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ALCOHOL BEVERAGES

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**ARTICLE I.
IN GENERAL**

Sec. 3-1. Definitions.

(a) The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

Applicant shall mean any person, partnership, corporation or other legally constituted entity or affiliation who is applying for or has applied for a license or permit to sell malt, vinous or spirituous liquors or fermented malt beverages, but is not yet licensed as a licensee.

Bed and breakfast shall mean an overnight lodging establishment that provides at least one (1) meal per day at no additional charge other than a charge for overnight lodging and does not sell malt, vinous or spirituous liquors by the drink.

City Clerk shall mean the City Clerk of the City or designated representative.

Employee shall mean any employee of a licensee involved in the sale, dispensing or serving of malt, special malt, vinous or spirituous liquors or fermented malt beverages.

License shall mean an official grant of permission:

- (1) To sell fermented malt beverages, malt, special malt, vinous or spirituous liquors at retail or for on-premises consumption; or
- (2) To offer complimentary fermented malt beverages, malt, special malt, vinous or spirituous liquors for consumption by overnight guests on the premises of a bed and breakfast establishment within the City limits as evidenced by a City-issued form, license, permit, insignia or tag; or
- (3) To offer complimentary malt, vinous or spirituous liquors for consumption by patrons on the licensed premises of an art gallery within the City limits as evidenced by a City-issued form, license, permit, insignia or tag.

Licensed premises shall mean the premises specified in an approved application for a license under this Chapter which are owned or in the possession of the licensee within which such licensee is authorized to sell fermented malt beverages, malt, special malt, vinous or spirituous liquors at retail or to offer complimentary fermented malt beverages, malt, special malt, vinous or spirituous liquors for consumption by overnight guests of a bed and breakfast establishment. It includes all lands, structures, equipment, appurtenances connected to or used in the license premises and also any personal property which is either affixed to or is otherwise used in connection with business conducted on the premises.

Licensee shall mean a person issued a license by law to sell fermented malt beverages, malt, special malt, vinous or spirituous liquors at retail or for on-premises consumption or a person issued a permit to:

- (1) Offer complimentary fermented malt beverages, malt, special malt, vinous or spirituous liquors for consumption by overnight guests on the premises of a bed and breakfast establishment;
- (2) Offer complimentary malt, vinous or spirituous liquors for consumption by patrons on the licensed premises of an art gallery;
- (3) Sell fermented malt beverages, malt, special malt, vinous or other spirituous liquors for consumption during a special event; or
- (4) Sell or offer complimentary fermented malt beverages, malt, special malt, vinous or other spirituous liquors for on-premises consumption as authorized by law.

Local Licensing Authority or *Authority* shall mean the Liquor Licensing Authority as established by the City Council and as defined by the C.R.S. relating to the sale of fermented malt beverages and malt, special malt, vinous or spirituous liquor.

Manager shall mean and include those persons who manage, direct, supervise, oversee and administer the acts and transactions of the establishments governed by this Chapter and of their agents or employees.

Party-in-interest shall mean:

- (1) Any party-in-interest as defined in Section 12-47-311(5)(b), C.R.S.;
- (2) Any representative of a bona fide organized neighborhood group which encompasses part or all of the neighborhood under consideration; or
- (3) Any member of the City staff, including but not limited to the City Manager, the City Attorney or the Chief of Police or representative thereof.

(b) All other words and phrases used in this Chapter shall have the meanings described by the C.R.S. regulating the sale of liquor and fermented malt beverages or if not otherwise defined by law, the words shall be as used in their common, ordinary and accepted sense and meaning.

(Code 1972, § 33-1; Ord. No. 117, 1997, §§ 2, 3, 8-5-97; Ord. No. 21, 2000, § 1, 3-7-00; Ord. 19, 2002, § 1, 2-19-02; Ord. No. 083, 2008, § 1, 8-19-08)

Cross-reference—Definitions and rules of construction generally, § 1-2.

Sec. 3-2. Conflicts.

(a) If any of the laws as established in this Chapter shall conflict with any provision of the laws of the State or the rules of the state licensing authority pertaining to the Colorado Liquor or Beer Codes, the provisions of state law or the rules of the state licensing authority shall govern.

(b) Notwithstanding the foregoing, if the provisions of the state law or rules are silent on a matter contained in this Chapter, then this Chapter shall govern.

(Code 1972, § 33-3)

Sec. 3-3. Violations; penalty.

Penalties for violations of this Chapter shall be as provided in § 1-15 and shall be in addition to any special penalty provided for in this Chapter or by the laws of the State. Notwithstanding any other penalty that may be levied, any licensee who violates, or any licensee whose employees violate, any of the terms of this Chapter or of Title 12, Articles 46, 47 and 48, C.R.S., or the rules and regulations related thereto, shall be subject to suspension or revocation of his or her license pursuant to the laws of the State, the imposition of a fine in lieu of suspension under the provisions of Section 12-47-601(3), C.R.S., written reprimand or such other penalty as the Authority deems appropriate. Monies received through the payment of fines in lieu of suspension shall be deposited into the general fund of the City.

(Code 1972, § 33-20; Ord. No. 71, 1988, 5-17-88; Ord. No. 31, 1989, § 1, 3-21-89; Ord. No. 117, 1997, § 4, 8-5-97)

Cross-reference—General penalty, § 1-15

Secs. 3-4—3-15. Reserved.

ARTICLE II. ADMINISTRATION DIVISION 1. GENERALLY

Sec. 3-16. City Clerk duties.

The City Clerk shall:

- (1) Issue all licenses granted by the Liquor Licensing Authority upon receipt of such license fees as are required by law;
 - (2) Serve as the secretary of the Liquor Licensing Authority;
 - (3) Establish a calendar of regular meetings for the Liquor Licensing Authority which calendar may be modified by the Authority;
 - (4) Process all license renewal applications, including late renewal applications, on behalf of the Liquor Licensing Authority upon receipt of a completed application and such license fees as are required by law;
 - (5) Process all applications for temporary, art gallery, special event and bed and breakfast permits on behalf of the Liquor Licensing Authority pursuant to § 3-83.
 - (6) Process all change in corporate structure, trade name change and corporate name change report forms on behalf of the Liquor Licensing Authority upon receipt of a completed form and such license fees as are required by law; and
 - (7) Process all transfer of ownership applications in which no new principals are being added to the ownership, on behalf of the Liquor Licensing Authority upon receipt of a completed application and such license fees as are required by law.
- (Code 1972, § 33-3; Ord. No. 31, 1989, §§ 2, 3, 3-21-89; Ord. No. 141, 1991, § 1, 12-17-91; Ord. No. 117, 1997, § 5, 8-5-97; Ord. No. 188, 2000, § 1, 1-2-01; Ord. No. 19, 2002, § 2, 2-19-02; Ord. No. 083, 2008, § 2, 8-19-08)

Secs. 3-17—3-30. Reserved.

DIVISION 2. LIQUOR LICENSING AUTHORITY*

Sec. 3-31. Creation.

There shall be and is hereby created a Liquor Licensing Authority, hereafter referred to in this Chapter as the "Authority."

(Code 1972, § 33-2(A); Ord. No. 158, 1986, § 14, 11-4-86)

Sec. 3-32. Composition.

The Local Licensing Authority for the City shall be the Municipal Judge.

(Code 1972, § 33-2(B); Ord. No. 158, 1986, § 14, 11-4-86; Ord. No. 92, 1992, § 22, 9-15-92; Ord. No. 117, 1997, § 6, 8-5-97; Ord. No. 21, 2000, § 2, 3-7-00)

Sec. 3-33. Functions.

(a) The Authority shall have the duty and authority to grant or refuse licenses for the possession, sale and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages as provided by law, to conduct investigations as are required by law and to levy penalties against licensees in the manner provided by law.

(b) The Authority shall have all the powers of the Local Licensing Authority as set forth in Title 12, Articles 46, 47 and 48, C.R.S.

(c) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before it and the presentation of evidence at hearings.

(d) The Authority shall have the power to require any applicant for a license to furnish any relevant information required by the Authority.

* Cross-references—**Boards and Commissions, § 2-71, et seq.; all boards required to hold meetings open to the public, § 2-71, et seq.**

(e) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which the Authority is authorized to conduct. It shall constitute a violation of this Code for any person to fail to comply with any subpoena issued by the Authority in the proper conduct of its hearings. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

(Code 1972, §§ 33-2(A), 33-3(A), (B); Ord. No. 158, 1986, § 14, 11-4-86; Ord. No. 31, 1989, § 4, 3-21-89)

Sec. 3-34. Reserved.

Sec. 3-35. Minutes; annual report.

The Authority shall take and file minutes in accordance with the requirements of § 2-73 of the Code. On or before January 31 of each year, the Authority shall file a report with the City Clerk setting forth the number of applications for licenses acted upon, the number of licenses granted and the number denied and any other actions taken by the Authority during the past year.

(Code 1972, §§ 33-2(D), (E); Ord. No. 158, 1986, § 14, 11-4-86; Ord. No. 79, 1988, § 20, 6-7-88; Ord. No. 31, 1989, § 6, 3-21-89; Ord. No. 92, 1992, § 22, 9-15-92)

Secs. 3-36—3-50. Reserved.

DIVISION 3. HEARINGS

Sec. 3-51. Conduct of hearings.

(a) All hearings before the Authority shall be public and shall be conducted according to the rules and regulations concerning the procedure for hearings promulgated by the Authority.

(b) No testimony shall be offered at a hearing unless the same is given under oath.

(Code 1972, §§ 33-4(A)—(H); Ord. No. 31, 1989, § 7, 3-21-89)

Sec. 3-52. Public notice of hearings.

The applicant shall cause to be posted the public notice required pursuant to Section 12-47-311, C.R.S., for all hearings to be held on applications for the sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages. The applicant shall provide to the City Clerk evidence of such posting, which shall consist of a photograph of the posted sign in place together with a signed statement evidencing posting.

(Code 1972, § 33-4(I); Ord. No. 31, 1989, § 8, 3-21-89; Ord. No. 117, 1997, § 7, 8-5-97)

Sec. 3-53. Hearings on new license and change of location applications.

(a) Applicants and all other parties-in-interest may appear in person or be represented by counsel. At any hearing held by the Authority for purposes of establishing the needs, desires and requirements of the neighborhood, only a party-in-interest and agents responsible for petition circulation shall be allowed to present evidence, testify or cross-examine witnesses.

(b) The Authority may limit the presentation of evidence tending to be repetitious or immaterial.

(c) As applicable, the applicant may introduce evidence with regard to the following:

- (1) Information regarding the applicant's character, reputation and other matters relating to the personal qualifications of the applicant or any other person whose personal qualifications are relevant pursuant to law;
- (2) The applicant's relevant financial and management associations and the relevant interests of other persons in the business;
- (3) The type of building in which the business is to be conducted and the facilities which will be used by the applicant, including a floor plan of the proposed premises;

- (4) The neighborhood affected by the application. There is a rebuttable presumption that the relevant neighborhood most likely to be affected by the applicant's proposed establishment is that area surrounding such establishment within a one-mile radius. The City Clerk shall notify the applicant of the boundaries of the neighborhood pursuant to this presumption, which boundaries shall be accepted or rejected by the applicant, in writing, within five (5) days thereafter. If the proposed boundaries are rejected, the matter shall be scheduled for a boundary hearing before the Authority, at which time evidence may be presented by any party-in-interest for the purpose of modifying the geographic extent of the presumed relevant neighborhood.
- (5) The reasonable requirements of the neighborhood and the desires of its inhabitants for the type of license for which application has been made.
 - a. Petitions favoring or opposing the license applied for may be presented at the hearing. Petitions may be circulated only within the neighborhood affected by the application. Every person signing the petition shall sign only their own name, address and their age or otherwise indicate that such person is at least of legal age to purchase or consume the malt, special malt, vinous or spirituous liquors or fermented malt beverages which are the subject of the license applied for. The date when the signature is affixed to the petition shall be put on the petition by the party signing the same. No signatures will be considered which are dated prior to the date the application was received by the City Clerk.
 - b. Each petition shall contain a verified statement signed by the circulator of the petition indicating that the circulator personally witnessed each signature appearing on the petition and that, to the best of his or her knowledge, each signature is the signature of the person whose name it purports to be and that the address given opposite that person's name is the true business or residence address of the person signing the petition.
- (6) The proposed establishment meets the zoning and planning requirements of the City.
- (7) Any other pertinent matters affecting the qualifications of the applicant and the location of the proposed premises.
- (d) Any party-in-interest may introduce evidence with regard to any pertinent matter affecting the application.
- (e) The Authority may make such independent investigation as it deems necessary or advisable in connection with any application for a license.

(Code 1972, § 33-4(J); Ord. No. 31, 1989, § 9, 3-21-89; Ord. No. 188, 2000, § 2, 1-2-01)

Sec. 3-54. Show cause hearings.

(a) When matters are brought to the attention of the Authority which, if substantiated, constitute a violation of this chapter or of Title 12, Articles 46, 47 and 48, C.R.S., or the rules and regulations relating thereto, the Authority shall promptly notify the licensee, in writing, by mail or personal delivery, of the date and time established for a show cause hearing at which time the licensee will be required to show cause why a penalty should not be levied if a violation is found.

(b) Such notice shall contain a brief description of the grounds for conducting the hearing. The hearing shall be held as soon as is reasonably possible after notice has been mailed or delivered to the licensee.

(c) At the hearing, the City shall present matters into evidence and the licensee shall have an opportunity to present evidence on the licensee's behalf and to comment upon the evidence. The licensee shall be entitled to be represented by counsel. The Authority shall furnish the licensee its decision in writing within thirty (30) days following the hearing. In the event of suspension or revocation of the license, no portion of the annual license fee paid pursuant to § 3-75 shall be refunded.

(Code 1972, § 33-6; Ord. No. 31, 1989, § 10, 3-21-89; Ord. No. 188, 2000, § 3, 1-2-01)

Editor's note—Section 10 of Ord. No. 31, 1989, adopted Mar. 21, 1989, renumbered former § 3-55 as § 3-54 and amended the text

Sec. 3-55. Aggravating and mitigating factors considered at show cause hearings.

In all cases where a violation of the applicable state or local laws is found at a show cause hearing, the Authority shall consider evidence and statements in mitigation and in aggravation of the violation prior to determining the appropriate penalty. Such evidence and statements may relate to and include, but not be limited to, the following factors:

- (1) Seriousness of the violation
 - (2) Corrective action taken by the licensee after the violation;
 - (3) Prior violations at the licensed premises by the licensee or the licensee's employees and the effectiveness of prior corrective action;
 - (4) Prior violations at the licensed premises by a prior licensee or the prior licensee's employees, and the sanctions imposed for such violations, if the current licensee or any of the current licensee's owners, partners, shareholders, directors, officers or managers held an ownership interest of five (5) percent or more in the entity holding such prior license.
 - (5) Whether the violation is part of a repeated course of conduct or is an isolated occurrence;
 - (6) Likelihood of recurrence;
 - (7) All circumstances surrounding the violation;
 - (8) Willfulness of the violation;
 - (9) Length of time the license has been held by the licensee;
 - (10) Previous sanctions imposed against the licensee; and
 - (11) Other factors making the situation with respect to the licensee or the licensed premises unique.
- (Code 1972, § 33-5; Ord. No. 31, 1989, § 11, 3-21-89; Ord. No. 20, 1992, § 1, 3-3-92)

Secs. 3-56—3-70. Reserved.

**ARTICLE III.
LICENSES, TAXES, REGULATIONS AND PROCEDURES***

Sec. 3-71. License required.

It shall be unlawful for any person within the City to manufacture, sell, offer or possess for sale any malt, special malt, vinous, spirituous liquors or fermented malt beverages unless licensed to do so as provided by this Chapter and the applicable provisions of Title 12, Articles 46, 47 and 48, C.R.S.
(Code 1972, § 33-7; Ord. No. 31, 1989, § 12, 3-21-89)

Sec. 3-72. Reserved.

Sec. 3-73. Applications.

(a) All applications for liquor or fermented malt beverage licenses shall be filed with the City Clerk. Any person applying for such license shall file the state license application form and the local license application forms, if any, all of which shall be filled out and completed in all material detail, including all exhibits that may be required to be attached in accordance with any local requirements. Incomplete or erroneous applications shall be rejected. All application forms shall be typewritten or printed in black or blue ink. All other information or exhibits submitted shall be typewritten or printed in black or blue ink except plans and specifications which may be required.

* Cross-references—**Finance, Ch. 8; licenses and business regulations, Ch. 15; taxation, Ch. 25.**

(b) The City Clerk shall establish application filing deadlines so as to allow sufficient time for completion of investigations, posting and publishing notice of hearings, if applicable, and taking such other action as is necessary prior to the Authority's consideration of the application.
 (Code 1972, § 33-9; Ord. No. 31, 1989, § 14, 3-21-89)

Sec. 3-74. Application fees.

(a) Application fees shall be payable to the City as follows:

	<i>Fees</i>
(1) New license (including change of class of license)	\$500.
(2) Transfer of ownership or change of location of license.....	400.
(3) Late renewal	500.
(4) Temporary permit (to allow continued operation during period that an application for transfer of ownership is pending)	100.
(5) Renewal of license.....	50.
(6) Manager registration.....	75.
(7) Special events permit (per day)	25.
(8) Modification of premises.....	75.
(9) Change in corporate or limited liability company structure, per each required background investigation	100.
(10) Beer and wine tastings permit	150.
(11) Art gallery permit	103.75

(b) The foregoing fees shall be nonrefundable. The foregoing fees shall be in addition to any fees imposed by the State.
 (Code 1972, § 33-12; Ord. No. 31, 1989, § 16, 3-21-89; Ord. No. 125, 1989, § 1, 9-19-89; Ord. No. 141, 1991, § 2, 12-17-91; Ord. No. 55, 1996, § 1, 5-21-96; Ord. No. 117, 1997, § 8, 8-5-97; Ord. No. 087, 2006, § 4, 6-6-06; Ord. No. 083, 2008, § 3, 8-19-08)

Editor's note—Section 15 of Ord. No. 31, 1989, adopted Mar. 21, 1989, repealed § 3-74, requiring public notice for all hearings to be held on new alcoholic beverage license applications, derived from Code 1972, § 33-10; §§ 16—18 renumbered §§ 3-75—3-77 as §§ 3-74—3-76; and § 19 added a new § 3-77.

Cross-reference—Finance, Ch. 8.

Sec. 3-75. Annual license fees.

Annual license fees shall be paid to the City as provided by state law. Annual license fees shall be paid in advance and shall not be rebated or discounted on a proportionate basis for any license in existence or issued for less than a year. The fees shall be in addition to any annual license fees required to be paid to the State.

(Code 1972, § 33-11(A); Ord. No. 31, 1989, § 17, 3-21-89)

Note—See the editor's note to § 3-74.

Sec. 3-76. Occupation tax.

(a) The City Council hereby finds, determines and declares that considering the nature of the business of manufacturing or selling or offering for sale malt, special malt, vinous or spirituous liquors or fermented malt beverages and the relation of such business to the municipal welfare, as well as the relation 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, the classification of such business as a separate occupation is reasonable, proper, uniform, nondiscriminating and necessary for a just and proper distribution of tax burdens within the City. Accordingly, the business of selling at retail any fermented malt beverage, malt, special malt, vinous or spirituous liquors is hereby defined and separately classified as an occupation as specified below.

(b) The following annual occupation taxes are hereby established and shall be paid by the applicant or licensee to the City:

<i>License</i>	<i>Occupation Tax</i>
(1) Retail liquor store license.....	\$ 750.
(2) Liquor-licensed drugstore license	750.
(3) Beer and wine license	800.
(4) Hotel and restaurant license	1,600.
(5) Tavern license	1,600.
(6) Brew pub license.....	1,600.
(7) Club license.....	800.
(8) Arts license.....	150.
(9) All licenses to sell fermented malt beverages for consumption both on and off the premises.....	750.
(10) All licenses to sell only fermented malt beverages by the drink for consumption on the premises	750.
(11) All licenses to sell only fermented malt beverages in their original containers for consumption off the premises.....	750.
(12) Optional premises license (not associated with a hotel and restaurant license).....	1,600.

(c) The taxes shall be due on January 2 of each year and shall be in addition to the annual license fees paid to the City and the State and shall be paid prior to the issuance or renewal of the City alcohol beverage license. No delinquency in payment of the tax shall be grounds for suspension or revocation of any alcohol beverage license granted hereunder. No refund of any tax paid in accordance with this Chapter shall be made to any person who discontinues or sells the business during the duration of the occupation tax license. The new owner of any establishment when approved as a new alcohol beverage licensee shall be credited on a monthly basis for any occupation tax paid by the previous owner for the unexpired term of the previous owner's occupation tax license. Whenever any alcohol beverage licensee begins business with a new license subsequent to January 2 of any year, the occupation tax required herein shall be paid in full prior to the commencement of business and shall be prorated on a monthly basis for the remaining portion of the year.

(d) If any person fails to pay the tax when due, there shall be added to the amount owing a penalty equal to the sum of fifteen dollars (\$15.) or ten (10) percent thereof, whichever is greater, and interest on such delinquent taxes at the rate imposed by § 25-188 plus one-half (0.5) percent per month from the date the tax was due, not exceeding eighteen (18) percent in the aggregate.

(e) Upon receipt of the tax, the City shall execute and deliver to the licensee paying the tax an occupation tax license showing the name of the licensee, date of payment and amount, the annual period of which such tax is paid and the address of the licensed premises. The person operating the business shall, at all times during the year, keep the license posted in a conspicuous place on the licensed premises.

(f) The occupation tax imposed by this Section, together with all penalties and interest pertaining thereto, shall constitute a first and prior lien upon the personal properties defined in § 25-189 of the Code and shall be established and enforceable in the same manner as sales and use taxes as provided in Chapter 25, §§ 189, 191, 192, 194, 195, 196, 197, 198, 199 and 225 of the Code.

(Code 1972, § 33-11(B)—(D); Ord. No. 31, 1989, § 18, 3-21-89; Ord. No. 126, 9-19-89; Ord. No. 98, 1996, 8-6-96; Ord. No. 78, 1997, § 1, 6-3-97; Ord. No. 117, 1997, §§ 9, 10, 8-5-97)

Note—See the editor's note to § 3-74.

Cross-reference—Taxation, Ch. 25.

Sec. 3-77. Remedies; violations.

(a) In addition to any other remedy provided by this Chapter, the City shall have the right to recover all sums due and owing under this Chapter by any civil remedy available under existing law.

(b) No person shall operate any licensed premises in the City without paying the fees, taxes, penalties and interest imposed by this Chapter.

(Ord. 31, 1989, § 19, 3-21-89)

Note—See the editor's note to § 3-74.

Sec. 3-78. Modification of premises.

(a) No licensee shall physically change, alter or modify the licensed premises from that shown in the plans and specifications submitted at the time the licensee obtained the original license until written approval to do so has been received from the Authority and the state licensing authority, pursuant to the regulations adopted by the State.

(b) Requests for changes, alterations or modifications of the licensed premises shall be on such forms as are provided by the state licensing authority and, in addition, on such forms as may be provided by the City, if any. The request shall be accompanied by plans and specifications, on pages not larger than eight and one-half (8½) inches by eleven (11) inches, which shall be sufficient to advise the Authority of the scope and nature of the proposed request.

