

ORDINANCE NO: 2236

INTRODUCED BY: DAVIS, DOUGLAS, FORD, FRANK, GUARDIOLA, HURST,
HUSEMAN, MADERA, TETER

AN ORDINANCE AMENDING CHAPTER 8 OF THE COMMERCE CITY REVISED MUNICIPAL CODE REGARDING ALCOHOLIC BEVERAGES AND MEDICAL MARIJUANA TO CONFORM TO RECENT CHANGES IN THE STATE LIQUOR CODE, TO CLARIFY THE AUTHORITY OF THE LIQUOR AUTHORITY AND OTHER MATTERS

WHEREAS, House Bill 18-1025 moved the State Liquor Code from Title 12 of the Colorado Revised Statutes to a new Title 44, effective October 1, 2018; and

WHEREAS, Chapter 8 of the Commerce City Revised Municipal Code must be updated to reflect House Bill 18-1025, to clarify the role of the Liquor Authority, and to remove provisions that are no longer relevant or repetitive of provisions in the State Liquor Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Chapter 8 of the Commerce City Revised Municipal Code is amended with respect to its title and Sections 8-1102, 8-1104, 8-1200, and 8-1204, as set forth in Exhibit A to this ordinance, and such amendments are determined to be necessary for the protection of the public health, safety, and welfare.

SECTION 2. Nothing contained in this ordinance shall be construed to invalidate any past settlement or compromise entered into, or any legal action brought, by or on behalf of the City of Commerce City.

SECTION 3. Except as specifically modified herein, the provisions of the Commerce City Revised Municipal Code shall remain unchanged and in full force and effect.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7TH DAY OF OCTOBER 2019.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 4TH DAY OF NOVEMBER 2019.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk

EXHIBIT A

(Additions in blue italics; deletions in red strikethrough)

Chapter 8. - ALCOHOLIC BEVERAGES AND ~~MEDICAL~~ MARIJUANA

Sec. 8-1102. - Definitions.

The words and phrases used in this article shall have the meanings as set forth in Articles 3, 4 and 5 of Title 44~~C.R.S. tit. 12, arts. 46, 47 and 48~~, as amended, and the case law interpreting the same. Any words or phrases not ascribed a meaning in such manner shall have their common, ordinary and accepted meanings, except that the following terms shall have the meanings ascribed to them in this section:

Administrative application means the application on forms approved by the city or the state for any of the following:

- (1) Temporary permit;
- (2) Change of corporate structure;
- (3) Modification of premises;
- (4) Manager registration;
- (5) Special events permit;
- (6) Transfer of ownership;
- (7) Change of corporate or trade name;
- (8) Bed and breakfast permit;
- (9) Tasting permit;
- (10) Renewal; and
- (11) Any other license-related application for which a public hearing is not required by state liquor laws.

Applicant means a person applying for, or who has applied for, a license or permit under this article.

- (1) If an individual, the person making an application.
- (2) If a partnership, all the partners of the partnership.
- (3) If a corporation, the corporation and each and every officer, director, manager or

stockholder holding ten (10) percent or more of the stock therein.

- (4) If any other legal entity, the entity and each and every officer, director, manager or owner who holds more than a ten-percent ownership interest in the entity.

Authority or liquor authority means the local licensing authority for the city.

City clerk means the city clerk of the city or his or her designee.

Gambling device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine.

Licensee means an applicant who has been issued a license or permit pursuant to this article.

Manager means the person or those persons who manage, direct, supervise, oversee and administer the acts, transactions and acts of servants of the establishments governed by this article.

State liquor laws means ~~means Articles 3, 4 and 5 of Title 44, C.R.S. C.R.S. tit. 12, arts. 46, 47 and 48,~~ and the rules and regulations adopted thereunder by the state licensing authority and the department of revenue, effective ~~October 1, 2018~~ January 1, 2006, with all subsequent revisions, amendments or supplements thereto.

Sec. 8-1104. – Compliance with zoning laws; Distance restriction eliminated.

In accordance with C.R.S. 44-3-313(1)(d)(I), the distance requirements imposed by C.R.S. 44-3-313(1)(d)(I) are eliminated.

~~No retail liquor store, tavern, club, or beer and wine license shall be issued unless the applicant establishes that the premises complies with the location restrictions contained in the land development code applicable to such establishments. In accordance with C.R.S. 12-47-313(d)(III), the distance requirements imposed by C.R.S. 12-47-313(d) are eliminated.~~

DIVISION 2. - ADMINISTRATION

Sec. 8-1200. - Liquor authority.

The liquor authority is hereby established to act as the local licensing authority for the city. The liquor authority shall be comprised of a hearing officer appointed by, and who shall serve at the pleasure of, city council.

- (1) The liquor authority shall have all the powers and authority granted to the local licensing authority by the state liquor laws and this Code, 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.

(2) The authority shall have rules of procedure (“rules”) regulating the conduct of its meetings, which rules and amendments to them shall be approved by the city council. The authority may recommend 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.

Sec. 8-1204. - Optional premises license.

- (a) Authorization. The liquor authority shall have the power to issue an optional premises license and an optional premises ~~permit designation~~ for hotel and restaurant licenses in accordance with this article and the state liquor laws. The provisions of this section shall be considered in addition to all other standards or requirements applicable to the issuance of a license pursuant to this article.
- (b) Eligible facilities. An optional premises license may only be granted when the premises to be licensed is located on or adjacent to an outdoor sports and recreational facility as that term is defined by the state liquor laws. An optional premise permit may only be issued to existing hotel and restaurant licensees or in conjunction with a hotel and restaurant license application.
- (c) Content of application. Applications for optional premises licenses shall be submitted on forms approved by the city clerk and shall include the following information in addition to the information required by section 8-2002 and any other information required by this article or the state liquor laws:
 - (1) A detailed diagram of the outdoor sports and recreation facility illustrating the boundaries of such facility and the location of each optional premises requested;
 - (2) A description of the method which shall be used to identify the boundaries of the optional premises when in use and how the applicant will ensure that alcohol beverages are not removed from such premises;
 - (3) A description of how ingress to and egress from the optional premises will be controlled;

- (4) A description of the provisions which have been made for storing alcoholic beverages in a secured area, on or off the optional premises, for the future use of the optional premises;
 - (5) If the applicant does not own the proposed optional premises, written authorization from the owner(s) of record consenting to the application for the optional premises license; and
 - (6) Such other information as may be required to satisfy the authority that control of the optional premises will be assured and that the health, safety and welfare of the neighborhood and users of the outdoor sports and recreational facility will not be adversely affected by the issuance of the optional premises license.
- (d) Processing of application. An application for a new optional premises license or an optional premises for a new hotel and restaurant license shall be processed in the same manner as any other new license application. An application to add an optional premises to an existing hotel and restaurant license shall be processed in the same manner as an application to modify or expand the licensed premises.
- (e) Size of facility. There shall be no minimum size requirement for the outdoor sports and recreational facilities which may be eligible for an optional premises license. However, the authority may consider the size of a particular outdoor sports and recreational facility in relation to the number of optional premises requested for the facility.
- (f) Number of licenses. There shall be no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports and recreational facility. However, any applicant requesting approval of more than one (1) optional premises on an outdoor sports and recreational facility shall demonstrate the reason for each optional premises in relationship to the outdoor sports and recreational facility and its guests.
- (g) Advance notification. No alcoholic beverages may be served on the optional premises unless the licensee has provided written notice to the state and local licensing authorities forty-eight (48) hours in advance stating the specific days and hours on which the optional premises are to be used. There shall be no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is beyond the current license period.

END OF EXHIBIT A