

ORDINANCE NO. 20-10

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 LIQUOR CODE

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

Section 1. 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:

2.5.102: DEFINITIONS:

\* \* \*

COMMON CONSUMPTION AREA: Shall have the same meaning as "Common Consumption Area" defined under Colorado Revised Statutes § ~~12-47-103(6.644-3-103(11))~~.

ENTERTAINMENT DISTRICT: Shall have the same meaning as "Entertainment District" defined under Colorado Revised Statutes § ~~12-47-103(7.5)44-3-103(15)~~.

\* \* \*

FERMENTED MALT BEVERAGE: **Shall have the same meaning as "Fermented Malt Beverage" defined under Colorado Revised Statutes § 44-4-103 (1)**~~Any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one-half of one percent alcohol by volume and not more than three and two-tenths percent alcohol by weight or four percent alcohol by volume; except that "fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by Colorado Revised Statutes section 25-5-410(1)(i)(II).~~

LICENSED, LICENSEE, AND LICENSED PREMISES: Persons or premises issued a license or permit under Colorado Revised Statutes, title ~~1244~~, articles ~~463, 47-4~~, and ~~485~~.

**MALT LIQUOR:** Shall have the same meaning as "Malt Liquor" defined under **Colorado Revised Statutes § 44-4-103 (30)**~~Includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof in water containing more than 3.2 percent of alcohol by weight~~

\* \* \*

**OPTIONAL PREMISES:** Shall have the same meaning as "Optional Premises" defined under **Colorado Revised Statutes § 44-4-103 (33)**~~The premises specified in an application for a hotel and restaurant license with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant within which the licensee is authorized to sell or serve malt, vinous, or spirituous liquors or the premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.~~

\* \* \*

**PROMOTIONAL ASSOCIATION:** Shall have the same meaning as "Promotional Association" defined under **Colorado Revised Statutes § 44-4-103 (39)**~~12-47-103(24.5).~~

**SPIRITUOUS LIQUORS:** Shall have the same meaning as "Spirituous Liquors" defined under **Colorado Revised Statutes § 44-4-103 (54)**~~Any alcohol beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half ( $\frac{1}{2}$ ) of one percent (1%) alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as provided above shall not be construed to be malt or vinous liquor but shall be construed to be spirituous liquor.~~

**TASTINGS:** The sampling of malt, vinous, or spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of this article **and Colorado Revised Statutes § 44-3-301(10)**.

**TASTINGS PERMIT:** Authorizes the holder of a retail liquor license or liquor licensed drugstore to conduct tastings upon the licensed premises in accord with the rules and regulations of this article **and Colorado Revised Statutes § 44-3-301(10)**.

**VINOUS LIQUORS:** Shall have the same meaning as "Vinous Liquors" defined under **Colorado Revised Statutes § 44-4-103 (59)**~~Includes wine and fortified wines that contain not less than one-half ( $\frac{1}{2}$ ) of one percent (1%) and not exceeding twenty~~

~~one percent (21%) of alcohol by volume and shall be construed to mean alcohol beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.~~

WRITTEN CONTROL PLAN: Documentation relating to the **licensee's or** permittee's plan to control and monitor the serving, consumption and removal of liquor samples.

#### 2.5.104: LOCAL LICENSING AUTHORITY:

A. Local Licensing Authority: The Colorado Springs Municipal Judges shall serve in an administrative hearing officer capacity as 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 ~~1244~~, articles ~~463, 47-4~~, and ~~485~~, 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 ~~1244~~, articles ~~463, 47-4~~, and ~~485~~, 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 for City Council~~, ~~adoption of~~ **authority to promulgate** 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, suspensions or revocations of licenses. Consistent with the authority delegated by State statute the City Clerk may recommend ordinances for City Council adoption.

Section 2. Part 2 (License, Certification, 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:

2.5.201: CITY LICENSE OR PERMIT REQUIRED:

A. It shall be unlawful for any person to engage in the business of selling or serving any alcohol beverages or fermented malt beverages within the City without a City license or permit, **unless otherwise permitted by law.**

\* \* \*

2.5.204: STANDARDS FOR ISSUANCE OF OPTIONAL PREMISES LICENSE AND OPTIONAL PREMISES PERMIT FOR HOTEL AND RESTAURANT LICENSE:

In addition to the requirements of the provisions of title ~~1244~~, article ~~473~~, Colorado Revised Statutes and any rules and regulations issued thereunder, the following standards apply to an optional premises license and an optional premises permit for a hotel and restaurant license:

\* \* \*

2.5.205: TASTINGS PERMIT:

A. In General: The City hereby authorizes tastings to be conducted by retail liquor store or liquor licensed drugstore licensees in accord with this section and pursuant to Colorado Revised Statutes section ~~12-47-301~~**44-3-301(10)** et seq. Within the City, it is unlawful for any person or licensee to conduct tastings unless a tastings permit has been obtained in accord with this section. The City Clerk is authorized to issue tasting permits in accord with the requirements of this section.