(Code 1972, § 33-15; Ord. No. 31, 1989, § 21, 3-21-89; Ord. No. 55, 1996, § 2, 5-21-96; Ord. No. 117, 1997, § 11, 8-5-97)

Editor's note—Section 20 of Ord. No. 31, 1989, adopted Mar. 21, 1989, repealed §§ 3-78, 3-79, derived from Code 1972, §§ 33-13, 33-14; and § 21 renumbered § 3-80 as § 3-78.

Sec. 3-79. Change of location.

No license issued by the Authority shall be transferred to another location howsoever proximate without the approval of the Authority. The policies and procedures for such transfer of location of licensed premises shall be the same as those for the issuance of new licenses, except information and investigation regarding the applicant shall not be required. An application fee as provided in § 3-75 shall be charged.

(Code 1972, § 33-17; Ord. No. 31, 1989, § 23, 3-21-89)

Editor's note—Section 22 of Ord. No. 31, 1989, adopted Mar. 21, 1989, repealed § 3-81, relating to change of ownership of licensed premises, derived from Code 1972, § 33-16; and § 23 renumbered § 3-82 as § 3-79 and amended the title.

Sec. 3-80. Proof required as to nature and operation of hotel-restaurant and brew pub establishments.

Any hotel-restaurant or brew pub licensee shall, upon the request of the City Clerk, furnish to the City, within thirty (30) days of such request, satisfactory evidence to demonstrate whether the establishment is operating as a hotel-restaurant or brew pub, as the terms are defined by law. Such evidence may consist of account records for a period of time to be specified by the City Clerk, showing separately the gross receipts on an annual basis from the sale of food items and alcohol beverages.

(Code 1972, § 33-18; Ord. No. 31, 1989, § 24, 3-21-89; Ord. No. 117, 1997, § 12, 8-5-97)

Editor's note—Section 24 of Ord. No. 31, 1989, adopted Mar. 21, 1989, renumbered § 3-83 as § 3-80 and amended the text; § 25 renumbered § 3-84 as § 3-81 and amended the text; and § 26 repealed § 3-85, relating to remedies and penalties, derived from Code 1972, § 33-11(E), (F).

Sec. 3-81. Report of disturbances.

(a) All licensees and permit holders, and any agent, manager or employee thereof, shall immediately report to Police Services any unlawful or disorderly act, conduct or disturbance committed in or on the licensed premises.

(b) Each licensee and permit holder shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign with a minimum height of fourteen (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (½) inch in height, which shall read as follows:

"WARNING: The City of Fort Collins Police Department must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment."

(c) It shall not be a defense to a prosecution of a licensee or permit holder under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent, servant or employee of the licensee shall be personally responsible for failing to report an unlawful or disorderly act, conduct or disturbance hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

(d) Failure to comply with the requirements of this Section shall be considered by the Licensing Authority in any action relating to the issuance, revocation, suspension or nonrenewal of a license or the cancellation, revocation, or suspension of a temporary or special events permit. A violation of this Section shall also constitute a misdemeanor offense, punishable as provided in § 1-15 of this Code.

(Code 1972, § 33-19; Ord. No. 31, 1989, § 25, 3-21-89; Ord. No. 130, 2002, § 7, 9-17-02; Ord. No. 41, 2003, 3-18-03)

Note—See the editor's note to § 3-80.

Sec. 3-82. Late renewal application.

Pursuant to Section 12-47-302(2), C.R.S., and the regulations adopted pursuant thereto by the State, a licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of applicable fees. A licensee who files a late renewal application and pays the applicable fees may continue to operate until both the Authority and the State have taken final action to approve or deny such licensee's late renewal application. The Authority shall not 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 (90) 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. No. 125, 1989, § 2, 9-19-89; Ord. No. 117, 1997, § 13, 8-5-97)

Sec. 3-83. Temporary permit.

(a) The Authority may, in accordance with the provisions of Section 12-47-303, C.R.S., issue a temporary permit to a transferee of an alcohol beverage license issued by the Authority. Such temporary permit shall authorize a transferee to continue selling alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

(b) If the next regularly scheduled meeting of the Authority will not be held within five (5) working days of the receipt by the City Clerk of an application for a temporary permit under this Section, the City Clerk shall issue the temporary permit requested by such an application provided the Clerk first determines the following:

- (1) That the applicant is in compliance with all applicable provisions of Section 12-47-303, C.R.S.; and
- (2) That a preliminary background check conducted by Police Services of the applicant and its officers, directors and owners having a ten-percent or more ownership interest indicates that such persons have not been convicted of a felony or an offense involving moral turpitude.

If either of these determinations cannot be made by the City Clerk with respect to any application that the Clerk has authority to consider under this Subsection (b), the Clerk shall not issue a temporary permit.

