



# CHANGE, ALTER OR MODIFY PREMISES

## Checklist

City Clerk's office 303-538-7230  
 9500 Civic Center Drive  
 Thornton, Colorado 80229-4326

- **ONE COMPLETE SET OF DOCUMENTS MUST BE SUBMITTED FOR INITIAL REVIEW**
- A duplicate set of documents will be required after initial review. Incomplete application documents will not be accepted.
- Allow six weeks for processing after plans have been approved by Building Inspection.
- Provide documents in order of the Checklist - **Single-Sided - No Staples Please**
- All documents and copies need to be legible and either typed or printed in BLACK ink on **8-1/2 x 11 size paper** only.
- ALL documents must be properly executed and correspond with name of applicant exactly.

PLEASE COMPLETE AND SUBMIT THE FOLLOWING DOCUMENTS:	
	Appropriate City & State fees attached (see Fee Schedule).
	State Form DR-8442 - Permit Application & Report of Changes (complete appropriate sections and sign).
	Submit Floor Plans for <b>Existing and Proposed</b> Premises ( <b>8-1/2" x 11" size only</b> ). <ul style="list-style-type: none"> <li>➤ Outline "Licensed Premises" in <b>BLACK, BOLD</b> ink.</li> <li>➤ Include square footage, occupancy and seating capacity (if applicable).</li> <li>➤ Proposed diagram needs to show seating and kitchen facilities for on-premises licenses.</li> </ul>
	Consent of Landlord for proposed modification if property is leased.
	Provide a signed copy of Deed or Lease covering entire license period, Assignment of Lease if applicable with consent and acceptance, or notarized Affidavit stating that lease has not changed. <ul style="list-style-type: none"> <li>➤ The Lease must be in applicant's name (same entity name which appears on the application form and liquor license) and contain the address of the premises.</li> </ul>
	City Form 5 - Zoning Referral signed by City Development Department. <ul style="list-style-type: none"> <li>➤ The City Development Department will indicate if the proposed modification requires a development permit. If so, it <u>must</u> be issued before the Local Licensing Authority (LLA) can consider the application.</li> </ul>
	Submit four sets of plans to the Building Inspection Division (303-538-7250) for review. <b>NOTE:</b> <ul style="list-style-type: none"> <li>➤ Plans must be reviewed and approved by the Building Inspection Division <b>prior</b> to an application being processed by the City Clerk's office.</li> <li>➤ The Building Inspection Division will notify the City Clerk's office after the plans have been approved, so that your application can be prepared for LLA consideration.</li> <li>➤ If changes have been made to the proposed plan you will need to submit an <u>updated diagram</u>.</li> <li>➤ The application process will proceed following approval of plans by Building Inspection Division, unless a Development Permit is required.</li> </ul>
	Submit one set of pictures depicting the area where proposed changes are planned in the establishment. <ul style="list-style-type: none"> <li>➤ A description of each picture needs to be included to give the LLA a visual basis for the proposed changes within the establishment.</li> </ul>
	Refer to Instructions for steps to follow and additional information to complete the application process.

<b>DOCUMENT SUBMITTAL INSTRUCTIONS:</b>	
	<ul style="list-style-type: none"> <li>➤ <b>ONE COMPLETE SET OF DOCUMENTS MUST BE SUBMITTED FOR INITIAL REVIEW</b></li> <li>➤ A duplicate set of documents will be required after initial review. Incomplete application documents will not be accepted.</li> <li>➤ Allow six weeks for processing after plans have been approved by Building Inspection.</li> <li>➤ Provide documents <u>in order of the Checklist - <b>Single-Sided - No Staples Please</b></u></li> <li>➤ All documents and copies need to be legible and either typed or printed in <b>BLACK</b> ink on <b>8-1/2 x 11 size paper</b> only.</li> <li>➤ <b>ALL</b> documents must be properly executed and correspond with name of applicant exactly.</li> </ul>
	The LLA Rules of Procedure and Chapter 42, Article II of the Thornton City Code are included in the packet for your information.
	The Local Licensing Authority (LLA) generally meets on the third Wednesday of each month. The application will be scheduled for the next available LLA meeting for consideration after the plans are approved by the Building Inspection Division.
<b>GENERAL INSTRUCTIONS/INFORMATION:</b>	
	When the LLA considers the application, the licensee must attend the meeting to answer questions the LLA might have. If criteria listed in Section 42-128 of the City Code are met, the application may be administratively approved.
	Depending upon the extent of the proposed modification, the LLA may choose to set the matter for a public hearing to receive input concerning the needs of the neighborhood and desires of the inhabitants. (See below)
	After LLA approval allow one month for the State to process the application.
	Following City and State approval, the City Clerk's office will notify the Building Inspection Division so that a Building Permit can be issued. A copy of the approved application will be mailed to you.
	Following completion of modification submit a Letter of Compliance or Certificate of Occupancy to the City Clerk's office from the Building Inspection Division.
<b>PUBLIC HEARING INSTRUCTIONS (IF APPLICABLE):</b>	
	If the application is set for a public hearing, the Applicant has the burden to prove the reasonable requirements of the neighborhood ("Requirements") and desires of the adult inhabitants of said neighborhood ("Desires") C.R.S. 44-3-301.
	The City Clerk's office will set the boundaries of the neighborhood and send you a map. If the boundaries are unacceptable the applicant has five days to notify the Deputy City Clerk and the matter will be scheduled for a boundary hearing at the next LLA meeting.
	<u>Petitions</u> - One manner of showing the needs and desires is by circulating petitions within the designated relevant neighborhood as shown on the boundary map. Many applicants use a marketing survey firm to circulate petitions. Sample petitions are available in the City Clerk's office should you decide to do your own survey. Petitions are due no later than 5:00 p.m. the Friday prior to the hearing.
<b>PUBLIC HEARING POSTING/PUBLISHING REQUIREMENTS:</b>	
	The City Clerk's office will publish the notice of hearing in the <u>Northglenn/Thornton Sentinel</u> two weeks prior to the hearing.
	The Applicant will need to post the public notice sign(s) prepared by the City Clerk's office on the proposed premises at least ten days prior to the public hearing and submit pictures of the posted sign(s) at least one week prior to the hearing.
	The Applicant needs to ensure that the sign(s) remain posted for at least ten consecutive days <b>including the hearing date</b> and verify by completing the Posting Verification Affidavit (supplied by the City Clerk's office), which includes the date posted, exact location, and daily log used to check the condition of the signs. The Affidavit will need to be notarized and submitted to the Deputy City Clerk just prior to the public hearing.



## FEE SCHEDULE – Effective January 1, 2022

FOR LIQUOR/BEER LICENSES

City Clerk's office 303-538-7230

9500 Civic Center Drive

Thornton, CO 80229-4326

### Application Fees

* Each type of application has an Application Fee and Retail License Fee	Local Fee	State Fee
Application Fee	\$1000.00	\$1,100.00
Application Fee with Concurrent Review (New Application only – non-refundable)	\$1000.00	\$1,200.00
Application Fee Transfer of Ownership	\$750.00	\$1,100.00
Temporary Permit for Transfer of Ownership only (Optional)	\$100.00	N/A
Application Fee Additional Liquor-Licensed Drugstore	\$1000.00	\$1,100.00
Application Fee Additional Liquor-Licensed Drugstore with Concurrent Review	\$1000.00	\$1,200.00
Application Fee Manager Permit	N/A	\$100.00
Application Late Renewal Fee (Not more than 90 days of license expiration date)	\$500.00	\$500.00
Application Reissue Fee (More than 90 days but less than 180-days of license expiration date)	\$500.00	\$500.00
Application Reissue Fine (More than 90 days but less than 180 days of license expiration date)	\$25.00 a day beyond 90-day expiration date	\$25.00 a day beyond 90-day expiration date
Annual Renewal Application Fee	\$100.00	\$50.00
Annual Art Gallery Fee	\$100.00	\$0.00

### Retail License Fees

	Local Fee City	State Fee City
Art	\$41.25	\$308.75
Beer & Wine	\$48.75	\$351.25
Brew Pub	\$75.00	\$750.00
Club	\$41.25	\$308.75
Distillery Pub	\$75.00	\$750.00
Hotel & Restaurant	\$75.00	\$500.00
Hotel Restaurant with one Optional Premises	\$75.00	\$600.00
Each Additional OP License		\$100.00
Resort Complex	\$75.00	\$500.00
Campus Liquor Complex	\$75.00	\$500.00
Related Facility – Resort Complex	\$15.00	\$160.00
Related Facility – Campus Liquor Complex	\$15.00	\$160.00
Liquor-Licensed Drugstore	\$22.50	\$227.50
Lodging & Entertainment	\$75.00	\$500.00
Optional Premises	\$75.00	\$500.00
Racetrack	\$75.00	\$500.00
Retail Gaming Tavern	\$75.00	\$500.00
Retail Liquor Store	\$22.50	\$227.50
Tavern	\$75.00	\$500.00
Vintner's Restaurant	\$75.00	\$750.00
Fermented Malt Beverage On Premises	\$3.75	\$96.25
Fermented Malt Beverage Off Premises	\$3.75	\$96.25
Fermented Malt Beverage On/Off Premises	\$3.75	\$96.25

### Local and State Issued Permit Fees

	Local Fee City	State Fee
Art Gallery Permit	\$3.75	\$71.25
Bed & Breakfast Permit	\$3.75	\$71.25
Each Resort-Complex-Related Facility Permit	\$15.00	\$160.00
Malt, Vinous and Spirituous Liquor	\$100.00	\$25.00 Per Day
Fermented Malt Beverage (3.2% Beer)	\$100.00	\$10.00 Per Day
Mini Bar Permit with Hotel Restaurant License	\$48.75	\$276.25
Special Event Permit	\$100.00	N/A

**Additional Fees**

	<b>Local Fee</b>	<b>State Fee</b>
Alternating Proprietor Licensed Premises	N/A	\$150.00
Change of Location	\$750.00	\$150.00
Change of Trade Name/Corporate Name	N/A	\$50.00
Change of Corporate Structure/LLC Change (City Investigation – Per Person)	\$100.00	\$100.00**
Duplicate License (City)	\$5.00	\$50.00
Add Optional Premises to Hotel & Restaurant License	N/A	\$100.00
Limited Liability Change	N/A	\$100.00
Manager Registration (Hotel & Restaurant; Tavern; Lodging & Entertainment; Campus Liquor Complex)	\$75.00	\$75.00
Master File Background	N/A	\$250.00
Master File Location Fee (Per Location)	N/A	\$25.00
Modification of Premises	\$75.00	\$150.00
Sole Source Registration	N/A	\$100.00
Petition Fee for Fine-in-Lieu of Suspension (Non-refundable)	\$250.00	N/A
Replacement Fee for Public Hearing Signs (each)	\$25.00	N/A
Violation Signs (each)	\$5.00	N/A
State Liquor Code (if purchased through the City)	\$25.00	

**State License Fees**

	<b>Fee</b>
Limited Winery License	\$70.00
Manufacturer's License (Distillery or Rectifier)	
On or after August 10, 2016, and before August 10, 2017	\$675.00
On or after August 10, 2017	\$300.00
Manufacturer's License (Brewery)	\$300.00
Manufacturer's License (Winery)	\$300.00
Nonresident Manufacturer's License (Malt Liquor)	\$300.00
Importer License	\$300.00
Wholesaler's Liquor License	
On or after August 10, 2016, and before August 10, 2017	\$800.00
On or after August 10, 2017	\$550.00
Wholesaler's Beer License	\$550.00
Public Transportation (dining, club or parlor car; plane; bus or other vehicle)	\$75.00

**State Only Issued Permits**

	<b>Fee</b>
Winery Direct Shipper Permit	\$100.00
Wine Packaging Permit	\$200.00
Wine Festival Permit	\$25.00
Branch Warehouse or Warehouse Storage Permit	\$100.00
Retail Warehouse Storage Permit	\$100.00
Manager Permit Registration (Liquor-Licensed Drugstore)	\$100.00
Non-Contiguous Location (Winery/Limited Winery) Application	\$125.00
Non-Contiguous Location (Winery/Limited Winery) Renewal	\$100.00
Takeout and Delivery Permit Application	\$11.00
Takeout and Delivery Permit Renewal	\$11.00

\*\* The State Fee of \$100 only pertains to state-only issued licenses and does not apply to licenses issued by local licensing authorities

## Permit Application and Report of Changes

**Current License Number** \_\_\_\_\_  
**All Answers Must Be Printed in Black Ink or Typewritten**  
**Local License Fee \$** \_\_\_\_\_

1. Applicant is a <input type="checkbox"/> Corporation ..... <input type="checkbox"/> Individual <input type="checkbox"/> Partnership..... <input type="checkbox"/> Limited Liability Company	Present License Number _____
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2. Name of Licensee	3. Trade Name
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4. Location Address  
 \_\_\_\_\_

City	County	ZIP
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**SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.**

Section A – Manager reg/change	Section C
• License Account No. _____ <input type="checkbox"/> Manager's Registration (Hotel & Restr.) .....\$75.00 <input type="checkbox"/> Manager's Registration (Tavern).....\$75.00 <input type="checkbox"/> Manager's Registration (Lodging & Entertainment).....\$75.00 <input type="checkbox"/> Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE	<input type="checkbox"/> Retail Warehouse Storage Permit (ea).....\$100.00 <input type="checkbox"/> Wholesale Branch House Permit (ea) ..... 100.00 <input type="checkbox"/> Change Corp. or Trade Name Permit (ea) ..... 50.00 <input type="checkbox"/> Change Location Permit (ea) ..... 150.00 <input type="checkbox"/> Change, Alter or Modify Premises \$150.00 x _____ Total Fee _____ <input type="checkbox"/> Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ <input type="checkbox"/> Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x _____ Total Fee _____ <input type="checkbox"/> Campus Liquor Complex Designation <span style="float: right;">No Fee</span> <input type="checkbox"/> Sidewalk Service Area <span style="float: right;">\$75.00</span>
Section B – Duplicate License	
• Liquor License No. _____ <input type="checkbox"/> Duplicate License ..... \$50.00	

**Do Not Write in This Space – For Department of Revenue Use Only**

Date License Issued	License Account Number	Period

The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.	<b>TOTAL AMOUNT DUE</b>	\$	.00
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# Instruction Sheet

For All Sections, Complete Questions 1-4 Located on Page 1

**Section A**

**To Register or Change Managers**, check the appropriate box in section A and complete question 8 on page 5. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

**Section B**

**For a Duplicate license**, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

**Section C**

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Campus Liquor Complex Designation**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 8) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 4 and complete question 11.

<b>Storage Permit</b>	<p><b>5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit</b></p> <p><input type="checkbox"/> <b>Retail Warehouse Permit for:</b></p> <p style="padding-left: 20px;"><input type="checkbox"/> On–Premises Licensee (Taverns, Restaurants etc.)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Off–Premises Licensee (Liquor stores)</p> <p><input type="checkbox"/> <b>Wholesalers Branch House Permit</b></p> <p>Address of storage premise: _____</p> <p>City _____, County _____, Zip _____</p> <p>Attach a deed/ lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.</p>				
<b>Change Trade Name or Corporate Name</b>	<p><b>6. Change of Trade Name or Corporation Name</b></p> <p><input type="checkbox"/> Change of Trade name / DBA only</p> <p><input type="checkbox"/> Corporate Name Change (Attach the following supporting documents)</p> <p style="padding-left: 20px;">1. Certificate of Amendment filed with the Secretary of State, or</p> <p style="padding-left: 20px;">2. Statement of Change filed with the Secretary of State, <u>and</u></p> <p style="padding-left: 20px;">3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">Old Trade Name</td> <td style="width:50%;">New Trade Name</td> </tr> <tr> <td>Old Corporate Name</td> <td>New Corporate Name</td> </tr> </table>	Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name
Old Trade Name	New Trade Name				
Old Corporate Name	New Corporate Name				
<b>Change of Location</b>	<p><b>7. Change of Location</b></p> <p><b>NOTE TO RETAIL LICENSEES:</b> An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held.</p> <p><b>Date filed with Local Authority</b> _____ <b>Date of Hearing</b> _____</p> <p>(a) Address of current premises _____</p> <p style="padding-left: 20px;">City _____ County _____ Zip _____</p> <p>(b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee)</p> <p style="padding-left: 20px;">Address _____</p> <p style="padding-left: 20px;">City _____ County _____ Zip _____</p> <p>(c) New mailing address if applicable.</p> <p style="padding-left: 20px;">Address _____</p> <p style="padding-left: 20px;">City _____ County _____ State _____ Zip _____</p> <p>(d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.</p>				

<b>Change of Manager</b>	<p><b>8. Change of Manager or to Register the Manager</b> of a Tavern, Hotel and Restaurant, Lodging &amp; Entertainment liquor license or licenses pursuant to section 44-3-301(8).</p> <p>(a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging &amp; Entertainment only)          Former manager's name _____          New manager's name _____</p> <p>(b) Date of Employment _____</p> <p>Has manager ever managed a liquor licensed establishment? Yes <input type="checkbox"/> No <input type="checkbox"/>          Does manager have a financial interest in any other liquor licensed establishment? Yes <input type="checkbox"/> No <input type="checkbox"/>          If yes, give name and location of establishment _____</p>
<b>Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area</b>	<p><b>9. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area</b></p> <p><b>NOTE:</b> Licensees may not modify or add to their licensed premises until approved by state and local authorities.</p> <p>(a) Describe change proposed _____          _____</p> <p>(b) <b>If the modification is temporary</b>, when will the proposed change:          Start _____ (mo/day/year) End _____ (mo/day/year)</p> <p><b>NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00</b></p> <p>(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?          (If yes, explain in detail and describe any exemptions that apply) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(d) Is the proposed change in compliance with local building and zoning laws? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.</p> <p>(g) Attach any existing lease that is revised due to the modification.</p> <p>(h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.</p>
<b>Campus Liquor Complex Designation</b>	<p><b>10. Campus Liquor Complex Designation</b></p> <p>An institution of higher education or a person who contracts with the institution to provide food services</p> <p>(a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<b>Additional Related Facility</b>	<p><b>11. Additional Related Facility</b></p> <p>To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises.</p> <p>(a) Address of Related Facility _____</p> <p>(b) Outlined diagram provided Yes <input type="checkbox"/> No <input type="checkbox"/></p>



<b>Oath of Applicant</b>		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature	Title	Date
<b>Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)</b>		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. <b>Therefore, This Application is Approved.</b>		
Local Licensing Authority (City or County)		Date filed with Local Authority
Signature	Title	Date
<b>Report of STATE Licensing Authority</b>		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date



# ZONING REFERRAL

## Form 5

City Clerk's office 303-538-7230  
 9500 Civic Center Drive  
 Thornton, Colorado 80229-4326

Applicant - complete the first three questions, check appropriate box, and submit this form with a copy of the site plan of the premises to the City Development Department  
**Return the signed form with your application to the Agenda and Licensing Coordinator in the City Clerk's office**

Applicant – Complete this Section Only		
<b>Business Name:</b>		
<b>Business Address:</b>		
<b>Type of License applying for:</b>		
<b>Is the existing building going to be expanded/enlarged?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> <b>New License</b> <input type="checkbox"/> <b>Change of Location</b> <input type="checkbox"/> <b>Modification of Premises</b>		

To Be Completed & Signed By City Development / Zoning Division		
Zoning for the property is:		
Is the property zoned for the type of license applied for?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will the Development Review Process be required for this application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If so, what type of Development Permit is required?	<input type="checkbox"/> Major	<input type="checkbox"/> Minor

If a review is scheduled, please indicate the anticipated hearing date for the Development Permits and Appeals Board (DPAB)*:	
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Is there sufficient parking for the proposed use?

Comments:

*If this matter goes to DPAB, please attach the staff report and minutes.	
City Development/Zoning Division Signature:	Date:

## Chapter 42 - LICENSES, PERMITS AND BUSINESSES

*Footnotes:*

--- (1) ---

**Cross reference**— *Franchise applications, § 2-266 et seq.; building contractors, § 10-91 et seq.; secondary entrance marking, § 38-106 et seq.; alarm systems, § 38-136 et seq.; peddlers and solicitors, Ch. 50; garbage collectors, § 58-91 et seq.*

**State Law reference**— *Home rule powers, Col. Const. Art. XX, § 6; powers to regulate businesses, C.R.S. § 31-15-501.*

### ARTICLE I. - IN GENERAL

Secs. 42-1—42-25. - Reserved.

### ARTICLE II. - ALCOHOLIC BEVERAGES

*Footnotes:*

--- (2) ---

**State Law reference**— *Colorado Beer Code, C.R.S. Title 44, Art. 4; Colorado Liquor Code, C.R.S. Title 44, Art. 3.*

#### DIVISION 1. - GENERALLY

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: except that these terms shall not include confectionary containing alcohol within the limits prescribed by C.R.S. § 25-5-410(1)(i)(II).

*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. [Note: This definition is in effect until January 1, 2019.]

*Fermented malt beverage* means beer and any other beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one half of one percent alcohol by volume. "Fermented malt beverage" does not include confectionery containing alcohol within the limits prescribed by section C.R.S. § 25-5-410(1)(i)(II). [This state definition is effective January 1, 2019.]

*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* includes beer and means 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 not less than one-half of one percent alcohol by volume. [Note: This state definition is effective January 1, 2019.]

*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. [This definition is in effect until January 1, 2019.]

*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 a public, parochial, or nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one to twelve. "Basic academic education" has the same meaning as set forth in C.R.S. § 22-33-104(2)(b).

*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, powdered alcohol, and every liquid or solid, patented or not, containing at least one-half of one percent alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in the definition of malt liquor or vinous liquor, shall not be construed to be fermented malt or 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 that contain not less than one-half of one percent and not more than 21 percent alcohol by volume, and are produced by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. For the purpose of simplifying the administration of this Code, sake is deemed to be a vinous liquor.

- (b) All other words and phrases used in this article have the meanings set forth in C.R.S. § 44-3-101 et seq., § 44-4-101 et seq., § 44-5-101 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; Ord. No. 3506, § 1, 12-18-18)

**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. § 44-3-101 et seq., § 44-4-101 et seq., and § 44-5-101 et seq.
- (b) Notwithstanding any provision of this article to the contrary, all on-premises establishments licensed pursuant to this section, which serve meals or sandwiches and light snacks, may permit a customer of the establishment 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; Ord. No. 3506, § 1, 12-18-18)

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, 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 fermented malt beverage to an adult person and permit such adult person to serve or give the fermented malt beverage 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 habitually intoxicated person or person with an alcohol use disorder.
- (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; Ord. No. 3506, § 1, 12-18-18)

**State Law reference**— Sale of alcohol to underaged persons or drunkards, C.R.S. Title 44, Arts. 3 and 4.

Sec. 42-29. - Underage purchase prohibited.

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

(Code 1975, § 25-28; Ord. No. 2349, § 5, 10-24-94; Ord. No. 3506, § 1, 12-18-18)

**State Law reference**— Purchase of alcohol by underaged persons, C.R.S. Title 44, Arts. 3 and 4.

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)

Sec. 42-31. - Unlawful acts; duties to report.

- (a) A licensee, licensee's manager, employee, agent or representative 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.
- (b) Any violation of Section 42-31 shall be punished as provided in Section 1-8(a) of the Code.

(Ord. No. 3244, § 1, 6-25-13)

Secs. 42-32—42-55. - Reserved.

## DIVISION 2. - LOCAL LICENSING AUTHORITY

*Footnotes:*

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**Cross reference**— *Boards and commissions, § 2-81 et seq.*

**State Law reference**— *Local licensing of alcohol, C.R.S. Title 44, Arts. 3 and 4.*

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. § 44-3-101 et seq., § 44-4-101 et seq., and § 44-5-101 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. § 44-3-101 et seq., § 44-4-101 et seq., and § 44-5-101 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; Ord. No. 3506, § 1, 12-18-18)

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. § 44-3-101 et seq., and § 44-4-101 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; Ord. No. 3506, § 1, 12-18-18)

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

Secs. 42-91—42-115. - Reserved.

#### Part II. - License

*Footnotes:*

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**State Law reference**— *Local licensing of alcohol, C.R.S. Title 44, Arts. 3 and 4.*

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 44, Articles 3, 4, and 5 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 44, Articles 3, 4, and 5 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, or unless the licensed premises is for the sale of fermented malt beverages and 1) is located or to be located on land owned by a municipality, 2) is an existing licensed premises on land owned by the state, 3) held a valid license and was actively doing business before the principal campus was constructed, 4) is a club located within the principal campus of any college, university, or seminary that limits its membership to the faculty or staff of the institution, or 5) is a campus liquor complex.

- (12) If the application is for a license to sell from a liquor licensed drug store, or at retail, malt, vinous, or spirituous liquors for consumption off the licensed premises, an affidavit stating that the building from which the alcoholic beverages are to be sold is not located within 1,500 feet of another premises licensed to sell at retail malt, vinous, or spirituous liquors for consumption off the licensed premises as calculated by the radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other licensed premises.
  - (13) If the application is for a license to sell fermented malt beverages, an affidavit stating that the building in which fermented malt beverages are to be sold at retail for consumption off premises is not located within 500 feet of any retail liquor store, as calculated by the radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other licensed premises, unless the applicant applied for or received a building permit or certificate of occupancy prior to January 1, 2019.
  - (14) If the application is for a second or additional license the applicant shall submit an affidavit describing the effect, if any, the license would have on restraining competition, and identifying relevant facts to support the affidavit.
- (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; Ord. No. 3506, § 1, 12-18-18)

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 44, Articles 3, 4, and 5 of the Colorado Revised Statutes, 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; Ord. No. 3506, § 1, 12-18-18)

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. § 44-3-101 et seq., § 44-4-101 et seq., and § 44-5-101 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; Ord. No. 3506, § 1, 12-18-18)

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 be 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.
- (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. § 44-3-101 et seq. and § 44-4-101 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. § 44-3-101 et seq., and § 44-4-101 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. § 44-3-101 et seq., and § 44-4-101 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. § 44-3-101 et seq., and § 44-4-101 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; Ord. No. 3506, § 1, 12-18-18)

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 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 to 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; Ord. No. 3506, § 1, 12-18-18)

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.
  - (1) If the application is to move the permanent location of a fermented malt beverage retailer, an affidavit stating that the building in which fermented malt beverages are to be sold is not located within 1,500 feet of a retail liquor store as calculated by the radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other licensed premises.
  - (2) If the application is to move the permanent location of a retail liquor store, an affidavit stating that the building in which the malt, vinous or spirituous liquor are to be sold is not located within 1,500 feet of another retail liquor store as calculated by the radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other licensed premises.
- (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; Ord. No. 3506, § 1, 12-18-18)

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. § 44-3-307, 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, limited liability company, or other business entity, 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 44, Articles 3, 4, and 5, 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, ten percent or more of any membership interest in a limited liability company, ten percent or more of any business entity, 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. § 44-3-307, 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; Ord. No. 3506, § 1, 12-18-18)

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 license identified in C.R.S. §§ 44-3-301(8) and 44-3-413(9), as amended, 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 as provided in Section 42-120(b).
- (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; Ord. No. 3506, § 1, 12-18-18)

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 chapter 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 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 based upon the following factors:

- 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's record of compliance with all state and local liquor licensing laws, regulations and ordinances.
- (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.
- (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; Ord. No. 3244, § 2, 6-25-13; Ord. No. 3362, §§ 1—3, 10-27-15; Ord. No. 3506, § 1, 12-18-18)

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. § 44-3-310. 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; Ord. No. 3506, § 1, 12-18-18)

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 only for an application for which a protest has been filed. 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., § 44-5-101 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 notify the State of its issuance.
- (h)

Notwithstanding any other section of this Code, an organization holding a special event permit may auction alcohol beverages in sealed containers for fundraising purposes subject to the restrictions in the Colorado Revised Statutes.

(Ord. No. 2427, § 18, 7-22-96; Ord. No. 3506, § 1, 12-18-18)

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. § 44-3-301, as the term "tastings" is defined in said C.R.S. § 44-3-301. 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, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant promoting the alcohol beverages, 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 need not 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 9:00 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, shall destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time or date.
  - (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 containers and shall be provided to a patron free of charge.
  - (11) The licensee may conduct tastings no more than 156 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 bears the financial and all other responsibility for a tasting conducted on its premises.
- (d) A violation of a limitation specified in subsection (c) or of C.R.S. § 44-3-301 by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, or by a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery,

importer, or vintner's restaurant that promoted the alcohol beverages for the tasting, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee that conducted 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. § 44-3-301.
- (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; Ord. No. 3506, § 1, 12-18-18)

Sec. 42-133. - Manufacturer's sales rooms.

- (a) All applications and supplemental applications for a sales room pursuant to C.R.S. §§ 12-47-402 and 12-47-403 [C.R.S. §§ 44-3-402 and 44-3-403 as of October 1, 2018] shall be submitted to the city clerk concurrently with the application to the state licensing authority. All applications for a proposed sales room operating not more than three consecutive days shall be submitted to the clerk on forms provided by the state not less than ten business days prior to the proposed opening date.
- (b) Upon receipt of the application, the clerk shall request reports from all departments necessary to determine whether the sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, and whether the applicant cannot sufficiently mitigate any potential impacts identified.
- (c) The city clerk is hereby delegated the authority to administratively determine whether sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, and whether the applicant cannot sufficiently mitigate any potential impacts identified. If staff determines that the sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, and the applicant cannot sufficiently mitigate any potential impacts identified, the city clerk shall submit to the state licensing authority its determination and the basis for the determination within eight business days of the application to the state



licensing authority if the application is for a proposed sales room operating not more than three consecutive days and within 45 days for a proposed sales room operating more than three consecutive days.

(Ord. No. 3506, § 1, 12-18-18)

Secs. 42-134—42-155. - Reserved.

Part III. - Operational Rules

Sec. 42-156. - Reserved.

**Editor's note**— Ord. No. 3244, § 3, adopted June 25, 2013, repealed § 42-156 which pertained to unlawful acts, signs to be posted, violations and penalties, and derived from § 25-21 of the 1975 Code; Ord. No. 1633, adopted Dec. 22, 1986; Ord. No. 1769, adopted June 27, 1988; Ord. No. 2349, §§ 3, 4, adopted Oct. 24, 1994; and Ord. No. 2777, § 6, adopted May 27, 2003.

Sec. 42-157. - Conduct of establishment.

- (a) Licensees and licensee's managers, employees, agents and representatives shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not permit on the licensed premises the serving or loitering of a visibly intoxicated person or habitually intoxicated person or person with an alcohol use disorder, nor shall the licensee or the licensee's managers, employees, agents or representatives knowingly permit any activity or acts of disorderly conduct as defined by state statute.
- (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; Ord. No. 3244, § 4, 6-25-13; Ord. No. 3506, § 1, 12-18-18)

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 8:00 a.m., or the sale in a sealed container on Christmas Day.

(Code 1975, § 25-31; Ord. No. 2349, § 5, 10-24-94; Ord. No. 3506, § 1, 12-18-18)

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 the amount contained in a fermented malt beverage.

(Code 1975, § 25-32; Ord. No. 2349, § 5, 10-24-94; Ord. No. 3506, § 1, 12-18-18)

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.

- (a) Except as provided in Section 42-27 it shall be unlawful for a licensee, manager or agent of any establishment licensed for on-premises consumption to knowingly permit the removal from the licensed premises of any alcoholic liquor in sealed or unsealed containers.
- (b) Except as provided in subsection (c) of this section, the licensee shall not be charged with permitting the removal of an alcoholic beverage from the licensed premises when the licensee has posted a sign at least ten inches wide and six inches high by each exit used by the public that contains the following notice in type that is at least one-half inch in height:

WARNING

DO NOT LEAVE THE PREMISES OF THIS ESTABLISHMENT WITH AN ALCOHOLIC  
BEVERAGE.

IT IS ILLEGAL TO CONSUME AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE.

A FINE OF UP TO \$250 MAY BE IMPOSED BY THE COURTS FOR A VIOLATION OF THIS PROVISION.

- (c)

Regardless of whether a licensee posts a sign as specified in subsection (b), the licensee may be charged with knowingly permitting the removal of an alcoholic beverage from the licensed premises if the licensee shows reckless disregard for the prohibition against alcoholic beverage removal from the licensed premises, which may include permitting the removal of an alcoholic beverage from the licensed premises three times within a 12-month period, regardless of whether the three incidents occur on the same day or separate days. A licensee may be charged with knowingly permitting the removal of an alcoholic beverage from the licensed premises upon the third occurrence of alcoholic beverage removal from the licensed premises.

- (d) In addition to posting a sign as described in subsection (b), a licensee may also station personnel at each exit used by the public in order to prevent the removal of an alcoholic beverage from the licensed premises.

(Code 1975, § 25-35; Ord. No. 2349, § 5, 10-24-94; Ord. No. 3244, § 5, 6-25-13)

Secs. 42-167—42-200. - Reserved.

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**LOCAL LICENSING AUTHORITY  
CITY OF THORNTON, COLORADO  
RULES OF PROCEDURE  
October 2015**

**RULE I      APPLICABILITY OF RULES AND DEFINITIONS**

In addition to any other rules or laws which may be applicable, these Rules of Procedure (Rules) shall govern all proceedings before the Local Licensing Authority (Authority) of the City of Thornton. All meetings shall be conducted in compliance with these Rules and Robert's Rules of Order. These Rules shall govern in the event of a conflict with Robert's Rules of Order. Any provision of these Rules not governed by the Charter or Code, may be temporarily suspended at any meeting of the Authority by a majority vote of all members of the Authority. Any rule may be suspended by general consent if presented by the Chairperson and if there are no objections from any member.

The definitions for terms, contained in Section 42-26 of the Thornton City Code (Code), are to apply for all such terms used in these Rules. Section 42-26 is therefore incorporated by this reference as if set forth fully herein.

**RULE II      CHAIRPERSON, VICE CHAIRPERSON AND DUTIES OF MEMBERS**

**A.      CHAIRPERSON AND VICE CHAIRPERSON**

1.      Chairperson - The Chairperson shall preside at all regular and special meetings of the Authority.
2.      Vice Chairperson - In the absence of the Chairperson, the Vice Chairperson shall preside. If the Chairperson and Vice Chairperson are both absent, the members present shall designate a person to act as Chairperson during their absence.
3.      The members shall rotate the position of Chairperson and Vice Chairperson whenever possible. In the event that no members accept nomination for Chairperson or Vice Chairperson, the City Clerk shall inform the City Council immediately.

**B.      DUTIES OF CHAIRPERSON**

The Chairperson shall have the responsibility to ensure that all meetings are conducted in an open and fair manner and that no individual member's opinion is allowed to dominate a meeting. The Chairperson shall clearly document any problems or issues and work with members who deviate from acceptable procedural standards. If a member has not taken steps to comply with such standards, on the second incident, which is noted by the Chairperson, the Chairperson will notify the City Clerk to advise the City Manager and the City Council of the matter. If the Chairperson is not following the standards, the City Clerk shall notify the City Manager who will forward the issue to City Council. The Chairperson shall attend the Mayor and Chairperson meetings and report the results to the Authority. The Chairperson shall assist the City Clerk in training of new members. The Chairperson shall act as liaison with the City Council and communicate City Council goals and policies to the Authority.

C. DECORUM DURING MEETING

The Chairperson shall preserve decorum during a meeting. The Chairperson shall have the right to eject, after reasonable warning, any person disrupting a meeting. No signs or placards will be displayed by an applicant or audience in the audience section during a public hearing. Loud sounds such as cheering, applause, or booing shall be limited by the Chairperson. Video or audio recording of a hearing by persons other than City employees is at the discretion of the Chairperson and in no event shall any recording interfere or impede a meeting.

D. DISQUALIFICATION OF MEMBER FROM PARTICIPATION

No member may participate in the debate or vote upon any question when in violation of Chapter 57, Code of Ethics, of the City Code. A request to be excused from participation in or voting upon a question for any other reason must be made before the vote is taken.

RULE III      MEETINGS - GENERALLY

A. REGULAR, SPECIAL AND ORGANIZATIONAL MEETINGS

1. All regular meetings of the Authority shall be held on the third Wednesday of each month in the Council Chambers of the Thornton Civic Center, however a meeting can be canceled by the City Clerk if there is no business to transact no later than 24 hours prior to the meeting. Notification of the cancellation shall be by telephone, electronically or by other technology, or first-class mail. Meetings shall start promptly at 6:00 p.m. and shall end no later than 11:00 p.m. unless otherwise approved by the Authority.
2. Special meetings shall be held as necessary, as scheduled by the Authority or upon call of the City Clerk who shall provide adequate notice to each member of such meeting. All special meetings where practical shall be held on Wednesdays. Adequate notice shall mean by first-class mail, electronically, by telephone, or by other technology at least 24 hours prior to the meeting. Oral or written consents and waivers of notices of meetings or continuances are permitted. Cancellation procedures for special meetings shall be the same as for regular meetings.
3. The Authority shall hold an organizational meeting in April of each year. At said organizational meeting, the Chairperson and Vice Chairperson shall be elected and such other organizational matters as it deems appropriate considered.

B. ORDER OF BUSINESS

The following Order of Business will normally be used for meetings:

- Call to Order
- Roll Call
- Approval of Agenda
- Motion to Admit the License Applications and the City Clerk's Communication Documents into Evidence
- Consent Agenda
- Business

Public Hearings  
Other Matters  
Adjournment

The Authority may change the Order of Business to assist and facilitate the conduct of its meetings.

