

ORDINANCE NO. 25, Series 2018  
INTRODUCED BY: COUNCILOR CHELSEA BEHANNA

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AMENDING CHAPTER 10 AND SECTIONS 43-30, 75-246, 75-247 AND 115-49.9 OF THE CODE OF ORDINANCES, CITY OF LAFAYETTE, REGARDING THE COLORADO BEER CODE, THE COLORADO LIQUOR CODE, THE COLORADO SPECIAL EVENTS PERMIT CODE AND TASTINGS AND LEGAL CITATIONS THERETO**

WHEREAS, the Code of Ordinances, City of Lafayette, contains numerous references to various provisions of the Colorado Beer Code, codified at C.R.S. § 12-46-101 *et seq.*, the Colorado Liquor Code, codified at C.R.S. § 12-47-101 *et seq.*, and the Colorado Special Events Permit Code, codified at C.R.S. § 12-48-101 *et seq.*; and

WHEREAS, Governor Hickenlooper recently signed into law HB 18-1025, which recodifies, among other things, the Colorado Beer Code from Article 46 of Title 12 to Article 4 of Title 44, the Colorado Liquor Code from Article 47 of Title 12 to Article 3 of Title 44, and the Colorado Special Events Permit Code from Article 48 of Title 12 to Article 5 of Title 44, effective October 1, 2018, but did not make any substantive changes to these statutes; and

WHEREAS, Governor Hickenlooper recently signed into law SB 18-243, which expanded and amended certain tastings laws and limitations; and

WHEREAS, the City Council desires to update those provisions of the Code of Ordinances, City of Lafayette, which reference the provisions of Articles 46, 47 and 48 of Title 12 or concern tastings laws and limitations to be consistent with the legislative changes under HB 18-1025 and SB 18-243.

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

Section 1. Section 10-1, Application fees for sale of alcoholic beverages, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:<sup>1</sup>

**Sec. 10-1. Application fees for sale of alcoholic beverages.**

Each application for a license or temporary permit for the sale of malt, vinous or spirituous beverages shall be accompanied by an application fee in an amount as set forth in the Colorado Liquor Code, Colorado Revised Statutes, section ~~12-47-101~~ *44-3-101* *et seq.*, as amended.

Section 2. Section 10-2, Application fees for sale of fermented malt beverages, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

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<sup>1</sup> Additions to the current text of the Code are indicated by *italics*, and deletions are indicated by ~~strikethrough~~

**Sec. 10-2. Application fees for sale of fermented malt beverages.**

Each application for a license or temporary permit for the sale of fermented malt beverages shall be accompanied by an application fee in an amount as set forth in the Colorado Beer Code, Colorado Revised Statutes, section ~~12-46-101~~ *44-4-101* et seq., as amended.

Section 3. Section 10-2.5, Application fee for special event permit, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

**Sec. 10-2.5. Application fee for special event permit.**

Each application for a special events permit shall be accompanied by a fee in an amount as set forth in the Colorado Liquor Code, Colorado Revised Statutes, section ~~12-48-104~~ *44-5-104*, as amended.

Section 4. Sub-section 10-15(1), Delegation of authority to city clerk, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

(1) Processing, and approval or disapproval of applications for special event permits, issuance of approved special event permits, and reporting of issued special event permits to the State Liquor Enforcement Division, in accordance with ~~Article 48 of Title 12~~ *Article 5 of Title 44*, C.R.S., as amended.

Section 5. Sub-section 10-15(5), Delegation of authority to city clerk, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows

(5) The issuance of temporary permits pursuant to and in compliance with the provisions of section ~~12-47-303~~ *44-3-303*, C.R.S., as amended.

Section 6. Sub-section 10-16(b), Optional premises license, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

(b) Except for the issuance of a special events permit pursuant to section ~~12-48-101~~ *44-5-101* et seq., C.R.S., as amended, it shall be unlawful for any person to sell or dispense alcoholic beverages at an outdoor sports and recreational facility without having first obtained a valid optional premises license to do so as provided by this section, or in violation of any provision, restriction or limitation of the license if one has been issued.

Section 7. Section 10-18, Tastings, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

**Sec. 10-18. Tastings.**

(a) Definitions. As used in this section, unless the context clearly requires otherwise, the following word and term shall have the meaning set forth in this section:

Tastings means the sampling of malt, vinous, or spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of this section.

