

**CITY OF LEADVILLE, COLORADO**  
**Ordinance No. 11**  
**Series of 2017**

**AN ORDINANCE AMENDING CHAPTER 5.08 OF THE LEADVILLE MUNICIPAL  
CODE CONCERNING LIQUOR LICENSE APPLICATIONS**

**WHEREAS**, the City Council of the City of Leadville (“City Council”) possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

**WHEREAS**, the City Council also possesses the local licensing authority pursuant to Articles 46, 47 and 48 of Title 12, C.R.S., to regulate the sale of alcoholic beverages and the licensing of premises on which alcoholic beverages are sold; and

**WHEREAS**, the City previously adopted certain regulations concerning liquor license requirements as codified in Chapter 5.08; and

**WHEREAS**, the City Council wishes to amend Chapter 5.08 of the Leadville Municipal Code by amending Sections 5.08.030, 5.08.040 and 5.08.050 to clarify the process required for different types of liquor license and permit applications made to the City and to allow for administrative approvals of certain licenses and permits, including transfers and renewals of existing liquor licenses; and

**WHEREAS**, it is in the best interest of the people of the City of Leadville to update the Leadville Municipal Code in order to better serve the City’s businesses and residents when making liquor license application determinations.

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

**Section 1.** Section 5.08.030 of Chapter 5.08 is hereby amended to read in full as follows:

**5.08.030. Applications for liquor licenses and approvals.**

- A. Applications. Application forms for submitting applications for a City license shall be available to applicants from the deputy city clerk. Applications shall be submitted to the deputy city clerk and accompanied by all the required fees and such additional materials as the deputy city clerk deems necessary or appropriate to carry out the provisions of the state liquor laws and the City Liquor Code. No application shall be considered which is not complete, as determined by the deputy city clerk. Incomplete applications may be returned to the applicant for completion or correction without any further action. Neither the City nor the local licensing authority shall be responsible for the failure of a license to be issued or renewed prior to an expiration date because of a late, incomplete or defective application.

- B. Processing and Investigation. The deputy city clerk will receive and process all applications, including conducting or directing investigations of the character, record and reputation of applicants and managers, and inspection of the licensed premises.
- C. Local Licensing Authority Determinations and Public Hearings. Applications requiring local licensing authority determination will then be scheduled for consideration by the local licensing authority.
  - 1. The local licensing authority shall cause to be posted and published public notice of any hearing as required by state liquor laws.
  - 2. At least five (5) days before the public hearing, the deputy city clerk shall send a letter to the applicant by certified mail or, if requested by applicant, electronic mail, read receipt requested, enumerating the results of any and all investigations performed by the deputy city clerk. The letter shall be available for public inspection at least five (5) days prior to the hearing.
  - 3. 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 which the local licensing authority is authorized to conduct. It shall be unlawful for any person to fail to comply with any subpoena issued by the local licensing authority in the proper conduct of its hearings. The municipal court shall enforce the subpoenas of the local licensing authority.
  - 4. The local licensing authority may continue any hearing from time to time as may be required to gather necessary facts and evidence and to permit witnesses to testify. Before entering any decision on any matter before it, the local licensing authority shall consider the facts and evidence adduced as a result of the investigation, evidence and testimony and, when applicable, the desires of the inhabitants of the neighborhood, the reasonable requirements of the neighborhood for the type of license for which application has been made, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.
  - 5. The local licensing authority shall render its decision no later than thirty (30) days following the conclusion of a public hearing.

6. The deputy city clerk shall send a written copy of the local licensing authority's decision and the reasons for the decision, by certified mail, to the applicant at the address shown on the application.
  7. Upon approval by the deputy city clerk or the local licensing authority, as the case may be, applications will be forwarded by the deputy city clerk to the State for final consideration.
- D. Administrative Approvals.
1. The following applications may be decided by the deputy city clerk, subject to appeal or referral to the local licensing authority:
    - a. Transfer of ownership of existing City license.
    - b. Change of corporate structure of existing City license.
    - c. Modification of premises of existing City license.
    - d. Renewal of existing City license.
    - e. Manager registration for existing City license.
    - f. Change of corporate or trade name permit for an existing City license.
    - g. Special events permits.
    - h. Alcohol beverage tastings permits.
    - i. Bed and breakfast permits.
    - j. All other City license-related applications not requiring a public hearing by the state liquor laws.
  2. The deputy city clerk may refer to the local licensing authority for a decision regarding any administrative application when, as determined in the discretion of the deputy city clerk, the public interest would be best served by the determination of the matter by the local licensing authority.