C. PROCEDURE FOR MEETINGS

1. The City Clerk will prepare the meeting room, and provide public hearing sign-up sheets to be placed in the lobby or council chamber prior to the meeting for the benefit of those persons wishing to speak on those matters on the agenda. On the Friday preceding any meeting, if possible, but no later than 48 hours prior to any meeting, the City Clerk will have an agenda showing the order of business, copies of communications, resolutions, if applicable, with supporting documents, and other related items, made available for each Authority member.
2. The Chairperson calls the meeting to order and reads the next order of business. The Chairperson should request such information, evidence and testimony as is appropriate for the item being considered.
3. Except during a public hearing, persons other than members of the Authority and City officials shall not be permitted to address the Authority except upon recognition by the Chairperson. Any Authority member may request the Chairperson recognize any person other than a City official. If permission is not granted, the decision of the Chairperson may be appealed. Any member may appeal a ruling of the Chairperson to the Authority. If the appeal is seconded, the member making the appeal may briefly state the reason for the same, and the Chairperson may briefly explain the reason for the ruling; but there shall be no debate on the appeal, and no other member shall participate in the discussion. The Chairperson shall then put the question, "Shall the decision of the Chairperson be sustained?" If a majority of the members present vote "Yes," the ruling of the Chairperson is sustained; otherwise it is overruled.
4. At the conclusion of the evidence and testimony, the Chairperson should entertain a motion regarding the disposition of the item.
5. When a motion is made and seconded, the Chairperson should ask for and allow discussion of the motion by the Authority.
6. Upon completion of discussion, the Chairperson should request a vote by the Authority. The City Clerk will record the vote.
7. The meeting may be adjourned by motion of the Chairperson or any member. A recess may be called at any time either by the Chairperson or upon motion by a member with the consent of the majority. The Authority shall not adjourn while in recess but must reconvene prior to adjournment.

D. MINUTES OF THE MEETING

The City Clerk shall prepare and keep the minutes of all Regular and Special Meetings of the Authority. The minutes shall not be a verbatim transcript of the proceedings, provided tape recordings of all proceedings are retained by the City Clerk's office in accordance with the State Archives retention schedule for reference when and if necessary. The purpose of the minutes shall be to record the Authority's transactions rather than its deliberations; therefore, debates, arguments, and discussion among the Authority shall not be included. Specific direction to the support staff, the City Clerk and City Attorney, shall be included in the minutes when such direction may affect the outcome of a decision to be made by the Authority. A court reporter may be in attendance for the purpose of recording the proceedings when the Authority, an applicant or a Party in Interest so requests; however, anyone requesting a court reporter is responsible for paying the full cost thereof.

The City Clerk should include the following in the minutes of each meeting:

1. Name - Meeting of the Local Licensing Authority of Thornton, Colorado
2. Kind of meeting (Regular, Special)
3. Place and date of meeting
4. Officer presiding, Authority Members and Staff present
5. The decision in each point of order arising
6. A record of the Authority's actions which will in most instances be a motion reflecting the decision taken by the Authority
7. The time and place of re-assembling unless it is the regular meeting time and place
8. A record of the applicant(s) and witnesses in attendance and the purpose of their presence
9. Whether previous minutes were approved
10. The signature of the City Clerk and the Chairperson at the time the minutes were approved
11. All motions, seconds, the vote thereon (including abstentions), and any subject matter reports given and disposition of same

E. ATTENDANCE AT MEETINGS

1. Attendance Required - A written report signed by the Chairperson shall be sent to the City Council concerning any member of the Authority who has three absences in a calendar year from Authority meetings for City Council determination as to whether this shall result in removal of that member from the Authority. Such report shall be sent to the City Council within three days following such member's third absence.

2. Notice of Absence – Any member who is going to be absent from an Authority meeting shall notify the City Clerk prior to the meeting. No member may leave during the meeting without permission from the Chairperson.

F. SUPPORT SERVICES

1. Legal - The City Attorney or designee of the City Attorney may designate may attend all regular and special meetings of the Authority as the legal and procedural advisor to the Authority. In any public hearing where evidence is to be presented in regard to a show-cause hearing in support of a suspension or revocation, special counsel may be appointed to represent the City or the Authority.
2. Secretarial; records custodian - The City Clerk shall serve as the secretary and records custodian for the Authority and perform the functions that a corresponding secretary and recording secretary normally perform. Additionally, the City Clerk shall be responsible for overseeing the publication concerning public hearings and other required notifications.

RULE IV PUBLIC HEARING PROCEDURES FOR NEW, TRANSFER, CHANGE OF LOCATION, CHANGE OF CORPORATE STRUCTURE, MANAGER'S REGISTRATION, AND REQUEST TO MODIFY APPLICATIONS

- A. The Chairperson or presiding member shall have full authority to control the proceedings, to admit or exclude testimony or other offers of evidence and to rule upon all motions and objections. A majority of the Authority members present may overrule the Chairperson on any such rulings.

Unless the member has reviewed all the evidence and a transcript of the prior proceedings, any member who has been absent during any portion of a public hearing may not vote or participate in deliberations and discussions at the public hearing.

- B. The Authority shall not be bound by strict rules of evidence prevailing in courts of law or equity, however the right of cross-examination shall be preserved. Irrelevant, repetitive and cumulative testimony and evidence should be excluded when possible. Motions may be written, but, shall be read into or summarized for the record. Objections shall be stated orally for the record. All testimony shall be given under oath. In all Public Hearings under this Rule IV, the applicant has the burden of persuading the Authority that the application should be granted.
- C. All exhibits or other documentary evidence to be admitted shall be submitted to the City Clerk and pre-marked no later than the Monday before the hearing. These exhibits shall be introduced as in Civil Cases. If the applicant desires to distribute copies of exhibits to the Authority at the hearing, the applicant shall provide a sufficient number of copies. Neighborhood petitions signed by inhabitants and submitted to the Authority in accordance with these Rules and Section 42-118 of the Code, shall be considered by the Authority when determining the "requirements" and "desires" of the neighborhood.

- D. The following order for the presentation of evidence shall apply:

1. Call the public hearing to order

2. Opening remarks by Chairperson
  3. Opening statement by the applicant or the applicant's attorney
  4. Opening statement by the City Attorney
  5. Presentation of applicant's evidence and witnesses. Prior to excusing applicant's witnesses, cross-examination shall be permitted in the following order:
    - a. City Attorney
    - b. Authority members
    - c. Any person who is a "party in interest" (if applicable) as defined in (C.R.S. 12-47-311) (hereafter, Party in Interest)
  6. Presentation of City's evidence and witnesses. Prior to excusing any of the City's witnesses, cross-examination shall be permitted in the following order:
    - a. Applicant's attorney
    - b. Authority members
    - c. Any Party in Interest (if applicable)
  7. Presentation of witnesses and evidence by any Party in Interest (if applicable). Prior to excusing witnesses, cross examination of interested parties and their witnesses shall be permitted by applicants, City and Authority members.
  8. Applicant's rebuttal evidence
  9. City's rebuttal evidence
  10. Applicant's closing statement
  11. City's closing statement
  12. Applicant's reply closing statement
  13. Close the public hearing
  14. Deliberation and call for motion
  15. Applicable motion to grant or deny application, discussion and vote
- E. Reopening of a Public Hearing - Whenever a public hearing has been opened and continued to another date or where it has been closed and the Authority wishes to take additional evidence prior to a vote or a reconsideration of a vote, the Chairperson may reopen the public hearing for purposes of taking such additional evidence. The Chairperson may limit the scope of such evidence to be taken. Whenever a public hearing is reopened and additional evidence is taken, all such additional evidence shall be incorporated into the original public hearing.
- F. Evidence for Public Hearings - New licenses, transfer of ownership, change of location, change of corporate structure, manager's registration, and request to modify.

