

## ARTICLE II. - ALCOHOLIC BEVERAGES <sup>[59]</sup>

<sup>(59)</sup> **State Law reference**— Colorado Beer Code, C.R.S. § 12-46-101 et seq.; Colorado Liquor Code, C.R.S. § 12-42-101 et seq.

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### DIVISION 1. - GENERALLY

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#### **Sec. 42-26. - Definitions.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverages or alcoholic liquors* means malt, vinous or spirituous liquors.

*Applicant* means any person who is applying for or has applied for and received an approval to sell malt, vinous or spirituous liquors or fermented malt beverages, and more particularly:

- (1) If an individual, that person making an application for a license under this article.
- (2) If a partnership, all the partners of the partnership who are making an application for a license under this article.
- (3) If a corporation, all the officers, directors or stockholders of the corporation making an application for a license under this article.
- (4) If a limited liability company, all members which are making an application for a license under this article.

*Authority, licensing authority or local licensing authority* means the local licensing authority of the city or the liquor licensing authority as established by the city council and defined by state statutes.

*Fermented malt beverage (3.2 percent beer)* means 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 0.5 percent alcohol by volume and not more than 3.2 percent alcohol by weight or four percent alcohol by volume.

*High school* means, as used in Section 42-130, a public or parochial school, including either grades nine through 12 or grades ten through 12; but any school which includes other than or more than grades nine through 12 is not included in the definition of high school.

*Licensee* means a person licensed by the city and the state licensing authorities to sell fermented malt beverages or malt, vinous or spirituous liquors in the city.

*Local licensing investigator* means the chief of police or the authorized representative of the chief of police.

*Malt liquor (not 3.2 percent beer)* 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 alcohol by weight or four percent alcohol by volume.

*Manager* includes that person who manages, directs, supervises, oversees or administers the acts or transactions of the customers, representatives, agents or employees of the licensee.

*School* means any private, public or parochial school meeting the requirements of the School Attendance Law of 1963, as amended, § 22-33-101 et seq., C.R.S. or any campus of a public, private or parochial college, university or seminary.

*Spirituous liquors* means any alcoholic 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 of one percent alcohol 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 in the definition of malt liquor or vinous liquor, shall not be construed to be malt or vinous liquor but shall be construed to be spirituous liquor.

*State* means the state department of revenue liquor enforcement division.

*Stockholder* means any person who owns or has the right to exercise control over ten percent or more of the outstanding capital stock of a corporation.

*Vinous liquors* means wine and fortified wines which contain not less than one-half of one percent and not more than 21 percent alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(b) All other words and phrases used in this article have the meanings set forth in C.R.S. §§ 12-46-101 et seq., 12-47-101 et seq., 12-48-101 et seq., as amended, repealed or reenacted, or, if not otherwise defined by law, as used in their common, ordinary and accepted sense and meaning.

(Code 1975, § 25-1; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 1, 5-26-92; Ord. No. 2349, § 1, 10-24-94; Ord. No. 2427, § 1, 7-22-96; Ord. No. 2460, § 1, 7-28-97)

**Cross reference—** Definitions generally, § 1-2.

## **Sec. 42-27. - Consumption and possession regulated.**

(a) Except as required in the course of lawful employment or as otherwise authorized by this article, it shall be unlawful for any person within the jurisdiction of the city to possess an open container of or consume any fermented malt or alcoholic beverages in public, except upon premises licensed or permitted under the provisions of C.R.S. §§ 12-46-101 et seq., 12-47-101 et seq., 12-48-101 et seq.

(b) Notwithstanding any provision of this article to the contrary, a hotel or restaurant licensed pursuant to this section may permit a customer of the hotel or restaurant to reseal and remove from the licensed premises one opened container of partially consumed vinous liquor purchased on the premises so long as the original container did not contain more than 750 milliliters of vinous liquor.

(1) As applied to vehicles, the open container may not be consumed, possessed or located in the passenger area of any motor vehicle.

(2) "*Passenger area*" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to any type of glove or storage compartment accessible to passengers or driver.

(3) The provisions of [subsection] (b)(1) shall not apply to:

a. Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

b. The possession by a passenger, other than the driver or a front seat passenger, of an open alcoholic beverage container in the living quarters of a house coach, house trailer, motor home or trailer coach;

c. The possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

(c) For the purpose of this section, the term "*open container*" means any container which is either opened so that the contents can be removed or upon which the seal, cork, pull tab or any type of cap applied by the manufacturer has been broken. A container shall be deemed an open container even if such container is resealed by any type of cap or seal.

(d) For the purpose of this article, the term "*in public*" means:

(1) In or upon any public highway, street, alley, walk, parking lot, building, park or other property or place which is owned or leased by the city or other governmental entity, whether in a vehicle or not; and

(2) In or upon those portions of any private property upon which the public has an express or implied license to enter or remain. If such express or implied license is subject to time or conduct restrictions, consumption or prohibited possession of fermented malt or alcoholic beverages on such property shall be deemed to be "in public" even if the entry or remaining on the property is in violation of the time or conduct restrictions.

(e) For the purpose of this article, the term "*possess*" or "*possession*" means exercising physical control over or holding such container, but also means exercising dominion and control over the place where such containers are found.

(f) The city manager may, as provided in this subsection, grant express written permission to persons to consume fermented malt or alcoholic beverages on city-owned property for the following special functions: athletic events; artistic events; cultural events; receptions; street closure events; or civic events.

(1) The city manager shall adopt an administrative directive specifying the city properties or portions thereof upon which fermented malt or alcoholic beverages may be consumed.

(2) The city manager shall grant such permission to persons applying therefor if, considering the type of function and the type of alcohol to be served, the manager finds that:

a. The application to the city manager was filed not later than 30 days prior to the date of the event.

b. The time, location and duration of the function are not likely to significantly interfere with public traffic or services, including public safety services.

c. The number and concentration of participants at outside street closure events and at other indoor functions shall not result in occupancy levels exceeding limitations in the city fire code. The number and concentration of participants for an event shall not create a nuisance resulting in inconvenience to the residents of the surrounding neighborhood.

d. Procedures are proposed that are likely to ensure that underage persons, and persons under the influence of alcohol, will not obtain or consume fermented malt or alcoholic beverages served at the function.

e. Procedures are proposed that are likely to secure and supervise the area and the participants during the function.

f. The applicant agrees to provide sandwiches and other food services at the location during the time consumption is permitted in an amount sufficient to serve the persons anticipated to attend.

g. The applicant agrees to be personally responsible for and provide financial guaranties to ensure the cleaning, trash disposal or repairs necessary as a result of the event for which the permission was granted. The city manager shall determine the amount of required financial guaranty based upon the city facility involved, the duration of the event, the number of persons anticipated to attend, the type of beverage to be served, the failure of the applicant to clean or repair city property in conjunction with past events, and the financial resources of the applicant.

h. The applicant agrees to indemnify and hold harmless the city, its employees and agents for all liability claims arising out of the event, and to provide general liability insurance, with minimum liability limits equal to that established by the Colorado Governmental Immunity Act (C.R.S. § 24-10-101 et seq.), to guarantee indemnification. The city manager may waive or reduce this insurance requirement if the applicant affirmatively establishes that the risk of liability to the city as a result of the function does not present the city with any significant additional risk of liability.

(3) The city manager may issue a permit for consumption of fermented malt or alcoholic beverages on city-owned property based upon the following criteria:

a. The request is for or on behalf of a city sponsored or co-sponsored civic event using any city-owned property; and

b. The proposed event meets all the criteria as stated in subsection (2)(b) through (f) of this section.

- (4) The city manager shall deny permission on the grounds that:
- a. There is insufficient data presented by the applicant to make the findings required in subsection (e)(2) of this section.
  - b. Approval would be detrimental to the public safety, health, morals, order or welfare by reason of the nature of the event, the likelihood that the event would create a public nuisance, an unreasonable risk of violence or public disorder or result in the consumption of alcoholic beverages by minors; or, alternatively, that the proximity of the event to schools or the failure of the applicant to conduct a past event in compliance with this section and the applicable rules and regulations.
  - c. Another event has previously been scheduled for the same location on the same date and time.
  - d. The event would unreasonably interfere with normal activities and customary and general use and enjoyment of the facility.
- (5) An applicant who has been denied permission or who claims to be otherwise aggrieved by the city manager's decision concerning an application may make a written request to the city manager's office for a hearing on the application. Within ten days of receipt of such a request, the city manager shall conduct a hearing at which the applicant and the city may present such evidence and information as may be relevant to the application.
- (6) The granting of permission by the city manager under this section does not relieve the applicant from the responsibility of obtaining any license or special event permit as may be required by state law or city ordinances.
- (7) This section is not intended to create a right of use or possession of city-owned or leased property in any person or group; rather, this section relates only to permission to consume malt, vinous or spirituous liquor or fermented malt beverage by an individual or group who otherwise has the lawful right to use or possess city-owned property pursuant to city policy.

(Code 1975, § 25-23; Ord. No. 2349, § 5, 10-24-94; Ord. No 2675, § 1, 8-30-01; Ord. No. 2684, § 1, 10-22-01; Ord. No. 2836, §§ 1, 2, 7-27-04; Ord. No. 2958, § 1, 9-26-06)

**Sec. 42-28. - Sales prohibited.**

- (a) It shall be unlawful for any person to sell, serve or deliver or cause or permit to be sold, served or delivered any alcoholic liquor within the city to any person under the age of 21 years or to any visibly intoxicated person.
- (b) It shall be unlawful for any person to serve any alcoholic liquor to any adult person, and permit the adult person to serve or give the alcoholic liquor on the licensed premises to any person under the age of 21 years, in company with such adult person.
- (c) It shall be unlawful for any person to sell, serve or deliver or cause or permit to be sold or delivered any fermented malt beverage, 3.2 percent beer, to any person under the age of 21 years or to any visibly intoxicated person.
- (d) It shall be unlawful for any person to sell, serve or deliver or cause to permit to be sold or delivered any 3.2 percent beer to an adult person and permit such adult person to serve or give

the 3.2 percent beer on the licensed premises to any person under the age of 21 years in company with such adult person.

(e) It shall be unlawful for any person to sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any malt, vinous, or spirituous liquor to a visibly intoxicated person or to a known habitual drunkard.

(f) It shall be unlawful for any person to obtain or attempt to obtain malt, vinous, or spirituous liquor by misrepresentation of age or by any other method in any place where malt, vinous, or spirituous liquor is sold when such person is under 21 years of age.

(g) It shall be unlawful for any person to knowingly, or under conditions which an average parent or guardian should have knowledge of, suffer or permit any person under 21 years of age, of whom such person may be a parent or guardian, to violate any provisions of this section.

(Code 1975, § 25-27; Ord. No. 2349, § 5, 10-24-94)

**State law reference—** Sale of alcohol to underaged persons or drunkards, C.R.S. §§ 12-46-112, 12-47-128.

#### **Sec. 42-29. - Underage purchase prohibited.**

It shall be unlawful for any person under the age of 21 years to purchase any malt, vinous, spirituous liquors or 3.2 percent beer.

(Code 1975, § 25-28; Ord. No. 2349, § 5, 10-24-94)

**State law reference—** Purchase of alcohol by underaged persons, C.R.S. §§ 12-46-112, 12-47-128.

#### **Sec. 42-30. - Illegal possession or consumption of ethyl alcohol by underage person.**

(a) It shall be unlawful to possess or consume ethyl alcohol by an underage person as set forth in C.R.S. § 18-13-122, which statute, as amended, is incorporated herein by this reference provided, however, penalties shall be in accordance with subsection (b) herein.

(b) Any violation of Section 42-30 shall be punished as provided in Section 1-8(a) of the Code. The municipal court judge may impose alcohol education classes and/or useful public service in addition to any fine.

(Code 1975, § 25-36; Ord. No. 2349, § 5, 10-24-94; Ord. No. 2606, § 1, 4-10-00)

#### **Secs. 42-31—42-55. - Reserved.**

## DIVISION 2. - LOCAL LICENSING AUTHORITY <sup>[60]</sup>

<sup>(60)</sup> **Cross reference**— Boards and commissions, § 2-81 et seq.

<sup>(60)</sup> **State Law reference**— Local licensing of alcohol, C.R.S. §§ 12-46-117, 12-47-135 et seq.

[Sec. 42-56. - Creation; duties and powers; statements of policy and purpose; title.](#)

[Sec. 42-57. - Composition and organization.](#)

[Sec. 42-58. - Subpoenas; violations and penalties.](#)

[Sec. 42-59. - Appeal from decisions.](#)

[Secs. 42-60, 42-61. - Reserved.](#)

[Secs. 42-62—42-90. - Reserved.](#)

### **Sec. 42-56. - Creation; duties and powers; statements of policy and purpose; title.**

(a) *Creation.* A local licensing authority is created, which shall have and is vested with all the authority possible to have pursuant to C.R.S. §§ 12-46-101 et seq., 12-47-101 et seq., 12-48-101 et seq., as amended, revised, repealed or reenacted, including but not limited to the power to grant, approve, renew, suspend, revoke or deny licenses and special event permits for the sale at retail of malt, vinous or spirituous liquors and fermented malt beverages and the power to conduct investigations as authorized by law or to otherwise impose fines in lieu of suspension, penalties, sanctions or other conditions on the applicant, the licensee or the manager, relating to the license or the permit, and to suspend or revoke such licenses for cause in a manner allowed by law. The Thornton Local Licensing Authority (authority) shall have rules of procedure (rules) regulating the conduct of its meetings, which rules and amendments to them shall be approved by council. The authority may make recommendations to the council for changes to its rules. The authority may also make recommendations regarding the amount and manner of assessment of any local fee concerning which the city has discretion in regard to amount or manner of assessment. Any such changes in the rules or fees and manner of assessment shall be subject to approval by the city council by resolution. The authority shall have all the powers of the local licensing authority as set forth in C.R.S. §§ 12-46-101 et seq., 12-47-101 et seq., 12-48-101 et seq., as amended, revised, repealed or reenacted.

(b) *Statement of policy and purpose.* The city council declares that the provisions contained in this article are an exercise of the police power by the city for the protection of the economic and social welfare and the health, safety, peace and morals of the citizens and residents of the city, as authorized by and pursuant to the authority granted under Article XX of the State Constitution and the provisions of the Colorado Liquor and Beer Codes, as amended.

(c) *Short title.* This article may be cited as the Thornton Liquor and Beer Code.

(Code 1975, § 25-2; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 2, 5-26-92; Ord. No. 2427, § 2, 7-22-96; Ord. No. 3167, § 1, 5-24-11)

### **Sec. 42-57. - Composition and organization.**

(a) *Number of members.* The local licensing authority shall consist of nine at-large, qualified electors, who are at least 21 years of age, of the city.

(b) *Method of appointment.* Members of the authority shall be appointed by city council majority vote. Members shall be appointed at large. Members are expected to represent and reflect the conscience of the community and to translate the needs of the various neighborhoods and the desires of the adult inhabitants and, to this extent, all members should be generally acquainted with all areas of the city.

(c) *Selection of chairperson and vice-chairperson; quorum.* The authority shall annually elect by majority vote one of its regular members to serve as chairperson and one of its regular members to serve as vice-chairperson. Chairperson and vice-chairperson shall serve until a vacancy in such office occurs, or until the election of a chairperson and vice-chairperson at the next organizational meeting of the authority. A quorum shall consist of five members, and a decision of a majority of the quorum shall control.

(d) *Filling of vacancies; appointment to unexpired term.* In the case of the resignation, removal from office, termination of residence within the city or death of a member, the city council shall appoint a qualified elector of the city over the age of 21 years to fill the unexpired term of office of the member whose seat is being vacated.

(e) *Terms of office.* The term of office for each member shall be established pursuant to the Code.

(f) *Removal from office.* Any member of the local licensing authority may be dismissed for cause by a majority vote of the city council.

(g) *Licensees prohibited.* No person shall serve or continue to serve as a member of the local licensing authority who has or who obtains any financial interest in the operation of any business holding a license pursuant to C.R.S. §§ 12-46-101 et seq., 12-47-101 et seq. or if a member of such person's immediate family has obtained such an interest.

(h) *Councilmembers prohibited.* No person shall serve or continue to serve as a member of the local licensing authority who is also a current sworn office holder as an elected or appointed member of the city council.