B. Application And Standards For Issuance:

1. To conduct tastings, a retail liquor store or liquor licensed drugstore licensee shall submit to the City Clerk an application on forms provided by the City for a tastings permit to the City Clerk. The City Clerk may reject the application if the applicant fails to establish that tastings will be conducted without violating the provisions of this section or of Colorado Revised Statutes section ~~12-47-301~~**44-3-301** et seq., or without creating a public safety risk to the neighborhood.

2. The applicant for a tastings permit shall verify on the application that all persons serving alcohol at tastings have completed a certified server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue, ~~and have or will obtain individual tastings server permits from the City. A copy of the server's certification shall be on file in the City Clerk's Office. Each server shall keep the server's certification and the permit in his or her possession during all tastings.~~

~~3. Documentation of server certification of the applicant or an employee of the applicant must be provided at the time of the application.~~

43. \* \* \*The applicant shall provide a written control plan at the time of the application that meets the approval of the City Clerk.

54. \* \* \*

C. Tastings Restrictions: In addition to the requirements of the provisions of title ~~1244~~, article 473, Colorado Revised Statutes and any related rules and regulations issued, the following restrictions apply to a tastings permit:

1. Tastings shall be conducted only by a person who ~~is a certified server,~~ **has completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue,** who holds a City tastings server permit and who is either a retail liquor store licensee or a liquor licensed drugstore licensee, or an employee of the licensee, and only on the licensee's licensed premises.

2. \* \* \*

~~D. Tastings Server Permit:~~

~~1. Permit Required: It shall be unlawful to serve alcohol at a tasting without first obtaining a tastings server permit.~~

~~a. An applicant for a tastings server permit must meet the minimum age qualifications found in 1 CCR 203-2, reg. 47-913.~~

~~b. An applicant for a tastings server permit must provide proof of completion of a seller/server training program that complies with the training standards of the Colorado Division of Liquor/Tobacco Enforcement.~~

~~c. Tastings server permits shall expire one year from date of issuance and are valid only until the expiration of the employer's current retail liquor store or liquor licensed drugstore license, whichever is earlier.~~

~~2. Tastings Server Permit Regulations:~~

~~a. It shall be unlawful for a tastings server to fail to display the tastings server permit picture identification at all times while serving at a permitted tasting.~~

~~b. It shall be unlawful for a tastings server permittee to serve alcohol at any tasting for which a tastings permit has not been issued.~~

~~c. A tastings server permit is immediately inactivated in the case of a suspension or revocation of the employer's current retail liquor store or liquor licensed drugstore license or tastings permit. If the tastings server permit is inactive but still valid, the tastings server permit may be reactivated in the case of employment with another employer maintaining a current and valid retailer liquor store or liquor licensed drugstore license and tastings permit.~~

~~ED.~~ Violations:

1. A violation of a restriction specified in this section or in Colorado Revised Statutes section ~~12-47-44-3-301~~ by a retail liquor store or liquor licensed drugstore, whether by licensee's employees, agents or otherwise, shall be the responsibility of the retail liquor store licensee or liquor licensed drugstore licensee who holds the permit and is conducting the tasting.

\* \* \*

2.5.206: ENTERTAINMENT DISTRICTS AUTHORIZED:

Pursuant to C.R.S. § ~~12-47-44-3-301~~(11), as amended, the City of Colorado Springs exercises its local option to authorize Entertainment Districts.

A. \* \* \*

1. \* \* \*

2. The defined boundaries of the Entertainment District shall contain at least twenty thousand (20,000) square feet of premises that at the time the district is created is licensed as an authorized Licensed Premises under C.R.S. ~~12-4744-3-103(7.515)~~(c), as amended.

