal Court of the City, where enforcement may be in the same manner as contempt of court is enforced.

C. The proceedings before the **Local Licensing Authority** ~~Board or hearing officer~~ shall be recorded.

~~2.5.604~~**603:** APPEALS:

Appeals from the decisions of the ~~Liquor and Beer Licensing Board or the hearing officer~~ **Local Licensing Authority** shall be to the courts of Colorado in accord with the Colorado Rules of Civil Procedure as now existing or as amended.

Section 6. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter, but no sooner than February 1, 2018.

Section 7. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2017.

Finally passed: _____
Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk