

CHAPTER 6

Business Licenses and Regulations

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ARTICLE 2

Alcoholic Beverages

Sec. 6-2-10. Local Licensing Authority.

(a) The Board of Trustees shall be the Local Licensing Authority of the Town. The Board of Trustees shall appoint the Municipal Judge to serve as the Local Licensing Authority on all matters related to violations of the Colorado Liquor/Beer Code and Colorado Department of Revenue Regulations (1 C.C.R. 203-2) relating to fermented malt beverages and alcohol beverages, and any corresponding violations of this Code.

(b) The Local Licensing Authority shall be governed by state law, the rules and regulations of the State Licensing Authority and provisions of this Code that apply to the licensing of fermented malt beverages and alcohol beverages within the Town. (Prior code 2-2-1; Ord. 956 §1, 2014)

Sec. 6-2-20. Application and license fees.

(a) Before the Local Liquor Authority considers any application, the applicant shall submit all required documentation to the Town Clerk and pay all fees specified and set in an amount pursuant to Articles 46, 47 and 48 of Title 12, C.R.S.

(b) Incomplete applications shall not be accepted and shall not be processed or forwarded to the Local Liquor Authority for consideration. (Prior code 2-2-2; Ord. 956 §1, 2014)

Sec. 6-2-30. Term of license, renewal.

(a) The term of a license issued under this Chapter and the Colorado Beer or Liquor Code is twelve (12) months from the date of issuance.

(b) All applications for renewal of a license shall be on forms provided by the State Licensing Authority

and must be submitted to the Town Clerk's office no later than forty-five (45) days prior to the license expiration date, together with the required license fees. The Local Liquor Authority may, for good cause shown, waive this time requirement. (Prior code 2-2-3; Ord. 956 §1, 2014)

Sec. 6-2-40. Suspension and revocation.

(a) The Local Licensing Authority has the power on its own motion or on complaint, after investigation and a public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any alcoholic beverage license for any violation by the licensee or by any of the agents, servants or employees of such licensee of the Colorado Liquor or Beer Code, this Code or any of the terms, conditions or provisions of the license as issued by the Local Licensing Authority.

(b) Upon commencement of suspension and revocation proceedings, the Local Licensing Authority shall set a time and place for the hearing of the matter. Summary suspensions shall be controlled by Section 12-47-601(1), C.R.S., and Regulation 47-602, Colorado Department of Revenue Regulations (1 C.C.R. 203-2).

(c) The Local Licensing Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing that the Local Licensing Authority is authorized to conduct.

(d) All hearings before the Local Licensing Authority shall be recorded by electronic recording device.

(e) The Local Licensing Authority shall determine whether the licensee, or any agent, servant or employee of such licensee, has violated any provisions, rules or regulations of the Colorado Liquor or Beer Code, this Code or the terms, conditions or provisions of the license issued by the Local Licensing Authority.

(f) Penalties shall be imposed pursuant to the penalty guidelines established by resolution of the Local Licensing Authority.

(g) The decision of the Local Licensing Authority shall be in writing, setting forth the findings and order.

(h) The decision of the Local Licensing Authority shall be final, subject only to appeal to a court of competent jurisdiction.

(i) In the event of revocation or suspension, no portion of the license fee shall be refundable.

(j) In the event the Municipal Judge sitting as the Local Licensing Authority pursuant to Section 6-2-10 of this Article is unable to decide the issues of a particular case due to illness, incapacity, scheduling conflicts or a conflict of interest, the Board of Trustees may appoint an interim hearing officer to hear the matter or assume the role of the Local Licensing Authority for such case.

(Prior code 2-2-5; Ord. 956 §1, 2014)

Sec. 6-2-50. Unlawful acts.

Except as provided in Section 10-7-30 of this Code, it is unlawful for any person:

(1) To sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcohol beverage to or for any person under the age of twenty-one (21) years, to a visibly intoxicated person or to a known habitual drunkard.

(2) To obtain or attempt to obtain any alcohol beverage by misrepresentation of age or by any other method in any place where alcohol beverages are sold when such person is under twenty-one (21) years of age. Any person under the age of twenty-one (21) years who is working directly with and under the supervision of a law enforcement officer in performing compliance checks shall be exempt from this provision. (Prior code 2-2-6; Ord. 956 §1, 2014)

Sec. 6-2-60. Payment of fine in lieu of suspension.

(a) Whenever a decision of the Local Licensing Authority suspending a license for fourteen (14) days or less becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon receipt of the petition, the Local Licensing Authority may, in its discretion, stay the proposed suspension, cause any investigation to be made which it deems desirable and, grant the petition if it is satisfied:

(1) That the public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes.

(2) That the books and records of the licensee are kept in such a manner that the loss of sales of alcohol beverages that the licensee would have suffered had the

suspension gone into effect can be determined with reasonable accuracy there from.

(3) That the licensee has not had his or her license suspended or revoked or had any suspension stayed by payment of a fine during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the license.

(b) The fine accepted shall be the equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; provided, however, that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, a certified check or a cashier's check made payable to the Town of Lyons.

(d) Upon payment of the fine pursuant to this Section, the Local Licensing Authority shall enter its further order permanently staying the imposition of the suspension. Fines paid pursuant to this Section shall be paid into the General Fund of the Town.

(e) In connection with any petition pursuant to this Section, the Local Licensing Authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Local Licensing Authority does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Local Licensing Authority.

(g) The Local Licensing Authority shall report all actions taken to impose fines, suspensions and revocations to the State Licensing Authority in a manner as required by the State Licensing Authority. (Prior code 2-2-7; Ord. 956 §1, 2014)

Sec. 6-2-70. Elimination of distance restriction from schools.

Pursuant to Section 12-47-313(1)(d)(III), C.R.S., the distance restriction imposed by Section 12-47-313(1)(d)(I), C.R.S., is hereby eliminated for all classes

of liquor licenses. (Prior code 2-2-8; Ord. 867 §1, 2009; Ord. 956 §1, 2014)

Sec. 6-2-80. Tastings of alcoholic beverages.

The following regulations shall apply to all alcohol beverage tastings at liquor stores and liquor-licensed drug stores in the Town:

(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 Colorado Department of Revenue and who is either a retail liquor store licensee, a liquor-licensed drugstore or an employee of a licensee. Tastings shall only be conducted 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 Section 12-47-403, C.R.S.

(3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half (0.5) ounce of spirituous liquor. The licensee shall not serve more than four (4) individual samples to a patron during an alcohol beverage tasting.

(4) Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.

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

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

(7) The licensee shall promptly remove or destroy all open and unconsumed alcohol beverage samples immediately following the completion of the tasting.

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

(9) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.

(10) Tastings may occur on no more than four (4) of the six (6) days from a Monday to the following

Saturday, not to exceed one hundred four (104) days per year.

(11) 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 product at a tasting. The licensee shall bear the financial and all other responsibility of a tasting.

(12) A licensee conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee. (Prior code 2-2-9; Ord. 956 §1, 2014)