

ORDINANCE NO. 15-\_\_\_\_\_

AN ORDINANCE AMENDING PART 1 (GENERAL PROVISIONS), PART 2 (LICENSE REQUIRED), PART 3 (OCCUPATION TAX ON LIQUORS), PART 5 (ISSUANCE OF LICENSES), PART 6 (SUSPENSION AND REVOCATION OF LICENSES) AND 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

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:

PART 1 GENERAL PROVISIONS

\* \* \*

2.5.102: DEFINITIONS:

**The following terms, as used in this article, shall have the following meanings, unless the context specifically indicates otherwise, or unless the meaning is excluded by express provision:**

\* \* \*

**FERMENTED MALT BEVERAGE:** 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) ~~A fermented malt alcohol beverage containing not more than 3.2 percent alcohol by weight.~~

**LICENSED, LICENSEE, AND LICENSED PREMISES:** Persons or premises issued a license or permit under Colorado Revised Statutes, title 12, articles 46, 47 and 48.

\* \* \*

OPTIONAL PREMISES: 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.**

\* \* \*

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 ~~for~~ **of** the licensee pursuant to the provisions of this article.

\* \* \*

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

\* \* \*

#### 2.5.104: LOCAL LICENSING AUTHORITY:

\* \* \*

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 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** ~~special event liquor permits, optional premises licenses, tastings permits and tastings server permits.~~ The City Clerk, as the local licensing authority, shall be governed by the requirements of the applicable State statutes, ~~and any appropriate City Code provisions, or City Council resolutions~~ **and State and local rules and regulations.**

Section 2. Part 2 (License 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:

#### PART 2 LICENSE **OR PERMIT** REQUIRED

##### 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.**

\* \* \*

2.5.202: COMPLIANCE WITH STATE ~~LICENSES~~ **LAW**; FEES REQUIRED:

The license **or permit** required in section 2.5.201 of this part shall be issued in accord with and upon the payment of the fees provided by State statutes, City Code, and State and local rules and regulations.

2.5.203: APPLICATIONS ~~FOR LICENSE~~:

All applications for licenses and ~~fees~~ **permits** 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 the rules of the Liquor and Beer Licensing Board. The City Clerk or designee shall act as secretary to the Liquor and Beer Licensing Board and all the records shall be kept in the City Clerk's Office.

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 12, article 47, 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:

\* \* \*

C. Optional premises licensees **and permittees** must have sandwiches and light snacks available **on the optional premises** during the service of malt, vinous or spirituous liquors.

2.5.205: TASTINGS PERMIT:

\* \* \*

B. \* \* \*

~~5. The applicant shall provide notice of the dates and times of all tastings for the period of the permit.~~

~~65.~~ \* \* \*

C. \* \* \*

~~3. Tastings shall not exceed five (5) consecutive hours in duration per day.~~

~~4. Tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol~~

~~beverages, and in no case earlier than eleven o'clock (11:00) A.M. or later than seven o'clock (7:00) P.M.~~

~~5. The permittee shall destroy all open and unconsumed alcohol beverage samples from the licensed premises within thirty (30) minutes after the conclusion of the tasting.~~

~~6. The permittee must mail to the City Clerk's Office an affidavit of destruction of alcohol samples within seven (7) days of the tasting.~~

~~7. Tastings may only occur on no more than four (4) of the six (6) days from a Monday to the following Saturday, not to exceed fifty two (52) days per year. The permittee shall provide at least fourteen (14) days' written notice of any changes to the days and times of tastings and newly scheduled tastings.~~

~~8. The permittee shall provide at least forty eight (48) hours' written or verbal notice of any cancellations of tastings.~~

D. \* \* \*

2. \* \* \*

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

\* \* \*

E. \* \* \*

~~2. It is a violation of the tastings permit if the permittee fails to provide at least fourteen (14) days' written notice of any changes to the days and times of tastings and new tastings.~~

~~3. It is a violation of the tastings permit if the permittee fails to provide at least forty eight (48) hours' written or verbal notice of any cancellations of tastings.~~

~~42.~~ It is a violation of the tastings permit if the ~~licensed~~ **permittee's** retail liquor store ~~licensee~~ **license** or liquor licensed drugstore license is not in full force and effect.

~~53.~~ \* \* \*

~~64.~~ \* \* \*

Section 3. Part 3 (Occupation Tax on Liquors) 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:

PART 3 OCCUPATION TAX ON LIQUORS

2.5.301: DECLARATION OF POLICY AND PURPOSE:

The City Council ~~hereby~~ finds, determines and declares that, considering the nature of the business of selling at retail fermented malt beverages, malt, vinous and spirituous liquors for beverage purposes, the relation of the business to the general welfare, as well as the relation to the expenditures required of the City, the proper, just and equitable distribution of tax burdens within the City and all other penalties proper to be considered in relation to the business, the classification of the business as a separate occupation is reasonable, proper, uniform and nondiscriminatory, and that the amount of tax imposed ~~herein~~ **in this part** is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of the tax burdens within the City. **The City Council further finds, determines, and declares that the purpose of this part is and has always been to impose the applicable tax upon all persons licensed to sell fermented malt beverages, malt, vinous and spirituous liquors for beverage purposes as defined under Colorado Revised Statutes, title 12, articles 46, 47 and 48, as amended, regardless of the specific class of operation.**

2.5.302: CLASSIFICATION AND OCCUPATION TAX ESTABLISHED:

\* \* \*

A. Hotel and restaurant licensees, tavern licensees, ~~brewpub~~ **brew pub** licensees, **distillery pub licensees, vintner's restaurant licensees** and resort licensees: The annual occupation tax is ~~hereby~~ set at four hundred dollars (\$400.00).

\* \* \*

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:

PART 5 ISSUANCE OF LICENSES

\* \* \*

2.5.502: APPLICATIONS; FACTORS TO CONSIDER:

\* \* \*

C. When considering an application for an optional premises license or **a hotel and restaurant license with** optional premises ~~for a hotel and restaurant license~~, 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 shall consider the following:

\* \* \*

#### 2.5.504: RECORDS:

~~A record of the~~ **The** Boards's proceedings shall be ~~stenographically or electronically~~ recorded.

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:

#### PART 6 SUSPENSION AND REVOCATION OF LICENSES

\* \* \*

#### 2.5.603: HEARING PROCEDURES:

A. Notice of a hearing for suspension, revocation, or nonrenewal shall be by ~~certified~~ mail to the licensee or ~~registered manager~~ at the address contained in the license, ~~or~~ **and** by personal service upon the licensee **or an employee or other agent of the licensee.**

\* \* \*

C. ~~A record of the~~ **The** proceedings before the Board or hearing officer shall be ~~stenographically or electronically~~ recorded.

Section 6. 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:

#### PART 7 GENERAL LIQUOR OFFENSES

\* \* \*

2.5.707: CERTAIN LICENSE RESTRICTIONS:

\* \* \*

~~2. Signage: It shall be unlawful for any person to sell, cause or permit to be sold, or offer for sale any fermented malt beverage containing not more than 3.2 percent alcohol by weight without having posted on the outside and inside of the establishment in a plainly visible location, signs with letters not less than ten inches (10") each containing the words "Only Fermented Malt Beverages Sold Here".~~

~~32.~~ \* \* \*

Section 7. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 8. 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 \_\_\_\_\_, 2015.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Merv Bennett, Council President

Delivered to Mayor on \_\_\_\_\_.

**Mayor's Action:**

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

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

\_\_\_\_\_  
John W. Suthers, 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.

\_\_\_\_\_  
Merv Bennett, Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk