



CITY OF CAÑON CITY

City Council

City Council Chambers
128 Main St., Cañon City, CO 81212
(719) 269-9011 • www.canoncity.org

GENERAL GOVERNMENT COMMITTEE MEETING

January 5, 2022

5:00 p.m.

AGENDA

1. **CALL TO ORDER:** City Council Chambers
2. **ROLL CALL:** COUNCIL MEMBERS DENNEHY, GONZALES, JAQUEZ, REED, SCHMISSEUR, B. SMITH, MAYOR PRO TEM HAMRICK, MAYOR SMITH.
3. **DISCUSSION:**
 - A. Liquor Law Updates
4. **ADJOURN:** The next regular meeting is scheduled for March 4, 2020.

Posted pursuant to code on Wednesday, December 29, 2021.
Cindy Foster Owens, City Clerk



CITY OF CAÑON CITY

City Administrator

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Cañon City, CO 81215-1460
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TO: Mayor and City Council
FROM: Ryan Stevens, City Administrator
PREPARED BY: Cindy L. Foster Owens
DATE: 01/05/2022
RE: Liquor Law Updates

SUMMARY: * Attached are proposed changes to the liquor code to update to current laws and proposed changes. A clean version and redlined version are attached.

REVIEWED BY Yes No
LEGAL?

RECOMMENDED Discussion
ACTION:

of attachments 2

**A BILL FOR
ORDINANCE NO. ___, SERIES OF 2022**

**AN ORDINANCE OF THE CITY OF CAÑON CITY AMENDING CHAPTER 5.30
OF THE CAÑON CITY MUNICIPAL CODE CONCERNING LIQUOR
LICENSING**

WHEREAS, the City desires to update its liquor licensing provisions to incorporate the process for applications and to eliminate the distance requirements from schools for lodging and entertainment licenses.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF CAÑON CITY:

Section 1. Chapter 5.30 of the Cañon City Municipal Code is hereby amended to read as follows:

5.30.010 Definitions

All words and terms shall have the meanings ascribed in this Section. All other words and phrases used in this chapter shall have the meanings described by state statute or regulation governing the sale of alcohol beverages or if not otherwise defined by law, the words shall be as used in their common, ordinary and accepted sense and meaning.

"Applicant" means a person twenty-one years of age or older who has submitted an application for a license issued pursuant to this Article. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, partners, officers or directors of such entity.

"Administrative Applications" means applications for temporary, manager registration, transfer of ownership and changes in licensed entities, special event permits or renewals.

"Colorado Beer Code" means Title 44, Article 4 of the Colorado Revised Statutes

"Colorado Liquor Code" means Title 44, Article 3 of the Colorado Revised Statutes.

"Good cause," for the purpose of refusing or denying a license renewal or initial license issuance, means:

1. The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this chapter or any rules and regulations promulgated pursuant to this chapter;
2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior disciplinary proceedings or arose in the context of potential disciplinary proceedings;

3. In the case of a new license or a change of location application, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants; or
4. Evidence that the licensed premises has been operated in a manner that adversely affects the public health, welfare or safety or the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity or disorderly conduct.

“Local Licensing Authority” means City Council of the City of Cañon City.

5.30.020 Incorporation of state law.

The provisions of the Colorado Liquor and Beer Codes and any rules and regulations promulgated thereunder as the same may be amended from time to time, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this chapter. In addition to the regulations set forth in this chapter, the City may enforce any provision of the Colorado Liquor and Beer Codes and any rules and regulations promulgated thereunder applicable to licensees.

5.30.030 License required.

No person shall sell or offer to sell any alcohol beverages at retail within the city unless all required state and local licenses are in full force and effect.

5.30.040 Local Licensing Authority

- A. The local licensing authority shall have the authority to approve any licenses or take other actions as described in the Colorado Beer and Liquor Codes, unless delegated herein.
- B. The city clerk shall serve as the official secretary of the liquor authority and in such capacity shall:
 1. Provide the necessary secretarial and reporting services for the authority;
 2. Provide all public notices required by this chapter or the state liquor laws except where the law or ordinance contains a specific provision to the contrary; and
 3. Issue all licenses granted by the authority upon receipt of such fees as are required by the state liquor laws and this chapter and after compliance with all legal prerequisites for the issuance of same.

5.30.050 Delegation to City Clerk

- A. Administrative applications may be decided by the City Clerk upon receipt of a completed application and such fees as are required by this chapter and the state liquor laws.
- B. The City Clerk shall refer to the local licensing authority for decision all administrative applications when the City Clerk has reason to believe that violations of this chapter or the state liquor laws, not previously reviewed by the authority, may have occurred on the licensed premises during the previous license period. In addition, the City Clerk may refer to the local licensing authority for decision any administrative application when, as determined by the City Clerk, the public interest would be best served by the determination of the matter by the authority.
- C. Administrative applications that are denied by the City Clerk may be appealed to the local licensing authority. Appeals must be submitted in writing to the City Clerk within ten (10) days of the denial and may include a request for hearing. Appeals to the authority will be decided de novo.

5.30.060 Applications – Procedure

- A. A person seeking a license issued pursuant to this chapter must submit an application on forms provided by the state licensing authority and contain all information as required by the state licensing authority. The application must be accompanied by the nonrefundable application fee as established by state law.
- B. For new licenses or applications for a change or modification of premises, the applicant shall file at the time of application plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local licensing authority may impose additional requirements necessary for the approval of the application.
- C. No application shall be considered which is not complete in its entirety. Incomplete applications may be returned to the applicant for completion or correction without any further action. Neither the city nor the liquor 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.
- D. Upon receipt of a complete application, except for application for renewal or transfer of ownership, a public hearing shall be held by the local licensing authority not less than thirty (30) days from the date of the complete application. Notice of the public hearing shall be posted on the premises subject to the application and published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing.

- E. Five (5) days prior the date of hearing, the City Clerk shall make the findings of its investigation in writing to the applicant and other interested parties.
- F. Any decision of a local licensing authority approving or denying an application shall be in writing stating the reasons therefor within thirty days after the date of the public hearing, and a copy of the decision shall be sent by certified mail to the applicant at the address shown in the application and by electronic mail if provided.

5.30.070 Granting New Licenses

- A. No new liquor license shall be granted, until the local licensing authority considers the following:
1. the reasonable requirements of the neighborhood;
 2. the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise;
 3. all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority; and
 4. whether the applicant is a person prohibited as a licensee pursuant to C.R.S. § 44-3-307.
- A.B. No license shall be issued by any local licensing authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of state law, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant with the drawing or sketch for the interior of the building submitted with the application.

5.30.080 License Requirements.

- A. Conduct of business. The following is strictly prohibited from occurring on or in the licensed premises or upon any adjoining grounds or parking area under the control or management of the licensee: the loitering of habitual drunkards or intoxicated persons; lewd or indecent displays; rowdiness or disorderly conduct; undue noise; and any other disturbance or activity offensive to the sensitivities of the average citizen or the residents of the neighborhood in which the establishment is located.
- B. Compliance with all laws. Licensees shall comply with, and conduct their business in compliance with, all federal, state and local laws and regulations.
- C. Right of entry. No person shall refuse entry to, or in any manner interfere with the inspection of the licensed premises by any federal, state or local inspector who is

either permitted or required to inspect the licensed premises, if such entry is attempted during business hours or during reasonable hours after business hours when there are employees on the premises to admit the federal, state or local inspector. Entry and inspection shall be permitted not only to areas open to the public but also to all other areas where business is conducted, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous, if the employee informs the inspector of the perceived danger.

- D. Display of license. Any license or permit issued under this chapter shall be prominently displayed to the public at all times upon the premises for which the license or permit is issued.
- E. Posting and display of notice. Any notice which is required to be posted under the state liquor laws or this chapter shall be posted in a conspicuous place on the licensed premises. Licensees and applicants shall assist in the placement of such notice and shall ensure that such notice is displayed prominently and continuously during the notice period.