(Code 1975, § 25-3; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 3, 5-26-92; Ord. No. 2427, § 3, 7-22-96; Ord. No. 2490, § 3, 1-12-98; Ord. No. 2582, § 3, 11-15-99)

#### **Sec. 42-58. - Subpoenas; violations and penalties.**

(a) The licensing authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of documents, data compilations or other evidence at any hearing before the licensing authority. It shall be a violation of this article for any person to willfully fail to comply with any subpoena or order to produce documents, data compilations or other evidence issued by the authority, punishable as provided in Section 1-8(b).

(b) In addition to the penalties provided for in subsection (a) of this section and upon failure of any witness to comply with a subpoena or order to produce documents, data compilations, or other evidence issued by the authority, the city attorney may, at the request of the authority, petition any judge of any court of competent jurisdiction to enter its order compelling the witness to attend and testify or produce the requested documents or other data compilations or other evidence under penalty of contempt in case of willful failure to comply with such order of court.

(Code 1975, § 25-6; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2349, § 2, 10-24-94; Ord. No. 2427, § 4, 7-22-96)

**Editor's note**— Section 4 of Ord. No. 2427, adopted July 22, 1996, repealed §§ 42-58, 42-59 and 42-61 and renumbered §§ 42-60 and 42-62 as §§ 42-58 and 42-59, respectively. Formerly, § 42-58 pertained to meetings and public hearings and derived from § 25-4 of the 1975 Code; Ord. No. 1633, adopted Dec. 22, 1986; and Ord. No. 1769, adopted June 27, 1988. Section 42-59 pertained to procedures and derived from § 25-5 of the 1975 Code; Ord. No. 1633, adopted Dec. 22, 1986; and Ord. No. 1769, adopted June 27, 1988. Section 42-61 pertained to support services and derived from § 25-7 of the 1975 Code; Ord. No. 1633, adopted Dec. 22, 1986; and Ord. No. 1769, adopted June 27, 1988.

**Sec. 42-59. - Appeal from decisions.**

An appeal from any decision of the local licensing authority shall be directly to the district court for the county, by means of a Rule 106(a)(4) C.R.C.P. or other applicable procedure. No appeal from any decision of the local licensing authority shall be made to the city council and, by passage of this article, the city council reaffirms its intention to have all matters relating to the issuance, suspension, revocation, denial, etc., of any relevant licenses in regard to fermented malt beverages or alcoholic beverages be handled by the local licensing authority and not by the city council.

(Code 1975, § 25-8; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2427, § 4, 7-22-96)

**Note**—See editor's note following § 42-58

**Secs. 42-60, 42-61. - Reserved.**

**Note**—See editor's note following § 42-58

**Secs. 42-62—42-90. - Reserved.**

## DIVISION 3. - RETAIL ESTABLISHMENTS

[Part I.] - In General

[Part II.] - License

[Part III.] - Operational Rules

### *Part I. - In General*

[Secs. 42-91—42-115. - Reserved.](#)

**Secs. 42-91—42-115. - Reserved.**

### *Part II. - License*<sup>[61]</sup>

<sup>[61]</sup> **State Law reference**— Local licensing of alcohol, C.R.S. §§ 12-46-117, 12-47-135 et seq.

[Sec. 42-116. - Applications for new licenses and issuance of licenses.](#)

[Sec. 42-117. - Neighborhood determination; scheduling of public hearings, and subpoenas.](#)

[Sec. 42-118. - Neighborhood petitions.](#)

[Sec. 42-119. - Public notice.](#)

[Sec. 42-120. - Investigation.](#)

[Sec. 42-121. - Decisions on new applicants.](#)

[Sec. 42-122. - License renewals.](#)

[Sec. 42-123. - Changes in location.](#)

[Sec. 42-124. - Changes in ownership.](#)

[Sec. 42-125. - Temporary permits.](#)

[Sec. 42-126. - Registered manager.](#)

[Sec. 42-127. - Suspension or revocation.](#)

[Sec. 42-128. - Change of name; modification of licensed premises.](#)

[Sec. 42-129. - Optional premises licenses and hotel and restaurant licenses with optional premises.](#)

[Sec. 42-130. - Modification of 500-foot restriction.](#)

[Sec. 42-131. - Special events permit.](#)

[Sec. 42-132. - Tastings.](#)

[Secs. 42-133—42-155. - Reserved.](#)

### **Sec. 42-116. - Applications for new licenses and issuance of licenses.**

(a) All applications for new licenses for the sale of alcoholic liquors at retail shall be filed with the city clerk. The applicant must answer all applicable questions on the forms provided by the city clerk. The city clerk may not accept any application that is not completed in every detail. The applicant shall furnish such additional documentation or information as the authority, the city attorney, or the city clerk deems necessary to make the determinations required by this article or in Title 12, Articles 46, 47 and 48 of the Colorado Revised Statutes as amended, including all applicable regulations thereunder. The application and all supporting documentation shall be filed in duplicate (one original plus one copy). If any application is incomplete or contains an omission or error, it shall be returned to the applicant for completion or correction without further action either by the clerk or the authority. Any licenses granted pursuant to the provisions of this article are valid for a period of one year from the date of their issuance unless revoked or suspended.

In addition to those requirements set forth in Title 12, Article 46, 47 and 48 of the Colorado

Revised Statutes, the following information must be submitted with all new applications to have the application deemed complete:

(1) Payment in full of the city and state license fees and an additional nonrefundable fee as established by resolution of the city council for the actual and necessary expenses of processing the application, investigating the applicant, conducting a public hearing and publishing and posting the required notice of such hearing and payment of the amount remitted by the city to the Colorado Bureau of Investigation and Federal Bureau of Investigation for each person required by state law or municipal ordinance to be fingerprinted. Local licensing fees, as provided for by law, shall be paid to the city clerk prior to consideration by the authority. No rebate of any fees paid for any license issued hereunder shall be made except upon the affirmative vote of a majority of the authority.

(2) If a hotel and restaurant license or a beer and wine license is applied for, the plans and specifications shall show the following:

- a. The total floor area where meals will be served.
- b. The overall seating capacity.
- c. Location of all bar counters.
- d. Size and dimension of the kitchen and other food preparation areas.
- e. Location, number and kinds of ranges, stoves or ovens, refrigerators, food lockers, dishwashers, sinks and restrooms.
- f. Location and dimension of food storage areas, and any other fixtures and equipment to be installed and used in connection with the preparation and serving of meals.
- g. The location and type of furniture, equipment and fixtures to be used in connection with the serving of meals.

(3) Written releases from the applicant and every officer, director, partner, members or partners of a limited liability company or stockholder who owns ten percent or more of the business authorizing the city and its agents to obtain financial information confirming the financing of the establishment with the exception of applicants who have a state master file.

(4) A written background investigation report to be completed by the applicant and every officer, director, and stockholders, members or partners who own ten percent or more of the business with the exception of applicants who have a state master file.

(5) In the event that the application includes plans for a kitchen or food service, evidence from the Tri-County Health Department that the applicant is or may be licensed by that agency.

(6) If the applicant is a partnership, a certificate of partnership, a certificate of good standing and a copy of the partnership agreement, including the names, addresses and percentage of ownership of all the partners who own or control the rights to over ten percent of the partnership.

(7) If the applicant is a corporation, a copy of its articles of incorporation, a certificate of good standing, minutes of corporate meetings, and the names, addresses and percentage

of ownership of all stockholders; and if a foreign corporation, evidence of its authorization to do business in Colorado, a copy of its latest annual report and a certificate of good standing.

(8) If the applicant is a limited liability company, a copy of its articles of organization acknowledged by the secretary of state, copy of operating agreement, and certificate of authority if a foreign company.

(9) Copies of any contract or agreement which grants any person the right to manage, operate, control or supervise the affairs of the proposed business or the acts of its customers, employees, agents or representatives, whether such contract or agreement presently is in effect or whether it is intended to become effective following issuance of a license.

(10) Information concerning the financial and management interests of all persons connected with the business and copies of documents governing the terms and conditions of ownership and management of the business and the premises proposed to be licensed.

(11) An affidavit stating that the outlet is not located within 500 feet of any school or the principal campus of any college, university or seminary, as computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which the liquor is to be sold, using a route of direct pedestrian access, except as allowed pursuant to Section 42-130

(b) All licenses applied for shall be issued in accordance with the laws of the state and the city. In no event shall any license be issued until it is satisfactorily established that:

(1) The building in which the license is sought to be exercised is ready for occupancy and has received a certificate of occupancy or temporary certificate of occupancy, as is necessary to comply with the provisions of the Code and laws of the city and state. The local licensing investigator shall inspect the premises to determine that the applicant has complied in every material detail with the plans and specifications submitted at the time of filing of the application and shall provide notice to the city clerk that the applicant is in compliance with the plans and specifications.

(2) The applicant has provided to the city clerk evidence that the city's sales and use tax license was issued to the applicant.

(3) The applicant has provided to the city clerk evidence from the tri-county or state health department that their establishment is licensed.

(Code 1975, § 25-9; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 4, 5-26-92; Ord. No. 2427, § 5, 7-22-96; Ord. No. 2460, § 2, 7-28-97; Ord. No. 2474, § 1, 10-13-97; Ord. No. 2537, §§ 1, 2, 2-8-99; Ord. No. 2958, § 2, 9-26-06)

**Sec. 42-117. - Neighborhood determination; scheduling of public hearings, and subpoenas.**

(a) Any application for new license or change of location where the authority makes findings and determinations as to the reasonable requirements and desires of the inhabitants of the neighborhood shall be set for a public hearing by the clerk upon the filing of a complete application. The date on which the completed application is filed with the city clerk shall be deemed to be the date of filing of the application for the purposes set forth in Title 12, Articles 46, 47 and 48 of the Colorado Revised Statutes, 1973, as amended. A hearing will not be scheduled

until such time as the city clerk deems the application complete. The city clerk shall set the date for the public hearing, which date shall be at the next available meeting of the authority but in no event less than 30 days from the date of filing the application. The city clerk may postpone the hearing date for good cause prior to the time that publication and posting of notice of hearing on the matter is to be made. Should this occur, the city clerk shall send notification to the applicant stating the new hearing date and setting forth said reason. Once the matter has been scheduled for public hearing and public notice has been given, the matter may only be continued at the discretion of the authority for good cause shown.

(b) Upon filing the application, the city clerk shall set the boundaries of the relevant neighborhood and shall notify the applicant of such boundaries which shall be deemed accepted unless the applicant rejects the boundary set by notifying the city clerk in writing within five days thereafter. In determining the relevant neighborhood the city clerk shall base the criteria on relevant factors such as population density; the nature of the area such as rural, residential, commercial or retail; traffic flow; access roads; geography; terrain; and other barriers. If the proposed boundaries are rejected, the matter shall be scheduled for a boundary hearing before the authority at the next regularly scheduled meeting. At said hearing, evidence may be presented by any party-in-interest for the purpose of modifying the geographic extent of the relevant neighborhood.

(1) At the boundary hearing the authority shall set the boundaries of the "neighborhood." The applicant may give evidence as to the appropriateness of any proposed boundary or boundaries, and give objections thereto.

(2) Upon a determination by the authority of the boundaries of the neighborhood, the city clerk shall set a public hearing on the application as provided in this subsection. The hearing date shall be set for the next regular meeting of the authority but no less than 30 days from the date of the original filing.

(c) In cases other than those in subsection (a) of this section, upon filing a complete application, or when a public hearing is requested by the authority pursuant to subsection (a), the city clerk shall schedule a public hearing if one is allowed or required. The hearing shall be set for the next regular meeting of the authority occurring not less than 30 days from the date of filing the application, provided the police department investigation has been completed. If the police department investigation is not completed, the hearing will be set for the next available meeting of the authority.

(d) Subpoenas for the attendance of witnesses or the production of evidence at public hearings shall be issued by the city clerk. The city clerk shall issue subpoenas upon the written request of any party who is entitled to present evidence at a public hearing. The issuance of such subpoenas shall be obtained by filing an affidavit which states the name and address of the proposed witness; if applicable, specifies the items sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has said items in his or her possession or under his or her control.

(1) Service of subpoenas shall be completed as in civil proceedings. All subpoenas shall be served a reasonable time before the hearing. Service of a subpoena within 48 hours of the hearing shall be presumed to be unreasonable in the absence of good cause shown.

(2) Payment of witness fees and mileage in conjunction with the service of subpoenas shall be made consistent with Colorado Rules of Civil Procedure Rule 45.

(Code 1975, § 25-10; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 5, 5-26-92; Ord. No. 2427, § 6, 7-22-96)

**Sec. 42-118. - Neighborhood petitions.**

Under this subdivision, the local licensing authority may require the applicant to circulate petitions within the boundaries of the designated neighborhood prior to the public hearing. Petition format and requirements may be set out in the authority rules of procedure.

(Code 1975, § 25-11; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88)

**Sec. 42-119. - Public notice.**

(a) The city clerk shall publish the notice of the public hearing as provided in C.R.S. §§ 12-46-101 et seq., 12-47-101 et seq., 12-48-101 et seq.

(b) The applicant shall post the required notices of all public hearings that may arise from any application and such notices shall be posted on a conspicuous place on the proposed premises for at least ten consecutive days prior to the public hearing.

(c) The sign for posting may be prepared by the city clerk's office. The applicant shall submit a posting verification log document that verifies that the public notice sign was posted everyday for the ten days prior to the hearing. Replacement signs for the applicant will be provided at a fee to be determined from time to time by resolution of the city council.

(Code 1975, § 25-12; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2427, § 7, 7-22-96; Ord. No. 2460, § 3, 7-28-97; Ord. No. 2958, § 3, 9-26-06)

**Sec. 42-120. - Investigation.**

(a) After the neighborhood boundaries have been set, the city clerk, in coordination with the police department, shall proceed with the investigation of the applicant and the premises and shall forward the application for review by the city attorney.

(b) No later than seven days after the completed application has been filed as provided in Section 42-117, the following individuals shall present themselves to the police department to be photographed and fingerprinted:

- (1) If the applicant is a natural person, that person; or
- (2) If the applicant is a partnership, all of the partners who have an ownership interest of more than ten percent in the partnership; or
- (3) If the applicant is a corporation, the officers and directors, together with any shareholder who owns more than ten percent of the corporation's outstanding and issued stock; or
- (4) If the applicant is a limited liability company, all members who own a ten percent or more membership interest; and
- (5) Irrespective of the identity of the applicant, the manager of the proposed establishment.

(c) The local licensing investigator shall make background investigations of the individuals named in subsection (b) of this section, and such individuals shall provide all information

necessary for this investigation. Where a partner or a corporation officer, director or stockholder, or managing officer or member lives at such a distance from the city that travel would impose undue expense or inconvenience, the chief of police shall have the discretion to make other suitable arrangements in order to obtain the necessary photographs, fingerprints and information. Where a background investigation has been previously made of any individual enumerated in this section either by the police department or another law enforcement agency, the chief of police may waive further investigation and the fingerprinting and photographing required by this section.

(d) The premises proposed for a license shall be inspected by the city's building inspection division, fire, zoning and any other appropriate city officials to ensure that the plans and specifications submitted with the application are true representations of the premises and that the proposed premises is in conformity with the applicable ordinances of the city.

(e) All departments and administrative officials of the city shall cooperate fully with the city clerk during the investigation.

(f) Upon receipt of completed applications for a new license, the city clerk shall conduct a preliminary investigation in accordance with applicable provisions of C.R.S. § 12-46-101 et seq., and § 12-47-101 et seq., as amended.

(g) Upon receipt of complete state and local applications for a transfer of ownership of an existing license, the city clerk shall conduct a preliminary investigation in accordance with applicable provisions of C.R.S. § 12-46-101 et seq., and § 12-47-101 et seq., as amended. Prior to a license being issued, a certificate of occupancy must be issued by the chief building official.

(h) Upon receipt of complete state and local applications for a change of location of an existing liquor or fermented malt beverage license, the city clerk shall conduct a preliminary investigation in accordance with applicable provisions of C.R.S. § 12-46-101 et seq., and § 12-47-101 et seq., as amended.

(i) Any reports of the results of this investigation shall be delivered by the respective departments or officials to the city clerk at least ten days prior to the public hearing on the application. The preliminary findings shall include those facts required by applicable provisions of C.R.S. § 12-46-101 et seq., and § 12-47-101 et seq., as amended. Not less than five days prior to the public hearing, the city's written preliminary report of the findings based on the investigation shall be known by mailing a copy thereof to the applicant by first-class mail, and to other interested parties upon request.

(Code 1975, § 25-13; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 6, 5-26-92; Ord. No. 2427, § 8, 7-22-96; Ord. No. 2460, § 4, 7-28-97; Ord. No. 2537, § 3, 2-8-99)

#### **Sec. 42-121. - Decisions on new applicants.**

(a) Following the conclusion of the public hearing on new applications for alcoholic liquor licenses, the authority shall render its decision no later than 30 days thereafter; however, the authority may continue the hearing from time to time as may be required to gather necessary facts and evidence and to permit witnesses to testify.

(b) The authority shall consider all facts in evidence adduced as a result of the investigation and public hearing, including the reasonable requirements of the neighborhood, the desires of the inhabitants affected, the number, type and availability of other relevant licensed outlets located in or near the neighborhood under consideration, other lawful restrictions applicable to the area under consideration and any other pertinent matters affecting the qualifications of the applicant to

conduct the type of business proposed.

(c) The city attorney shall prepare and the city clerk shall send a written copy of the findings and decision of the authority and the reasons thereof by certified mail to the applicant at the address shown on the application and to any other party in interest upon request within 30 days of the decision.

(Code 1975, § 25-14; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2427, § 9, 7-22-96)

#### **Sec. 42-122. - License renewals.**

(a) All renewal applications for malt, vinous and spirituous liquor licenses and fermented malt beverage licenses shall be submitted to the city clerk on forms provided by the state and local licensing authorities no later than 45 days prior to the date on which the license expires, except that the city clerk, for good cause, may waive the time requirement set forth in this subsection. A notarized statement setting forth the reason(s) why the renewal was not timely filed shall accompany the renewal application. The forms shall be accompanied by a renewal fee as established by resolution of the city council, all state and local license fees and such additional material as the authority deems necessary to carry out the provisions of the Colorado Beer and Liquor Codes, this article and all applicable regulations. No renewal application need be accepted by the city clerk or the authority which is not complete and truthful in every detail. Any application mailed to or deposited with the city clerk which, upon examination, is found to have some omission, error or misrepresentation shall be returned to the applicant for completion or correction.

(b) Upon receipt of a renewal application, the city clerk shall request reports from the police department, revenue division and any other applicable agency or any interested parties concerning the licensed premises. The reports shall be submitted to the city clerk not less than ten days prior to the consideration of the renewal application.

(c) The city clerk is hereby delegated the authority to administratively approve such applications for renewal, unless reports from city departments, other applicable agencies or any interested party, recommend nonrenewal and there is basis for nonrenewal under applicable state statutes. The application and the required fees shall then be forwarded to the state licensing authority. If staff determines from reports received or from interested parties that grounds exist for possible nonrenewal, the application shall be referred to the authority.

(d) The city clerk shall immediately notify the applicant in writing of any objections to approving the renewal application. The city clerk or the city attorney shall prepare the written notice to the licensee. No hearing on an application for renewal shall be held by the authority until a notice of hearing has been posted on the licensed premises in accordance with Section 42-119(b) and notice of hearing has been provided the applicant at least ten days prior to the hearing. The city clerk shall cause the notice to be mailed to the applicant and to the premises. A hearing on an application for renewal will be pursuant to applicable state statutes and regulations; however, interested parties who have been notified will be allowed to testify. If a renewal is denied, no portion of any local or renewal fees shall be returned to the licensee unless a majority of the authority grants otherwise.

(Code 1975, § 25-15; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 7, 5-26-92; Ord. No. 2427, § 10, 7-22-96; Ord. No. 2474, § 2, 10-13-97; Ord. No. 2606, § 2, 4-10-00)

**Sec. 42-123. - Changes in location.**

(a) To change the location of a license required under this subdivision, the licensee shall submit an application in the prescribed form to the city clerk for such changes. All such applications shall be subject to the same procedures and requirements as for the issuance of a new license, except that the investigation regarding the applicant shall not be required.

(b) In addition to subsection (a) of this section, such application shall be accompanied by a fee as established by resolution of the city council for the actual and necessary expenses in processing the application, conducting an investigation, conducting a public hearing and for publishing and posting the required notice of this hearing. The public hearing process shall be governed by relevant provisions of the rules and Section 42-117 of the Code.

(Code 1975, § 25-16; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2427, § 11, 7-22-96; Ord. No 2474, § 3, 10-13-97)

**Sec. 42-124. - Changes in ownership.**

(a) *Transfers of ownership.* All applicants for the issuance of a license by reason of transfer of possession or ownership of the licensed premises by operation of law or by the purchase, transfer or sale of the premises, the property or the business shall, within 30 days of the change, file an application in duplicate on prescribed forms provided by the city clerk and shall apply for a sales tax license with the revenue division.

(1) All such applications shall be under oath and subject to applicable subsections of Section 42-116(a).

(2) An investigation with respect to such application shall be conducted as provided by the Code.

(3) Upon completion of the investigation, the application will be presented to the authority for approval or denial. If the city will be recommending denial, or upon direction by the authority, the city clerk will set the application for public hearing at the next available regular meeting. Results of the investigation shall be reported as required by the Code. In the event the authority denies the application for such license, the authority shall indicate the reasons for said denial. Hearings shall be conducted as a hearing on a new license, except that the issues at the hearing shall be limited to the requirements of C.R.S. § 12-47-307, as amended and applicable regulations.

(4) Although no public hearing is required under this section, the persons designated pursuant to the rules shall be present before the authority at the time the authority acts upon the application.

(5) In addition to the above, all such applications shall be accompanied by a nonrefundable fee as established by resolution of the city council for actual and necessary expenses in processing the application and conducting an investigation.

(b) *Changes in corporate structure.* Where the licensee is a corporation, any substantial change in ownership interest or corporate structure must be reported to the city clerk on prescribed forms within 30 days of such transfer or assignment, and approval shall be obtained from the authority prior to the new owner or stockholder exercising any of the rights or privileges granted to a licensee under this chapter or under Title 12, Articles 46, 47 and 48, C.R.S., as amended.

(1) A "substantial change in the ownership interest or corporate structure" shall be defined as:

a. Any transfer or assignment of ten percent or more of the capital stock of any corporation, or ten percent or more of the ownership interests of any limited partnership interest in any year, or transfer of a controlling interest regardless of size.

b. Any change in the officers or directors of a corporation which involves the addition or substitution of individual(s) who was not previously an officer or director of the corporation during a period of time that the corporation held the license.

c. Any transfer of the capital stock of any corporation, or transfer of any limited partnership interest in any general partnership of a limited partnership, or transfer of any limited liability company interest in a limited liability company of any kind, joint venture or business entity which results in any individual owning more than ten percent of an ownership interest in the business entity if that individual's ownership interest did not exceed ten percent prior to the transfer.

(2) An application for authority approval of such a transfer shall be submitted to the city clerk under oath, in duplicate, on forms prescribed by the city clerk within 30 days of such transfer or assignment. The application will include such information as will permit the city clerk to investigate and determine the qualifications of the transferee with respect to the license. An administrative processing fee is hereby established in an amount to be determined from time to time by resolution of the city council and shall accompany all such applications, with the exception of those that have a state master file, are club liquor licensees which require minimal investigation, or applications not requiring any investigation.

(3) The city clerk shall cause to be conducted an investigation of the character and qualifications of the transferee of the ownership interest.

(4) Upon completion of the investigation, the city clerk is hereby delegated the authority to administratively approve the change in ownership interest or corporate structure so long as the following criteria is met:

a. The corporate officer is listed in the state master file; or

b. The transfer or assignment of stock does not involve a controlling or majority interest of stock; and

c. No reports are received recommending denial of the application and there is no basis for denial under applicable state statutes.

(5) In the event that the authority denies the application for such license, the authority shall indicate the reasons for said denial. Hearings shall be conducted as a hearing on a new license, except that the issues at the hearing shall be limited to the requirements of C.R.S. § 12-47-307, as amended and applicable regulations.

(Code 1975, § 25-17; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 8, 5-26-92; Ord. No. 2427, § 12, 7-22-96; Ord. No. 2460, §§ 5, 6, 7-28-97; Ord. No. 2474, § 4, 10-13-97; Ord. No. 2537, § 4, 2-8-99; Ord. No. 2606, § 3, 4-10-00)

## **Sec. 42-125. - Temporary permits.**

(a) *Purpose and authority.* This section implements the requirements for issuance of a temporary permit as contained in applicable provisions of the Colorado Beer Code and the Colorado Liquor Code, which authorize the issuance of a temporary permit as an administrative act through the city clerk's office. The temporary permit is a necessary procedure enabling an applicant to operate a licensed premises pending such applicant's requested transfer of the establishment's liquor license.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Applicant* means the proposed transferee of a retail license for the sale of fermented malt beverages or alcoholic beverages and, once issued, the holder of a temporary permit under this section.

*Department* means the state department of revenue.

*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 application to transfer the ownership of such license to the applicant is pending.

(c) *Requirements for issuance.* Temporary permits shall not be issued unless and until the city clerk determines that the following conditions have been satisfied.

(1) The premises having been previously licensed by the state and the local licensing authority, and such license was valid at the time the application for transfer of ownership was filed with the city clerk.

(2) The applicant has filed with the city clerk, on forms supplied by the department, a properly completed application for the transfer of the license, which application shall include, without limitation, the following information:

a. The name and address of the applicant; if the applicant is a partnership, the names and addresses of all the partners; and, if the applicant is a corporation, association or other organization, the names and addresses of the president, vice-president, secretary, and/or managing officer.

b. The applicant's financial interest in the proposed transfer.

c. The premises for which the temporary permit is sought.

d. Such other information as is required to properly complete the application for transfer of license form required by the department.

(d) *Issuance by city clerk.* The city clerk shall issue a temporary permit to the applicant if all the conditions of this article have been satisfied.

(1) The application for a temporary permit shall be filed no later than 30 days after the filing of the application for transfer of ownership with the city clerk.

(2) Such permit shall be issued within five working days after the receipt of the application for issuance of a temporary permit.

(3) Each application for a temporary permit shall be accompanied by the payment of a fee as established by resolution of the city council. Such fee shall be refunded if the temporary permit is not issued, but once the temporary permit is issued, such fee shall be nonrefundable.

(4) A temporary permit issued pursuant to this section shall be valid only until such time as the application for transfer of the license to the applicant is granted and issued or for 120 days, whichever shall first occur; except that if the application for transfer of the license has not been granted within the 120-day period and the applicant demonstrates good cause, the local licensing authority may, in its discretion, extend the validity of the permit for an additional period not to exceed 60 days.

(e) *Other transfers for which 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 foreclosure action by a secured party or by a court order dispossessing the prior licensee of all rights of possession pursuant to C.R.S. § 13-40-101 et seq.

(f) *Cancellation, revocation, or summary suspension.* A temporary permit may be cancelled, revoked, or summarily suspended if the local licensing authority determines that there is a probable cause to believe that the transferee has violated any provision of this article or has violated any rule or regulation adopted by the local licensing authority or state licensing authority or has failed to truthfully disclose those matters required pursuant to the application form required by the department.

(Code 1975, § 25-17.10; Ord. No. 2143, § 1, 2-10-92; Ord. No. 2163, § 9, 5-26-92; Ord. No. 2427, § 13, 7-22-96; Ord. No. 2460, § 7, 7-28-97; Ord. No. 2474, § 5, 10-13-97)

#### **Sec. 42-126. - Registered manager.**

(a) Each licensee holding a beer and wine, tavern, club, arts, racetrack or a hotel and restaurant license shall personally manage the licensed premises or have a separate and distinct manager who shall be registered with the city upon forms prepared and furnished by the city clerk and accompanied with a registration, processing, administration and investigation fee. The fee shall be in an amount as established by resolution of the city council. No person shall be a registered manager for more than one tavern or hotel and restaurant license.

(b) Where any licensee changes, allows, permits or causes to be changed the manager of such licensee's establishment, any such person who has not previously been approved as a manager of the licensee by the licensing authority shall immediately make arrangements to go to the police department as provided in Section 42-120(b) for photographing, fingerprinting and background investigation.

(c) The licensee shall file the prescribed forms with the city clerk for a change of management. Where any manager or managers are granted the power or authority by way of a contract or other agreement, a copy of such contract or agreement shall be filed with the city clerk by the licensee with the prescribed forms.

(d) Upon completion of the city's background investigation, the city clerk shall place the manager's registration application on the agenda for the next meeting of the authority. The

manager shall be present at the meeting.

(Code 1975, § 25-18; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2427, § 14, 7-22-96; Ord. No. 2474, § 6, 10-13-97)

**Sec. 42-127. - Suspension or revocation.**

(a) The Authority shall have the power, upon its own motion or upon complaint, to summarily suspend any license required under this part for a period not to exceed 15 days and, after notice to the licensee and a hearing, to suspend any license for an additional period not to exceed six months or to revoke such license.

(b) Whenever a written complaint is filed with the authority charging any licensee with a state or city liquor or beer code violation, the authority may hold a hearing to determine the probable truth of such charges, and the authority may issue subpoenas and orders to show cause and may exercise its power to suspend or revoke or impose fines, penalties or other sanctions allowed by law.

(c) Whenever a decision of the local licensing authority suspending a retail license for 14 days or less becomes final, the retail licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the retail license suspended for all or part of the suspension period.

(1) Whenever a licensee petitions the authority for payment of a fine in lieu of suspension, the licensee shall file its petition, along with a nonrefundable petition fee as determined from time to time by resolution of the city council, in the city clerk's office at least three working days prior to the effective date of the suspension. Upon the receipt of the petition, the authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied that:

a. The public welfare and morals would not be impaired by permitting the licensee to operate during the suspension and that payment of the fine will achieve the desired disciplinary purposes;

b. The books and records of the licensee are kept in such a manner that the loss of sales can be determined with reasonable accuracy therefrom; and

c. The licensee has not had a license suspended or revoked nor had any suspension stayed by payment of a fine during the two years preceding the complaint which has resulted in a final decision to suspend the retail license.

(2) The fine accepted shall be the equivalent to 20 percent of the retail licensee's estimated gross revenues from sales of alcoholic and fermented malt beverages during the period of the proposed suspension, except that the fine shall not be less than \$200.00 nor more than \$5,000.00.

(3) Payment of any fine pursuant to the provisions of this subsection shall be in the form of cash or certified check or cashier's check made payable to the city local licensing authority.

(d) Upon payment of the fine pursuant to subsection (c) of this section, the local licensing authority shall enter its further order permanently staying the imposition of the suspension.

(Code 1975, § 25-19; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 10, 5-26-92; Ord. No. 2427, § 15, 7-22-96)

**Sec. 42-128. - Change of name; modification of licensed premises.**

(a) *Change of name.* To change the corporate name or trade name of an establishment or business to which the license is issued, such licensee shall submit said request on forms provided by the state licensing authority and city clerk at least ten days prior to such change.

(b) *Modification of licensed premises.* After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local and state licensing authorities. After a license has been approved, but has not yet been issued, changes to the premises cannot be made without the prior written consent of the local licensing authority.

(1) To modify the licensed premises by any physical changes or alterations, the licensee shall present the following to the city clerk:

- a. Complete plans and specifications of the proposed changes or alterations.
- b. All prescribed forms complete in every detail.
- c. An oath or affirmation that all information submitted has been given fully, accurately, truthfully and without concealment of any material fact(s).
- d. A fee shall be required in an amount to be determined from time to time by resolution of the city council.

(2) If upon receipt of all the above information and after investigation the city clerk determines that the modification will not alter the licensed premises or its usage as contained in the plans and specifications on file, the modification shall be deemed not material, in which case an application is not required.

(3) The city clerk is hereby delegated the authority to administratively approve the application if it is determined that the modification is material but does not meet the criteria for modification of premises contained in applicable provisions of the Colorado Beer Code and the Colorado Liquor Code and applicable regulations, as amended. Prior to the city clerk approving the proposed improvements, the application shall be reviewed by the city building, fire, zoning and code officials to ensure the applicant complies with the applicable ordinances of the city. Staff in their discretion may refer the application to the authority.

(4) In making its decision with respect to any proposed changes, alterations, or modifications, the authority shall follow the applicable provisions of the Colorado Beer Code and the Colorado Liquor Code and applicable regulations, as amended.

(Code 1975, § 25-20; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2163, § 11, 5-26-92; Ord. No. 2427, § 16, 7-22-96; Ord. No. 2460, § 8, 7-28-97; Ord. No. 2958, § 4, 9-26-06)

**Sec. 42-129. - Optional premises licenses and hotel and restaurant licenses with optional premises.**

(a) The following standards for the issuance of optional premises licenses or for optional

premises for hotel and restaurant licenses are adopted pursuant to the provisions of C.R.S. § 12-47-310. The standards adopted in this section shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code for an optional premises license or for an optional premises hotel and restaurant license. All relevant provisions of this article shall also apply to this subsection.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Optional premises* means the same as that defined in the Colorado Liquor Code. The two types of licenses authorized in this section, "optional premises" and "hotel and restaurant with optional premises," will collectively be referred to as "optional premises" in these standards unless otherwise stated.

*Outdoor sports and recreational facility* means the same as that defined in the Colorado Liquor Code.

(c) Application for an optional premises license shall be made to the city clerk on forms which shall contain the following information in addition to information required by the state licensing authority:

(1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of the proposed optional premises license requested.

(2) Proposed locations for the permanent, temporary, or moveable structures or vehicles which are proposed to be used for the sale or service of alcoholic beverages.

(3) A description of the method which shall be used to identify the boundaries of the optional premises license when it is in use and how the licensee will ensure alcoholic beverages are not removed from such premises.

(4) Proof of the applicant's right to possession of the optional premises including a legal description and supporting documentation.

(5) A description of the provisions which have been made for storing alcoholic beverages in a secured area on or off the optional premises for future use on the optional premises.

(6) A description of the provisions which will be implemented to control the dispensing of alcoholic beverages to minors or visibly intoxicated persons.

(d) There are no restrictions on the minimum size of the outdoor sports and recreational facilities which may be eligible for approval, or the number of optional premises which any one licensee may have for a facility; however:

(1) The authority may consider the size of the particular outdoor sports or recreation facility in relationship to the number of optional premises licenses requested for the facility;

(2) Any applicant requesting approval of more than one optional premises in relationship to the outdoor sports or recreational facilities and in relationship to the other optional premises licenses that have been granted.

(e) Nothing contained in this section shall preclude the authority, in its discretion, from imposing other conditions, restrictions or limitations on any optional premises license in order to serve the

public health, safety and welfare. Any such conditions may be imposed when the license is initially issued or issued for any specific event or use of the optional premises. The authority shall have the right to deny any request for such a license or they may suspend or revoke the optional premises license in accordance with the procedures specified in the Colorado Liquor Code and the city beer and liquor code.

(f) It shall be unlawful for alcoholic beverages to be served on the optional premises until the optional premises licensee has filed written notice with the state and the authority stating the specific days and hours during which the optional premises will be used. This must be recorded 48 hours prior to serving alcoholic beverages on the optional premises. No notice shall specify any period of use in excess of 180 days nor shall it specify any date more than 180 days after the date of the original notice. The licensee may file more than one such notice during a calendar year. However, should any special or unusual event be anticipated to occur during any extended period of time, no less than 48 hours' written notice should be given to the city's chief of police, who shall have authority, on behalf of the authority, to impose any conditions reasonably related toward serving the public health, safety and welfare.

(Code 1975, § 25-20.10; Ord. No. 2159, § 1, 4-13-92; Ord. No. 2427, § 17, 7-22-96; Ord. No. 2460, § 9, 7-28-97; Ord. No. 2958, § 5, 9-26-06)

**Sec. 42-130. - Modification of 500-foot restriction.**

(a) With reference to hotel and restaurant liquor licenses only, the applicable provision(s) of the Colorado Liquor Code, relating to the requirement that no application shall be received or acted upon if the building in which the liquor is to be sold is located within 500 feet of any public or parochial school or the principal campus of any college, university or seminary, are modified to the extent that a hotel and restaurant liquor licensed outlet shall not be subject to that 500-foot restriction and therefore shall be allowed to apply for and be granted such a license when, and only when, the school involved is a high school or college and the hotel and restaurant is located, whether freestanding or as a part of a larger building or mall, parts of which are used for other commercial activity, on a single parcel or on several contiguous parcels of a total size of at least five acres.

(b) It is the intent of this section to amend and modify the applicable provision(s) of the Colorado Liquor Code in order to permit and allow hotel and restaurant liquor licensed outlets to exist and operate without regard to the distance from such outlet to any high school or college when and only when the property on which the business holding the hotel and restaurant liquor license is located as a part of or contiguous to a commercial-zoned tract of the minimum specified size and to prohibit and deny the operation of a hotel and restaurant liquor license on an isolated commercial-zoned tract of less than five acres.

(Code 1975, § 25-22; Ord. No. 1633, 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2460, § 10, 7-28-97)

**Sec. 42-131. - Special events permit.**

(a) Applications for a special events permit shall be made under oath or affirmation to the city clerk, on such forms as provided by the city clerk. Such applications shall be submitted not less than 45 days prior to the proposed event with an investigation processing fee as determined from time to time by resolution of the city council. The city clerk, for good cause, may waive the time requirement.

(b) Public notice of the proposed permit and of the procedure for protesting issuance of the

permit shall be conspicuously posted at the proposed location, in accordance with Section 42-119(b).

(c) Any protest shall be filed by affected persons within ten days after the date of initial posting of the proposed event. Protests shall be filed with the city clerk. The city clerk is hereby delegated the authority to administratively approve the application if no protests have been filed or the police department investigation does not recommend denial of the application.

(d) The city clerk shall forward all applications for special events permits where protests have been filed or derogatory information is reported by the police department to the authority.

(e) The authority shall cause a hearing to be held on an application. Any hearing shall be held at least ten days after the initial posting of a notice of the proposed event. Notice of the hearing shall be provided to the applicant and any person who filed a protest.

(f) In reviewing the application for a special events permit, the chairperson and the authority shall apply the standards set forth in C.R.S., 1973, § 12-48-101 et seq., and the regulations promulgated thereunder by the Department of Revenue, Liquor Enforcement Division, state of Colorado.

(g) After approval of any application, the city clerk shall submit the approved application and permit fee to the state licensing authority for its consideration.

(Ord. No. 2427, § 18, 7-22-96)

#### **Sec. 42-132. - Tastings.**

(a) The city hereby authorizes tastings to be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this section and pursuant to C.R.S. § 12-47-301, as the term "tastings" is defined in said C.R.S. § 12-47-301. It is unlawful for any person or licensee to conduct tastings within the city unless authorized in accordance with this section. Tastings shall not be authorized until the following prerequisites are fully satisfied, as determined by the city:

(1) A written notice to the Thornton Police Department police chief must be provided at least 72 hours before a licensee is allowed to conduct a tasting.

(2) The notice shall include the name of the liquor licensed premises, the person who is submitting the notice, and shall indicate the date and time the tasting is to take place.

(3) The notice must state and affirm that the licensee wishing to conduct such tasting shall do so in accordance with the provisions of this section, and without creating a public safety risk to the surrounding neighborhood.

(b) Tastings authorized pursuant to this section shall be allowed only for a retail liquor store or liquor licensed drug store operating within the city whose license is valid and in full force and effect.

(c) Tastings, once authorized, shall be subject to the following limitations:

(1) 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 in the department of revenue and who is either a retail liquor store state 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 tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to state law, at a cost that is not less than the laid-in cost of such alcohol.
  - (3) The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.
  - (4) Tastings shall not exceed a total of five hours in duration per day, which hours shall be consecutive.
  - (5) 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 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 alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.
  - (8) The licensee shall not serve a person who is under 21 years of age or who is visibly intoxicated.
  - (9) The licensee shall not serve more than four individual samples to a patron during a tasting.
  - (10) Alcohol samples shall be in open clear containers and shall be provided to a patron free of charge.
  - (11) Tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed 104 days per year.
  - (12) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee shall bear the financial and all other responsibility for a tasting.
- (d) A violation of a limitation specified in subsection (c) or of C.R.S. § 12-47-301 by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.
- (e) A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee for a violation of any of the provisions of subsection (c) or C.R.S. § 12-47-301.
- (f) Nothing in this section shall affect the ability of a Colorado winery licensed pursuant to state law to conduct a tasting pursuant to law.

(Ord. No. 2840, § 1, 8-10-04)

**Secs. 42-133—42-155. - Reserved.**

***Part III. - Operational Rules***

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**Sec. 42-156. - Unlawful acts; signs to be posted; violations and penalties.**

(a) It shall be unlawful for any person licensed under this division or such licensee's managers, employees, agents or representatives to permit any disturbance or unlawful or disorderly act or conduct to occur or be committed by any person or group of persons in any licensed premises or adjoining grounds under the control or management of the licensee.