1. Evidence concerning whether the Applicant (individual, corporation, or other entity) is qualified to hold the type of license applied for (not applicable for request to modify or change of location), which evidence may include:
    - a. other facilities operated by applicant
    - b. training and experience of applicant
    - c. familiarity with laws both state and local
    - d. procedures and policies regarding enforcement of liquor laws
    - e. reputation and particular history of applicant regarding liquor laws
  2. Evidence concerning the reasonable requirements of the neighborhood and whether existing outlets are adequate (not applicable for transfer, change of corporate structure, or manager's registration), which evidence may include:
    - a. number of existing outlets and proximity
    - b. testimony from adults residing in the relevant neighborhood
    - c. testimony from applicant or applicant's officers
    - d. testimony from petitioner or company submitting petitions
  3. Evidence concerning the desires of adult residents for existing outlets (not applicable for transfer, change of corporate structure, or manager's registration), which evidence may include:
    - a. testimony from adults residing in the relevant neighborhood
    - b. testimony from a manager or business owner in the relevant neighborhood
    - c. petitions submitted by the applicant or petition company
    - d. testimony from applicants
  4. May have other evidence concerning:
    - a. nature of establishment and location
    - b. discussion concerning meeting all applicable City codes or ordinances
    - c. discussion concerning financial interest in establishment
- G. Any Party in Interest wishing to participate in the hearing must so inform the Authority at the onset of the hearing. That party may cross-examine witnesses and introduce evidence with regard to the following matters:
1. Reasonable requirements of the neighborhood and the number and type of relevant existing outlets
  2. Any other pertinent matters affecting the qualifications of the applicant, including but not limited to the applicant's character, record or reputation
  3. Any other evidence which would indicate that the building or location proposed for the operation of the license is not suited for the intended purposes
  4. Desires of the inhabitants in opposition to the issuance of the licenses expressed by witnesses and/or through petitions

- H. The City Clerk may grant an applicant's or the City's request to continue a matter set for hearing to a following regular or special meeting, if such request is made prior to the time that publication and posting of notice of hearing on the matter is to be made. Once a matter has been scheduled for public hearing and public notice thereof has been given, the matter may be continued only by the Authority upon a showing of good cause. The Authority may, in its discretion, grant or deny an applicant's request for a continuance, or it may condition the grant of a continuance upon the payment of costs or other expenses reasonably caused by applicant's request.
- I. Unless excused by the Authority, the following persons shall be in attendance at the public hearing on the application:
  - 1. if the applicant is an individual, that individual; or
  - 2. if the applicant is a partnership, any managing or general partner or his authorized designee; or
  - 3. if the applicant is a corporation, the president of the corporation, an officer or director or such other corporate representative as the president may designate in writing; or
  - 4. If the applicant is a limited liability company, a managing officer, or his authorized designee.
- J. The Authority may deliberate in open session or may, upon proper motion, recess into Executive Session. The Executive Session will not be for the purpose of receiving any evidence nor shall a final determination be made during such Executive Session.
- K. It is within the discretion of the Authority, whether to make an immediate decision upon the conclusion of the public hearing or require the City Attorney's office to prepare written findings within a reasonable time after the hearing, not to exceed 30 days.
- L. Any findings, either written or oral, which shall mean findings of fact, conclusions of law and order, may be prepared by the City Attorney's office and may be available for execution by the Chairperson and adoption by the Authority at the public hearing or at a subsequent regular or special meeting. Written findings of fact shall be mailed by certified mail to the applicant within 30 days after the determination is made.
- M. All decisions of the Authority are final, subject only to appeals made directly to a court of competent jurisdiction.

RULE V      PUBLIC HEARING PROCEDURES FOR RENEWALS, SUSPENSIONS,  
FINES, AND REVOCATIONS

- A. The Authority has the power after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend, deny renewal of or revoke any license issued by the Authority for violations by the licensee, or by any of the agents, servants, or employees of such licensee of the provisions of the Colorado Liquor or Beer Codes, or any of the rules, ordinances and regulations authorized pursuant to such Codes or of any of the terms, conditions or provisions of the license issued by the Authority.



- B. Suspension and revocation proceedings shall be commenced by the Authority by issuing and causing to be served upon the liquor licensee by first-class mail to the licensee at the address contained in the license, an Order to Show Cause and Notice of Hearing (Notice). The Notice shall command the licensee to appear and show cause why its license should not be suspended or revoked as it appeared to the Authority that there was probable cause to believe that the licensee or any of the agents, servants or employees violated laws, rules or regulations of the Colorado Liquor or Beer Code or any of the terms, conditions or provisions of the license issued by the Authority. The Notice shall notify or inform the licensee of the charges or alleged grounds for suspension or revocation and will be prepared for the Authority by the City Attorney or designee.
- C. All proposed settlements and dispositions of matters scheduled for a public hearing shall be in the form of joint stipulations and shall be submitted in writing to the offices of the City Clerk and the City Attorney at least ten days prior to the scheduled public hearing date. The Authority has the discretion to consider a proposed disposition prior to the hearing.
1. The scheduled public hearing shall be automatically vacated if:
    - a. The proposed settlement or disposition is properly and timely made in writing in accordance with Section C; and
    - b. The proposed settlement is approved as to legal form by the Thornton City Attorney's office; and
    - c. No prior proposed settlements or dispositions on the same matter have been previously submitted to the Authority for consideration; ~~and~~
    - d. ~~The licensee has not, within the preceding two years, had its license suspended and paid a fine in lieu (Fine) for such.~~
  2. The City Clerk shall provide the Authority members with a copy of the written notice of proposed settlement or disposition in their packets, or shall provide the Authority members with electronic or other technology or first-class mail notification of the matter.
  3. Consideration of proposed disposition by the Authority; continuance of hearing upon rejection.
    - a. Upon timely filing of the notice of the proposed disposition as provided in Section C above, the Authority shall, at the time of the scheduled hearing, consider the proposed stipulations and recommendations. The Authority may however, upon good cause shown, consider dispositions presented either orally or in writing without regard to the provisions of Section C above. Upon a finding that the public interest is not served by the proffered disposition, or if the Authority significantly changes the proposed settlement order and during the Authority's consideration of such, either party has an objection to such changes, the hearing on the merits shall be continued and rescheduled to the next regular or special meeting of the Authority. The continued hearing shall be at least ten days after the original scheduled hearing date, unless both parties are prepared and agree to proceed immediately after rejection of the proposed disposition.

- b. In the event of rejection of the proposed disposition, the Authority shall identify the reasons for such rejection, which may include, without limitation, seriousness of the violations, aggravating or mitigating circumstances, the history of the subject establishment, corrective actions taken, likelihood of reoccurrence, and any other relevant matters impacting the public health, safety and welfare.

4. Subsequent proposed dispositions.

In the event that the Authority, in the exercise of its discretion, should reject the proposed disposition of a matter, and the issues are rescheduled for hearing on the merits as set forth in Section 3(a), and the parties submit an amended notice of proposed disposition, the parties should nevertheless be fully prepared to proceed on the merits of the case at the rescheduled hearing in the event the amended proposal for disposition is also rejected by the Authority as herein contemplated.

5. Effect of rejection of proposed disposition--no prejudice.

In the event that the Authority should reject any proposed disposition pursuant to the provisions of these Rules, neither the City nor the licensee shall suffer any prejudice or detriment as a result of such rejection. The legal standards and burden of proof applicable to the proceedings shall be as if the proposal had not been presented, and a licensee shall suffer no detrimental presumption or inference as a result of such rejection upon hearing the merits.

6. Factual stipulations.

Nothing in these Rules shall be deemed or construed to preclude or limit either party before or during a hearing from offering to stipulate as to the existence of any fact.

7. Notice to licensees.

Along with the Notice sent to any licensee or Notice of Non-Renewal to be considered at a public hearing, the City Clerk shall include a copy of Rule V of the Rules.

D. All requests for continuance of a scheduled public hearing where the Authority will be considering whether a license may be suspended or revoked shall be submitted in writing to the offices of the City Clerk and the City Attorney, or if the City is requesting the continuance, to the City Clerk and the business address of the applicant/licensee or their legal counsel at least ten days prior to the scheduled public hearing date.