3. Administrative applications will be approved or denied by the deputy city clerk within thirty (30) days of the date that the deputy city clerk determines an application is complete, subject to appeal to the local licensing authority or referral by the deputy city clerk to the local licensing authority.
  4. Administrative applications denied by the deputy city clerk may be appealed to the local licensing authority. Appeals must be submitted in writing to the deputy city clerk within ten (10) days of denial, and may include a request for a hearing. Appeals to the local licensing authority will be decided de novo.
- E. **Liquor Licensing Fees.** The city council finds and determines that it is empowered by C.R.S. § 12-46-107, C.R.S. § 12-47-505, and C.R.S. § 12-48-107, as amended, to fix and collect certain fees in connection with the application for, issuance and renewal of certain types of liquor licenses. The city council further finds that the fees established in this chapter are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the city in connection with the handling of such liquor licenses and application therefor. The city council shall set application and annual license fees charged for liquor licenses by resolution.

**Section 2.** Section 5.08.040 of Chapter 5.08 is hereby amended to read in full as follows:

**5.08.040 - Special events.**

The deputy city clerk is hereby authorized to approve an application for a special event permit for an event within the city of Leadville, pursuant to Section 5.08.030 of this article, without notification or referral to the state licensing authority for its approval or disapproval. In accordance with C.R.S. § 12-48-107(5)(a), the deputy city clerk or his or her designee shall report to the liquor enforcement division within ten (10) days after a special event permit is approved, the name of the organization to whom a permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service.

**Section 3.** Section 5.08.050 of Chapter 5.08 is hereby amended to read in full as follows:

**5.08.050 - Alcohol beverage tastings authorized; permit required.**

- A. Alcohol beverage tastings on the licensed premises of a retail liquor store licensee or of a liquor-licensed drugstore licensee are authorized to be conducted within the city in accordance with § 12-47-301(10), C.R.S., and subject to the provisions of this article.
- B. The deputy city clerk is authorized to approve and issue alcohol beverage tasting permits in accordance with Section 5.08.030 of this article and any other requirements of this article.

- C. It shall be unlawful for any person to conduct alcohol beverage tastings within the city without having first received a permit issued in accordance with this section.
- D. Retail liquor store licensees and liquor-licensed drugstore licensees desiring to conduct alcohol beverage tastings shall submit an alcohol beverage tasting permit application to the deputy city clerk accompanied by the required fee.
- E. Submittal Requirements. Annually, the licensee shall submit an alcohol beverage tasting permit application obtained from the city clerk's office. Such permit shall be granted and renewed only upon application stating the name and address of the person desiring such license, the name of such business, the location, and such other information as the deputy city clerk may require.
- F. Advance Notification. No samples can be provided during an alcohol beverage tasting until the licensee has provided written notice to the police department and the city clerk's office at least forty-eight (48) hours prior to conducting said alcohol beverage tasting. Such notice shall contain the specific days and hours on which the alcohol beverage tasting will occur. In this regard, there is no limitation on the number of days for a tasting which a licensee may specify in each notice.
- G. Renewal of alcohol beverage tasting permits shall be concurrent with the renewal of licenses for retail liquor stores and liquor-licensed drugstores. A licensee's initial alcohol beverage tasting permit shall expire on the same date as the date that the licensee's retail liquor store or liquor-licensed drugstore license expires. The initial alcohol beverage tastings permit application fee shall not be prorated if the permit expires in less than a year.
- H. Tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during business hours.
- I. An alcohol beverage tasting permit shall only be issued to a retail liquor store or a liquor-licensed drugstore licensee whose license is valid, not subject to a current or pending enforcement action by the city or the state and in full force and effect.
- J. Alcohol beverage tastings within the city shall be subject to the following limitations in addition to C.R.S. § 12-47-301 (10):
  - 1. The licensee shall maintain on the licensed premises a log of all alcohol beverage tastings on forms proscribed by the local licensing authority, to be submitted to the

deputy city clerk each year with the alcohol beverage tasting permit renewal application, and during all business hours the log shall be subject to inspection upon request by city and state officials authorized to enforce the Colorado Liquor Code and/or this code; and

2. The local licensing authority shall conduct a hearing with regard to any violation of this article in accordance with this chapter, the city's rules and regulations and § 12-47-601, C.R.S.

**Section 4. Remaining provisions.** Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

**Section 5. Codification Amendments.** The codifier of Leadville's Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

**Section 6. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 7. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Greg Labbe, Mayor

ATTEST:

\_\_\_\_\_  
Bethany Maher, Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on \_\_\_\_\_, 2017.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY, with any amendments, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF LEADVILLE, COLORADO

\_\_\_\_\_  
Greg Labbe, Mayor

ATTEST:

\_\_\_\_\_  
Bethany Maher, Deputy City Clerk

PUBLISHED in full, as amended, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on \_\_\_\_\_, 2017.