B. \* \* \*

1. Certify and decertify Promotional Associations pursuant to C.R.S. § ~~12-4744-3-301~~(11), as amended, and any rules and regulations issued by the Colorado Department of Revenue, Liquor Enforcement Division;

\* \* \*

4. \* \* \*

a. \* \* \*

h. All other matters authorized by the Colorado Liquor Code, C.R.S. § ~~12-4744-3~~-101, *et seq.*

C. The regulations and standards for operating a certified Promotional Association and Common Consumption Area shall be in addition to all other laws, regulations, and standards applicable under this Article, the City Code, and the Colorado Liquor Code, C.R.S. § ~~12-4744-3~~-101, *et seq.*

\* \* \*

Section 3. Part 7 (General Liquor Offenses) 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:

2.5.701: HOURS OF SALE:

\* \* \*

~~C. Fermented Malt Beverages: It shall be unlawful to sell fermented malt beverages containing not more than 3.2 percent alcohol by weight any day of the week between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M.~~

2.5.707: CERTAIN LICENSE RESTRICTIONS:

A. ~~3.2 Percent Beer~~ **Other** Restrictions:

1. Restrictions On Places Selling Other Malt, Vinous Or Spirituous Liquor: It shall be unlawful for any person to sell, cause or permit to be sold, or offer for sale any fermented malt beverage **for off premises consumption** ~~containing not more than 3.2 percent alcohol by weight~~ at any place where any other malt, vinous or spirituous liquor is sold for consumption on the premises where sold.

2. Tastings Permit Restrictions: It shall be unlawful to violate the provisions of Colorado Revised Statutes section ~~12-4744-3~~-301 and section 2.5.205 of this article.

Section 4. Section 804 (Employment of Minors; When Prohibited) of Part 8 (Liquor Offenses Concerning Minors) 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:

2.5.804: EMPLOYMENT OF MINORS; WHEN PROHIBITED:

A. It shall be unlawful for any person licensed to sell at retail pursuant to Colorado Revised Statutes, title ~~1244~~, articles **473, 4, and 5**, to permit any alcohol beverage to be sold or dispensed by a person under eighteen (18) years of age, or to permit any such person to participate in the sale or dispensing thereof. Notwithstanding any provision in this section to the contrary, no person under twenty one (21) years of age shall be employed to sell or dispense malt, vinous or spirituous liquors unless he or she is supervised by another person who is on premises and has attained twenty one (21) years of age. No employee of a **tavern or lodging and entertainment facility** licensed pursuant to Colorado Revised Statutes, title ~~1244~~, article **473**, that does not regularly serve meals as defined in Colorado Revised Statutes, title ~~1244~~, article **473** shall sell malt, vinous or spirituous liquors unless the person is at least twenty one (21) years of age.

B. Any person who is at least eighteen (18) years of age and who is under the direct supervision of a person who is at least twenty one (21) years of age, may be employed in a place of business where alcohol beverages are sold at retail for off premises consumption. During the normal course of employment, any person who is at least eighteen (18) years of age may handle and otherwise act with respect to alcohol beverages in the same manner as that person does with other items sold at retail, except that it shall be unlawful for any person under twenty one (21) years of age to ~~sell~~**deliver** alcohol beverages or check identification of the **delivery** customers of the retail outlet.

\* \* \*


Section 5. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 6. 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 28<sup>th</sup> day of January, 2020.

**Finally passed:** February 11<sup>th</sup>, 2020

  
\_\_\_\_\_  
Council President

**Mayor's Action:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_, based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This ordinance was finally adopted February 18<sup>th</sup>, 2020 without the Mayor's signature pursuant to City Charter Section 3-70(e).

\_\_\_\_\_  
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

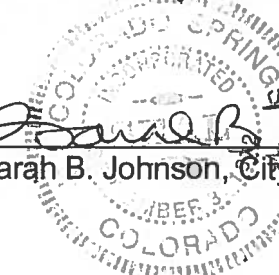


TJF

I HEREBY CERTIFY, that the foregoing ordinance entitled **“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 LIQUOR CODE”** was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on January 28<sup>th</sup>, 2020; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 11<sup>th</sup> day of February, 2020, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Transcript, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 13<sup>th</sup> day of February, 2020.

  
Sarah B. Johnson, City Clerk



1<sup>st</sup> Publication Date: January 31<sup>st</sup>, 2019  
2<sup>nd</sup> Publication Date: February 19<sup>th</sup>, 2020

Effective Date: February 24<sup>th</sup>, 2020

Initial: SBJ  
City Clerk