1. A continuance of the public hearing shall be granted by the City Clerk to the next available meeting of the Authority if:

- a. The written request is properly and timely submitted to the City Clerk's office in accordance with Section D; and
- b. Both parties or their representatives agree to the continuance; and

- c. Neither party has been previously granted a continuance in the matter under consideration; and
    - d. The City Clerk's office has not incurred any costs for publication of the public hearing date.
  - 2. In the case of a renewal scheduled for a public hearing, a continuance of the public hearing shall be granted by the City Clerk to the next available meeting of the Authority if such request is made prior to the time that posting of notice of hearing on the matter is to be made.
  - 3. If the request for continuance is not made and granted in accordance with Subsection D(1), both parties or their representative shall appear before the Authority at the scheduled public hearing time ready to proceed with their case.
  - 4. Upon a showing of substantial hardship or other good cause by the requesting party, the Authority may grant continuances upon such terms and conditions as it deems just and proper.
- E. A hearing on the suspension, revocation, or non-renewal shall be held at a place, day and time designated by the Authority as stated in the notice of hearing. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation of the charges, followed by the cross-examination of those testifying thereto.
- F. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, the license shall be suspended, revoked or not renewed in accordance with the procedures set forth in Subsection L.
- G. The City Clerk shall mail the licensee the Authority's decision by first-class mail for a liquor licensee to the address contained in such license within 30 days following the hearing.
- H. In the event of revocation, or suspension, no portion of the license fee shall be refunded.
- I. Orders of suspension shall indicate the effective date of suspension. For suspensions of 14 days or less, the effective date shall be at least ten business days after announcement of the suspension unless the Authority makes findings, which indicate the need for an earlier effective date.
- J. Where the Authority has probable cause to believe a licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action, the Authority may temporarily or summarily suspend the license for a period not to exceed 15 days pending a hearing on the suspension or revocation, which hearing shall be promptly instituted and determined. Any finding by the Authority that a temporary summary suspension is appropriate under this section must be by a two-thirds vote of the entire nine member Authority, and specific findings of a willful violation or immediate threat to the public health, safety or welfare must be made and entered in the record and incorporated into any suspension or revocation order.

- K. A licensee wishing to petition the Authority to pay a Fine for a suspension of ~~14 days or less~~, as provided by Code Section 42-127(c), must submit a written petition to the City Clerk's office at least three working days prior to the effective date of the suspension and follow the procedures outlined in C.R.S. 12-47-601(3).
1. The petition for payment of a Fine shall include all information and documentation which the licensee would like the Authority to consider when acting on the petition. The petition shall include, among other things, such information which indicates the licensee is eligible for the payment of a Fine pursuant to the Code and the laws of the State of Colorado, and a calculation of the proposed fine as set out in Section 42-127(c) of the Code with sufficient financial documentation so as to permit the Authority to substantiate the amount of the proposed fine.
  2. The City Clerk shall not accept for filing a petition for payment of a Fine unless the petition is timely filed and is accompanied by a non-refundable petition fee as provided in Section 42-127(c) of the Code.
  3. Except as provided in Section K of this Rule, upon the acceptance of filing of a petition for payment of a Fine, the suspension of the license shall be temporarily stayed until such time as the Authority acts upon the petition for payment of a Fine. The petition will be presented to the Authority at the next available regular meeting of the Authority following the filing of the petition.
  4. If the Authority denies the petition for payment of a Fine, the suspension shall be reinstated and the Authority shall indicate the effective date of the suspension.
  5. If the petition for payment of a Fine is granted, the granting of the petition shall be deemed to be conditioned upon the payment of the fine within ten working days of the action of the Authority. A new suspension period will be set out in any order granting a petition for payment of Fine that period of suspension automatically becoming effective in the event that the licensee fails to pay the fine.
- L. The public hearing for a revocation, suspension or non-renewal shall be conducted following the same applicable procedures as outlined in Rule IV, however, the City will have the burden of persuading the Authority that a violation occurred or the license should not be renewed, as follows:
1. The following order for the presentation of evidence shall apply:
    - a. Opening statement by the City Attorney
    - b. Opening statement by the Licensee
    - c. Presentation of City's evidence and witnesses. Prior to excusing any of the City's witnesses, cross-examination shall be permitted in the following order:
      1. Licensee's attorney
      2. Authority members
    - d. Presentation of Licensee's evidence and witnesses. Prior to excusing applicant's witnesses, cross-examination shall be permitted in the following order:
      1. City Attorney
      2. Authority members
    - e. City's rebuttal evidence

- f. Licensee's rebuttal evidence
- g. City's closing statement
- h. Licensee's closing statement
- i. City's reply closing statement
- j. Close the public hearing
- k. Deliberation and call for motion
- l. Applicable motion to suspend, revoke, or not renew license, discussion and vote

2. Evidence for Public Hearing - Suspension, Non-Renewal

City presents evidence concerning whether the licensee committed the violations listed in the Verified Complaint, which evidence may include:

- a. Evidence from individual witnesses either employees or contractors who were present when events occurred
- b. Evidence from experts including health or other County or State officials concerning events surrounding the incident
- c. Evidence from City officials including Code Enforcement officers, Finance officers, and Building Code officials
- d. Evidence from the Police Department including the Local Licensing Investigator

- 3. In the event the Authority finds that a violation occurred, the Sentencing Guidelines shall be applied to assist the Authority in determining a penalty.
- 4. In the event that the Authority finds that a violation occurred, then the licensee may also present evidence in mitigation or explanation and the City may present evidence in aggravation prior to the Authority issuing its Order relating to the penalty, conditions or sanctions to be imposed.
- 5. The Authority may deliberate in open session or may, upon proper motion, recess into Executive Session to deliberate upon the evidence presented. The Executive Session will not be for the purpose of receiving any evidence nor shall a final determination be made during such Executive Session.
- 6. It is within the discretion of the Authority whether to make an immediate decision at the conclusion of the public hearing or require the City Attorney's office to prepare written findings within a reasonable time after the hearing, not to exceed 30 days.
- 7. Any findings, either written or oral, which shall mean findings of fact, conclusions of law and order, may be prepared by the City Attorney's office and may be available for execution by the Chairperson and adoption by the Authority at the public hearing or at a subsequent regular or special meeting. Written findings of fact shall be sent by first class mail to the licensee within 30 days after the determination is made.
- 8. All decisions of the Authority are final subject only to appeals made directly to a court of competent jurisdiction.

RULE VI      PETITIONS

- A. Petitions circulated by the applicant and any protestants or their agents shall be submitted to the City Clerk no later than 5:00 p.m. on Friday prior to the public hearing. The Authority may continue any hearing where the City Clerk has not had sufficient time to verify the accuracy of the petitions. The Authority may waive the three-day requirement upon a majority vote.
- B. Petitions shall be circulated within the designated relevant neighborhood and signed by residents, business owners, or managers within the designated area. Petitions must be signed with the full given name. No signatures will be accepted where the wife or husband has signed for both unless accompanied by a proper and sufficient Power of Attorney for the non-signing spouse.
- C. All signatures shall be identifiable with a residence or business address listed on the petition, together with the age of the person signing the petition and the date signed. Each individual signing a petition shall indicate his/her relationship to the relevant neighborhood (e.g. resident, business owner, employee, business manager, etc.) Signatures will not be accepted if it is not clear whether the signer is a business owner or manager or a resident of the designated area.
- D. Each petition shall contain an Affidavit signed by the circulator of the petition that the circulator personally witnessed each signature appearing on the petition, that each signature thereon is the signature of the person whose name it purports to be, that the address given opposite that person's name is the true business or residence address of the person signing the petition and that the requirements of this Rule have been complied with.
- E. All petitions shall be in substantial conformity to the format furnished by the City Clerk. Petitions will not be accepted unless a signed Affidavit is submitted for each circulator and the applicant is clearly identified on the face of each petition.
- F. All petition signers for or against the issuance of a fermented malt beverage or malt, vinous or spirituous liquor license must be 21 years of age or older.