(c) If for any reason the City Clerk decides not to issue a temporary permit applied for under this Section, the applicant shall be entitled to a hearing before the Authority at its next regularly scheduled meeting, at which time the Authority shall consider the City Clerk's decision not to issue the temporary permit and it may, in its discretionary authority, either uphold the decision of the City Clerk or reverse it and issue the temporary permit to the applicant. (Ord. No. 141, 1991, § 3, 12-17-91; Ord. No. 117, 1997, § 14, 8-5-97)

Sec. 3-84. Optional premises licenses.

(a) The Authority shall have the power to issue optional premises licenses and optional premises for hotel and restaurant licenses in accordance with the provisions of Title 12, Article 47, C.R.S., and the provisions of this Section. The provisions of this Section shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code and this Chapter. The optional premises license and the optional premises for hotel and restaurant licenses shall collectively be referred to as an "optional premises license" unless otherwise specified herein.

(b) An optional premises license may only be considered when the premises to be licensed is located upon an outdoor sports and recreational facility as defined in Section 12-47-103(22), C.R.S.; provided, however, that the type of outdoor sports and recreational facilities which may be considered for an optional premises license shall be limited to golf courses.

(c) There shall be no minimum size requirement for 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 and recreational facility in relation to the number of optional premises requested for the facility.

(d) There shall be no restrictions on the number of optional premises which any one licensee may have on an outdoor sports and recreational facility. However, any applicant requesting approval of more than one (1) optional premises on an outdoor sports and recreational facility shall demonstrate the need for each optional premises in relationship to the outdoor sports and recreational facility and its guests.

(e) When submitting a request for the approval of an optional premises license, an applicant shall also submit the following information:

- (1) A map or other drawing illustrating the outdoor sports and recreational facility boundaries and the approximate location of each optional premises requested.
- (2) A description of the method which shall be used to identify the boundaries of the optional premises when in use.
- (3) 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.

(f) An application for a new optional premises license or an optional premises for a new hotel and restaurant license shall be processed in the same manner as any other new license application. An application for an optional premises filed in connection with an existing hotel and restaurant license shall be processed in the same manner as an application to modify or expand the licensed premises.

(g) Pursuant to Section 12-47-310, C.R.S., no alcohol beverages may be served on the optional premises unless the licensee has provided written notice to the state and local licensing authorities forty-eight (48) hours prior to serving alcohol 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 shall be 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 beyond the current license period.

(Ord. No. 78, 1997, § 1, 6-3-97; Ord. No. 117, 1997, §§ 15, 16, 8-5-97)

Sec. 3-85. Distance restrictions.

The distance restrictions imposed by Section 12-47-313(d)(I), C.R.S., prohibiting the sale of malt, vinous or spirituous liquor within five hundred (500) feet of the principal campus of any college or university, are eliminated for any class of retail license except the retail liquor store license and the liquor-licensed drugstore license, but only with respect to the distance between the proposed licensed premises and the properties owned by the State Board of Agriculture for the benefit and use of Colorado State University. Except as said distance restrictions are hereby eliminated with respect to properties of Colorado State University, said distance restrictions shall continue in full force and effect as they pertain to any other public or parochial school or the principal campus of any other college, university or seminary.

(Ord. No. 117, 1997, § 17, 8-5-97)

Sec. 3-86. Bed and breakfast permit; exemptions.

(a) A person operating a bed and breakfast with not more than twenty (20) sleeping rooms that offers complimentary malt, vinous or spirituous liquors for consumption only on the premises and only by overnight guests may be issued a bed and breakfast permit. A bed and breakfast licensee shall not sell alcohol beverages by the drink and shall not serve alcohol beverages for more than four (4) hours in any one (1) day.

(b) An applicant for a bed and breakfast permit is exempt from the provisions of Paragraphs 3-53(c)(4) and (5), but is subject to all other requirements of this Chapter.

(Ord. 19, 2002, § 3, 2-19-02)

Sec. 3-87. Beer and wine tastings authorized; permit required.

(a) Beer and wine tastings on the licensed premises of a retail liquor store licensee or of a liquor-licensed drugstore licensee are authorized to be conducted within the City in accordance with Section 12-47-301(10), C.R.S., and subject to the provisions of this Chapter.

(b) The Authority is authorized to issue beer and wine tasting permits in accordance with the requirements of this Chapter.

(c) It shall be unlawful for any person to conduct beer and wine tastings within the City without having first received a permit issued in accordance with this Section.

(d) Retail liquor store licensees and liquor-licensed drugstore licensees desiring to conduct tastings shall submit a tasting permit application to the City Clerk accompanied by a one-hundred-fifty-dollar application fee.

(e) The Authority shall establish the procedures for obtaining a beer and wine tasting permit, which procedures shall include, without limitation, conducting a noticed public hearing before the Authority at which hearing the applicant must establish that the applicant is able to conduct beer and wine tastings without violating the provisions of this Chapter. The Authority may deny the application and any renewal application if it finds that the applicant has violated any provision of the Colorado Liquor Code, rules and regulations or the City Code pertaining to alcohol sales and service in the previous two (2) years, if the applicant has not established the ability to conduct beer and wine tastings in accordance with the provisions of this Chapter or if the Authority finds that the proposed beer and wine tastings would create a public safety risk to the neighborhood. The notice required for the public hearing shall be the posted and published notices required by Section 12-47-311, C.R.S.