5.30.0920 Changing, altering or modifying a licensed premises.

- A. Whenever a person holding a license issued under the Colorado Liquor or Beer Codes applies for consent to change, alter or modify a licensed premises, the Local Licensing Authority, shall grant (with or without conditions) or deny such consent in writing. When an application is denied, the grounds for the denial shall be stated in the written decision.
- B. When a licensee requests modifications that will not result in a change in the service capacity of the licensed premises, consent to the request may be granted or denied without a public hearing, provided that the application for modification is processed, considered and determined in a manner consistent with the requirements and provisions ~~state law. of Regulation 47-302, Colorado Code of Regulations, 1 C.C.R. 203-2.~~ Examples of modifications that may be covered by this Subsection B include: remodeling of a kitchen or fixtures within a kitchen; changing an internal doorway from one location to another; and moving an existing bar from one location to another.
- C. Except as provided in Subsection B of this section, the Local Licensing Authority will conduct a public hearing before granting (with or without conditions) or denying any application to change, alter or amend a licensed premises.
- D. Examples of proposals that will require a public hearing prior to the Local Licensing Authority's decision include, but are not limited to, those which request:
 - 1. Any increase or decrease in the total size or capacity of the licensed premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the sale or distribution of alcohol beverages within the licensed premises;
 3. Any substantial or material enlargement of a bar, or the addition of a separate bar, or the installation of a bar or bar area within a premises that has no bar or bar area;
 4. The installation of a stage, bandstand or dance floor in a premises where there is no existing stage, bandstand or dance floor, or a material enlargement or reduction in size of an existing stage, bandstand or dance floor;
 5. Any other material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application.
- E. Any public hearing permitted or required under Subsection C of this section shall be preceded by public notice given in accordance with the requirements of C.R.S. § 44-3-311, C.R.S.
- F. In any public hearing conducted pursuant to this section, it shall be the burden of the licensee seeking consent to change, alter or modify a licensed premises to establish by petitions or otherwise that the proposed change, alteration or modification, if made, will be consistent with the reasonable requirements of the neighborhood and satisfy the desires of the adult inhabitants of the neighborhood. A licensee's failure to circulate and tender to the Local Licensing Authority petitions in support of the proposed change, alteration or modification, signed by adult inhabitants of the neighborhood, may be grounds for denial of the application. Petitions shall be supplied or approved by the City Clerk prior to their circulation.
- G. When a licensee requests consent to create or enlarge an outdoor service area in an application for modification of a premises and competent evidence is presented in a public hearing conducted pursuant to this section showing that the establishment or enlargement of such outdoor service area is likely to have a continuing adverse impact within the immediate vicinity of the licensed premises if conditions protecting the immediate neighborhood are not imposed, the Local Licensing Authority may, as an alternative to denying the application, make its consent to the requested modification conditional. Such conditional consent may:
1. Restrict or limit the hours of operation of an outdoor service area;
 2. Require or limit lighting in and around such outdoor service area;

3. Require fencing or other screening designed to discourage patrons of the licensed premises from entering into neighboring areas and to minimize light and noise impacts in such areas;
4. Limit or prohibit live entertainment and amplified music in outdoor service areas;
5. Contain other requirements, restrictions and/or limitations deemed necessary by the Local Licensing Authority to eliminate or mitigate potential adverse impacts within neighborhoods in the immediate vicinity of the licensed premises.

5.30.04100 Optional premises license standards.

- A. The following standards for the issuance of optional premises licenses or for optional premises in association with a hotel/restaurant class of license are hereby adopted pursuant to the provisions of C.R.S. § 44-3-310(1). These standards adopted herein shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code for optional premises license or for optional premises for a hotel and restaurant license. These two (2) types of licenses for optional premises will be collectively referred to as “optional premises” in these standards unless otherwise provided.
- B. An optional premises may only be approved when that premises is located on or adjacent to an outdoor sports and recreational facility as defined in C.R.S. §§ 44-3-103(33)(a) and (b). The types of outdoor recreational facilities which may be considered for an optional premises license include the following:
 1. Golf courses, driving ranges, and subsidiary buildings;
 2. Country clubs, club houses, event and/or conference centers;
 3. Arenas.
- C. There are no restrictions on the minimum size of the outdoor sports and recreational facilities that may be eligible for the approval of an optional premises license. However, the Local Licensing Authority may consider the size of the particular outdoor sports and recreational facility in relationship to the number of optional premises areas requested for the facility.
- D. There are no restrictions on the number of optional premises areas which any one licensee may have on his or her outdoor sports or recreational facility. However, any applicant requesting approval of more than one optional premises area shall demonstrate the need for each optional premises in relationship to the outdoor sports or recreational facility and its guests.