(b) It shall be unlawful for a licensee or the licensee's managers, employees, agents or representatives to in any manner engage in, encourage or participate in any disturbance or unlawful or disorderly act or conduct upon the licensed premises.

(c) Any licensee shall immediately report to the police department any breach of the peace or unlawful or disorderly act, conduct or disturbance committed on the premises or adjoining grounds under the control or management of the licensee.

(d) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises signs furnished by the city clerk's office in the following form:

(1) "Warning! Thornton police must be notified of all disturbances in this establishment and on the grounds which are part of this establishment."

(2) "Warning! A fine of up to \$1,000.00 and imprisonment up to one year may be levied on any person convicted of carrying or possessing any prohibited, or dangerous weapon, including knives with over 3½-inch blades, into or onto any liquor or beer licensed premises."

(e) Prosecution or conviction under this section shall not prohibit prosecution or conviction under any other applicable law or ordinance, and the penalties provided shall be cumulative and in addition to all other penalties incurred under such other applicable law or ordinance enacted by the city.

(f) It shall not be a defense that the licensee was not personally present on the premises at the time any unlawful or disorderly act, conduct or disturbance took place.

(Code 1975, § 25-21; Ord. No. 1633, § 12-22-86; Ord. No. 1769, 6-27-88; Ord. No. 2349, §§ 3, 4, 10-24-94; Ord. No. 2777, § 6, 5-27-03)

**Sec. 42-157. - Conduct of establishment.**

(a) *Loitering and serving of intoxicated persons.* It shall be unlawful for any person licensed under this article and by the state and any employee or agent of such licensee to permit on the licensed premises the serving or loitering of an visibly intoxicated person or habitual drunkard.

(b) *Attire and conduct of employees and patrons.* It shall be unlawful for any person licensed under this article and by the state and any employee or agent of such person licensed under this article and by the state, to engage in or permit the following:

(1) Employment or use of any person in the sale or service of fermented malt beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(2) Employment or use of the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (b)(1) of this section.

(3) Any person on the licensed premises touching, caressing, or fondling the breasts, buttocks, anus or genitals of any other person.

(4) Any employee or person on the licensed premises wearing or using any device or covering, exposed to view, which simulates the breasts, genitals, anus, pubic hair or any other portion thereof.

(c) *Entertainment.* Live entertainment is permitted on any licensed premises, except that it shall be unlawful for:

(1) Any person licensed under this article and by the state, and any employee or agent of such person licensed under this article and by the state, to engage in or permit any person to perform acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.

c. The displaying of the pubic hair, anus, vulva or genitals.

(2) A licensee, and any employee or agent of such licensee, to engage in or permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in subsection (c)(1) of this section.

(3) A licensee, and any employee or agent of such licensee, to engage in or permit any person to remain in or upon the licensed premises who exposes to public view any portion of such person's genitals or anus.

(d) *Visual displays.* It shall be unlawful for any person licensed under this article and by the state, and any employee or agent of such person licensed under this article and by the state, to engage in or permit on the licensed premises the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (2) Any person being touched, caressed or fondled on the breasts, buttocks, anus or genitals.
- (3) Scenes wherein a person displays the vulva or the anus or the genitals.
- (4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this subsection.

(Code 1975, § 25-24; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-158. - Inspection of licensed premises.**

(a) The licensed premises, including any places of storage where alcoholic beverages are stored or dispensed, shall be subject to inspection by the state or local licensing authorities and their investigators, or peace officers, during all business hours and all other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory, or books and records required to be kept by licensees, access shall only be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay; and upon request by authorized representatives of the licensing authority or peace officers, such licensee shall open the area for inspection. Failure to comply with this subsection is unlawful.

(b) Each licensee shall retain all books and records necessary to show fully the business transactions of such licensee for a period of the current tax year and the three prior tax years. Failure to comply with this subsection is unlawful.

(Code 1975, § 25-25; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-159. - Identification.**

Licensees licensed under this article or by the state, and any employee or agent of such person licensed under this article and by the state, may refuse to sell alcoholic beverages to any person unable to produce adequate currently valid identification of age. The kind and type of identification deemed adequate under this article shall be limited to the following:

- (1) An operator's, chauffeur's or similar type driver's license containing a picture issued by any state.
- (2) Identification card containing a picture issued by any state for the purpose of proof of age.
- (3) Military identification card.
- (4) Passport.
- (5) Alien registration card.

(Code 1975, § 25-26; Ord. No. 2349, § 5, 10-24-94; Ord. No. 2606, § 4, 4-10-00; Ord. No. 2958, § 6, 9-26-06)

**Sec. 42-160. - Sanitary requirements.**

It shall be unlawful for each retail licensee selling malt, vinous or spirituous liquor for consumption on the premises not to maintain the licensed establishment in clean and sanitary condition and in full compliance with the requirements of restaurants under the supervision of the state board of health. If the licensed establishment is a restaurant licensed by the state board of health, it shall maintain such license in full force and effect at all times while selling such beverages for consumption therein.

(Code 1975, § 25-29; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-161. - Product labeling; substitution; sampling and analysis.**

(a) It shall be unlawful for any licensee, licensed for the sale of alcoholic liquors for consumption on the premises where sold, to maintain thereon any container of alcoholic liquor which contains any such substance other than that contained at the time such container was received by or delivered to the licensee.

(b) It shall be unlawful for any licensee, licensed for the sale of alcoholic liquors for consumption on the premises where sold, to substitute one brand, type or alcoholic content of alcoholic liquor for that which has been specifically requested by a customer, unless the customer expressly consents to the substitution.

(c) Excepting winers or brewers, it shall be unlawful for a licensee to refill or permit the refilling of any alcoholic liquor container with alcoholic liquor or reuse any such container by adding distilled spirits or any substance, including water, to the original contents or any portion of such original contents.

(d) If sampling analysis or other means shall establish that any such licensee has upon the licensed premises any bottle or other container which contains liquor of a different brand, type, or alcoholic content than that which appears on the label thereof, such licensee shall be deemed to have violated this section.

(e) All licensees for the sale of alcoholic liquors for consumption on the premises where sold shall, upon request of the department of revenue, liquor enforcement division or any of its officers, make available to the person so requesting a sufficient quantity of any such liquor or enable sampling or analysis thereof. The licensee shall be notified of the results of the sampling or analysis without delay.

(f) Federal brand label requirements shall be complied with on all liquor products imported into and sold in the state.

(g) In those cases where federal labeling of containers is not required, state manufacturers of products for off-premises consumption shall label their products subject to the following minimum criteria:

- (1) The manufacturer shall design and furnish its own label.
- (2) The label shall contain information as to brand name, class and type, capacity or volume of container and the manufacturer's or bottler's name and address.
- (3) The manufacturer's label shall be approved by the state liquor enforcement division.

(4) The label shall be affixed to the product container before it leaves the manufacturer's premises.

(Code 1975, § 25-30; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-162. - Sales and consumption of fermented malt beverages.**

It shall be unlawful for a person holding a retail license for fermented malt beverages, and any employee or agent of such person holding a retail license for fermented malt beverages, to permit the sale or consumption of fermented malt beverages on the licensed premises between the hours of 12:00 midnight and 5:00 a.m.

(Code 1975, § 25-31; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-163. - Possession of alcoholic liquors.**

It shall be unlawful for a person to possess or consume on premises licensed for fermented malt beverages any beverages containing alcohol in excess of 3.2 percent by weight.

(Code 1975, § 25-32; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-164. - Consumption after hours prohibited.**

It shall be unlawful for a retail licensee to permit the consumption of any alcoholic beverages or fermented malt beverages on the licensed premises at any time during such hours as the sale of such beverages is prohibited by law.

(Code 1975, § 25-33; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-165. - Unlicensed possession of beverages.**

It shall be unlawful for a licensee to possess, maintain or permit the possession, on the licensed premises, of any alcoholic beverage or fermented malt beverage, which such licensee is not licensed to sell or possess for sale.

(Code 1975, § 25-34; Ord. No. 2349, § 5, 10-24-94)

**Sec. 42-166. - Removal of liquor from premises.**

It shall be unlawful for a licensee, manager or agent of any establishment licensed for on-premises consumption to permit the removal from the licensed premises of any alcoholic liquors in sealed or unsealed containers.

(Code 1975, § 25-35; Ord. No. 2349, § 5, 10-24-94)

**Secs. 42-167—42-200. - Reserved.**