(f) The forms for the beer and wine tasting permit application, the renewal application and the beer and wine tasting permit shall be those prescribed by the Authority. These forms shall include, without limitation, a schedule of the dates and times of the beer and wine tastings to be conducted on the licensed premises and by whom during the term of the permit. The licensee may deviate from the approved schedule, provided that:

- (1) The licensee gives the City Clerk and the City's liquor enforcement officer seven (7) days' prior written notice of such deviation; and

(2) Such deviation does not violate any provision of this Chapter, the Colorado Liquor Code, Code of Regulations or any other state law or municipal ordinance or regulation. An applicant for a beer and wine tasting permit must also include with the filing of the initial and any renewal application, and keep current with the City Clerk's office at all times, written proof that the licensee and each employee of the licensee who will be conducting the beer and wine tastings have completed a server training program for beer and wine tastings that meets the standards required by state law.

(g) Renewal of beer and wine tasting permits shall be concurrent with the renewal of licenses for retail liquor stores and liquor-licensed drugstores. A licensee's initial beer and wine tasting permit shall expire on the same date as the date of the licensee's retail liquor store or liquor-licensed drugstore license expires. The initial beer and wine tasting permit application fee shall not be prorated if the permit expires in less than a year. Beer and wine tasting permit renewal forms shall be submitted to the City Clerk, accompanied by a fifty-dollar renewal fee. The City Council may change this fee by resolution.

(h) Beer and wine tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during business hours.

(i) A beer and wine tasting permit shall only be issued to a retail liquor store or a liquor-licensed drugstore licensee whose license is valid, not subject to a current or pending enforcement action by the City or the State and in full force and effect.

(Ord. No. 087, 2006, § 1, 6-6-06)

Sec. 3-88. Limitations on beer and wine tastings.

(a) Beer and wine tastings within the City shall be subject to the following limitations:

(1) Beer and wine tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the liquor enforcement division of the Colorado Department of Revenue and who is either a retail liquor store licensee or a liquor-licensed drugstore licensee, or an employee of a licensee, and only on a licensee's licensed premises;

(2) The alcohol used in beer and wine tastings shall be purchased through a licensed wholesaler, licensed brew pub or winery licensed pursuant to Section 12-47-403, C.R.S., at a cost that is not less than the laid-in cost for such alcohol;

(3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor;

(4) Beer and wine tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive;

(5) Beer and wine tastings shall be conducted only during the operating hours in which the licensee on whose premises the beer and wine tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11:00 a.m. or later than 7:00 p.m.

(6) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample;

(7) The licensee shall promptly remove all open and unconsumed beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the beer and wine tastings;

(8) The licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated;

(9) The licensee shall not serve more than four (4) individual samples to a patron during a beer and wine tasting;

(10) The alcohol samples used in the beer and wine tastings shall be served in clear, open containers and shall be provided to a patron free of charge;

- (11) Beer and wine tastings may occur on no more than two (2) of the six (6) days from a Monday to the following Saturday, not to exceed fifty-two (52) days per year;
 - (12) The licensee shall maintain on the licensed premises a log of all beer and wine tastings on forms proscribed by the Authority to be submitted to the City Clerk each year with the beer and wine tasting permit renewal application, and during all business hours the log shall be subject to inspection by city and state officials authorized to enforce the Colorado Liquor Code and/or this Code upon request; and
 - (13) No manufacturer of spirituous or vinous liquor shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a beer and wine tasting, and the licensee shall bear the financial and all other responsibility for a beer and wine tasting.
- (Ord. No. 087, 2006, § 2, 6-6-06)

Sec. 3-89. Violations.

(a) A violation of a limitation specified in §§ 3-87 and 3-88 or in Section 12-47-301(10), C.R.S., by a retail liquor store or a liquor-licensed drugstore licensee, whether by the licensee's employees, agents or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the beer and wine tasting.

(b) Retail liquor store and liquor-licensed drugstore licensees conducting a beer and wine tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to those licensees by the Authority. The Authority shall conduct a hearing with regard to any violation of § 3-87 through § 3-88 in accordance with this Code, the Authority's rules, regulations and Section 12-47-601, C.R.S.

(c) Nothing in this Chapter shall affect the ability of a Colorado winery licensed pursuant to Section 12-47-402 or 12-47-403, C.R.S., to conduct a beer and wine tasting pursuant to the authority of Section 12-47-402(2) or 12-47-403(e), C.R.S.

(Ord. No. 087, 2006, § 3, 6-6-06)