~~E. Submittal Requirements. When submitting a request for the approval of an optional premises, in addition to meeting the license application requirements set forth by the State of Colorado and the City of Cañon City, the applicant shall submit:~~

~~1. A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises area requested. Such optional premises areas shall be numbered in such a manner as to clearly depict the area encompassed in each location;~~

~~2. Any other documents, drawings, reports, or requirements necessary to ensure compliance with the Colorado Liquor Code and Regulations, including the control of the premises and the ease of enforcement.~~

E. Pursuant to C.R.S. §§ 44-3-310(3) and (4), no alcohol beverages may be served on the optional premises until the licensee has provided written notice to the ~~City of Cañon City Clerk's Office~~City Clerk and the ~~State of Colorado Liquor Enforcement Division~~state licensing authority forty-eight (48) hours prior to serving alcohol beverages on any optional premises areas.

1. Such notice shall be in force until service of alcohol beverages in any optional premises area is changed. Any change in the active service or voluntary suspension of service of alcohol beverages in any optional premises area shall require forty-eight (48) hours notice to the City Clerk and to the ~~Colorado Liquor Enforcement Division~~state licensing authority;

2. Such notice shall include specific days and hours on which the optional premises are to be used.;

3. ~~In this regard, there~~There is no limitation on the number of days which a licensee may specify in each notice to serve or suspend service of alcoholic beverages.

5.30.050-110 Special event liquor permits.

A. Pursuant to C.R.S. § 44-5-107(5), the local liquor licensing authority hereby elects to exercise exclusive local control over the issuance of liquor license special event permits for events within the City.

B. Pursuant to C.R.S. § 44-5-101 et seq., City Council may issue special event permits for the sale of fermented malt and alcoholic beverages to those qualified organizations set forth in the Colorado Liquor Code and on the grounds set forth therein.

C. Pursuant to C.R.S. § 44-5-107(4), the City Clerk shall be authorized to issue special event permits administratively.

- D. The provisions of this section notwithstanding, the City Clerk shall report to the state licensing authority, within ten (10) days after the City issues any special event permit, the name of the organization to which the permit was issued, the address of the permitted location, and the permitted dates of alcohol beverage service.
- E. The City shall cause a hearing to be held if, after investigation and upon review of the contents of the application by the City Clerk or of any protest filed by affected persons, sufficient grounds appear to exist for denial of a permit. Any protest shall be filed by affected persons within ten (10) days after the date of notice pursuant to C.R.S. § 44-5-106(2). Any hearing shall be held at least ten (10) days after the initial posting of the notice, and notice thereof shall be provided the applicant and any person who has filed a protest.

5.30.060-120 Alcohol beverage tastings.

- A. Permit Required.
 - 1. Alcohol beverage tastings on the licensed premises of a retail liquor store or of a liquor-licensed drugstore are authorized to be conducted within the City in accordance with C.R.S. § 44-3-301(10) and subject to the provisions of this chapter.
 - 2. The authority hereby authorizes the City Clerk to issue tasting permits as a routine matter and in accordance with the requirements of this chapter.
 - 3. It shall be unlawful for any person to conduct tastings within the City without having first received a permit issued in accordance with this chapter.
 - 4. The initial application and any renewal applications shall be submitted on a tasting permit application form obtained from the City Clerk with the fee required under the City's fee schedule. This form shall include the following:
 - a. Licensee information including, but not limited to, name, address, contact information, and license number.
 - b. Verification that the licensee and employee(s) who will be conducting the tastings have completed a seller/server training program that meets the standards established state law and regulations.
 - c. The dates and times in which the licensee intends to conduct tastings events.

5. No alcohol can be provided as samples during a tasting until the licensee has provided written notice to the City Clerk at least five (5) business days prior to conducting said tasting. Such notice shall contain the specific days and hours on which the tasting will occur.
6. Renewal of tasting permits shall be concurrent with the renewal of licenses for retail liquor stores or liquor-licensed drugstores. A licensee's initial tasting permit shall expire on the same date as the date of the licensee's underlying liquor license. The initial tastings permit application fee shall be prorated if the permit expires in less than one year. Renewal permits shall be issued for a period of time concurrent with the underlying license.
7. Tasting permits shall be conspicuously and prominently posted by the licensee on the licensed premises at all times during business hours.
8. A tasting permit shall only be valid when issued to a Retail Liquor Store or a Liquor-Licensed Drugstore licensee whose license is valid and is in full force and effect.

B. Limitations on Tastings. Tastings 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 state law and regulations, and who is either a retail liquor store licensee or a liquor-licensed drugstore licensee, or an employee of such licensee, and only on a licensee's licensed premises.
2. The alcohol beverages used in tastings shall be purchased through a licensed wholesaler, licensed brew pub or winery licensed pursuant to C.R.S. §44-3-403, at a cost that is not less than the laid-in cost for such alcohol.
3. The size of an individual sample shall not exceed one ounce for malt or vinous liquor, or one-half ounce for spirituous liquors.
4. The licensee shall not serve, nor allow to be consumed by any one patron, more than four (4) individual samples to a patron during a tasting.
5. Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.
6. Tastings shall be conducted only during the operating hours during which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than eleven a.m. or later than nine p.m.
7. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.

8. The licensee shall promptly remove all open and unconsumed beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.
9. The licensee shall not serve a person who is under twenty-one (21) years of age, or who is visibly intoxicated.
10. The samples used in the tastings shall be served in open containers and shall be provided to a patron free of charge.
11. Tastings may occur on no more than one hundred fifty-six (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 shall bear the financial and all other responsibility for a tasting.

C. Violations.

1. A violation of this section, whether by the licensee's employees, agents, or otherwise, shall be the responsibility of the licensee who is conducting the alcohol tasting.
2. Licensees conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to those licensees.

5.30.070-130 Distance restrictions not applicable to restaurant and hotel licenses.

The five hundred (500) foot distance restriction set forth in C.R.S. § 44-3-313(1)(d)(I) shall be eliminated for hotel and restaurant licenses and lodging and entertainment license only. Any applicant who otherwise qualifies under the terms and provisions of the Colorado Liquor Code to receive a hotel and restaurant license or a lodging and entertainment license, shall not be denied such license for reasons having to do with the proximity of the building in which liquor is to be sold under such hotel and restaurant or lodging and entertainment license to any land used for school purposes.

5.30.140 Penalties and enforcement.

Any person convicted of violating any provision of this chapter shall be guilty of a misdemeanor and shall be subject to the general penalties set forth in this Code. In addition to such penalties, any licensee who violates, or any licensee whose employees or agents violate, any of the terms of this chapter or the state liquor laws shall be subject to suspension, revocation or denial of his or her license, the imposition of a fine in lieu of suspension, written reprimand or such other penalty as the authority deems appropriate and

in accordance with state law. A conviction shall be grounds for, but shall not be required prior to, the authority taking action against the license.

5.30.150 Hearing decision and appeal.

The authority shall render a decision within thirty (30) days from the conclusion of the public hearing. All decisions of the authority are final, subject only to appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

5.30.160 Recovery right of the city.

The city shall have the right to recover all sums due by the terms of this chapter by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided in this Code for the enforcement of this chapter.

Section 2. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 3. Effective Date. Pursuant to Article XII, Section 3 and Section 5 of the Charter, this Ordinance shall be effective five (5) days after final publication if it is published after adoption or if not so published, five (5) days after its adoption.