(b) *Permitting in general.*

- (1) 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. § ~~12-47-301~~ 44-3-301, *as amended*. Within the city, it is unlawful for any person or licensee to conduct tastings unless a permit has been obtained in accordance with this section. The local licensing authority is authorized to issue tasting permits in accordance with the requirement of this section.
- (2) A retail liquor store or liquor licensed drugstore licensee that desires to conduct tastings shall submit an application for an annual tastings permit to the city clerk. All applicants shall pay an application and application renewal fee in an amount determined by resolution of city council. The city clerk may reject the application if the applicant fails to establish that the licensee is able to conduct tastings without violating the provisions of this section or creating a public safety risk to the neighborhood.
- (3) Tastings shall be subject to the following limitations:
  - a. 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 of the Colorado Department of Revenue and who is either a retail liquor store licensee or a liquor licensed drugstore licensee, ~~or an employee of a retail liquor store or liquor-licensed drugstore licenses licensee, or a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant promoting the alcohol beverages for the tasting, and only on a licensee's licensed premises.~~
  - b. The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to C.R.S. § ~~12-47-403~~ 44-3-403, at a cost that is not less than the laid-in cost of such alcohol.
  - c. The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half ( $\frac{1}{2}$ ) of one (1) ounce of spirituous liquor.
  - d. Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.

- e. 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 ~~7:00~~ 9:00 p.m.
  - f. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
  - g. The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises ~~or 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.*
  - h. The licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated.
  - i. The licensee shall not serve more than four (4) individual samples to a patron during a tasting.
  - j. Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
  - k. *The licensee may conduct tastings* ~~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)~~ *one hundred fifty-six (156)* days per year.
  - l. 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 retail liquor store or liquor-licensed drugstore licensee shall bear bears* the financial and all other responsibility for a tasting *conducted on its licensed premises.*
  - m. The applicant for a tastings permit shall certify on the application that all persons serving alcohol at tastings have completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue. The applicant for a tastings permit shall state on the application the days and times that tastings will occur.
- (4) The city recommends that permittees, without charge to their patrons, have available for consumption sandwiches and light snacks for all patrons who are served samples.

- (5) A violation of a limitation specified in this section ~~or of C.R.S. § 12-47-801,~~ by a retail liquor store or liquor licensed drugstore licensee, whether by ~~his or her~~ *the licensee's* 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, *and C.R.S. § 44-3-801 applies to,* the retail liquor store or liquor licensed drugstore licensee ~~who is conducting that conducted~~ the tasting.
- (6) 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 and are imposed by the local licensing authority.

Section 8. Sub-section 43-30(b), Definitions, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

(2) "Bar" means any indoor area that is operated and licensed under ~~article 47 of title 12~~ *article 3 of title 44*, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Section 9. Sub-section 75-246(a), Consumption regulated, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

(a) It shall be unlawful for any person 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 ~~Article 46, 47 or 48, Title 12~~ *Articles 3, 4 or 5 of Title 44*, as amended, of the Colorado Revised Statutes.

Section 10. Sub-section 75-247(g), Underage persons alcoholic beverages prohibitions, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

- (g) As used within this section, the following words shall mean as follows unless the context clearly specifies otherwise:
  - (1) *Establishment* means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements, connected therewith, and shall also include any members, employees and occupants associated therewith.
  - (2) *Possession of alcoholic or fermented malt beverages* means that a person has or holds any amount of alcoholic or fermented malt beverages on his/her person, or that a person owns or has custody of, or has alcoholic or fermented malt beverages within his/her immediate presence and control.
  - (3) *Private property* means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public and

privately owned real property which is not open to the public. "Private property" shall not include:

- a. Any establishment which has or is required to have a liquor license or permit pursuant to ~~Article 46, 47 or 48 of Title 12~~ *Articles 3, 4 or 5 of Title 44*, C.R.S.; or
- b. Any establishment which sells alcoholic or fermented malt beverages or upon which alcoholic or fermented malt beverages are sold; or
- c. Any establishment which leases, rents or provides accommodations to members of the public generally.

Section 11. Sub-section 115-49.9(1)(a), Section 1305, Open alcoholic beverage container in motor vehicle prohibited, of the Code of Ordinances, City of Lafayette, is hereby amended to read as follows:

(a) "Alcoholic beverage" means a beverage as defined in C.R.S. ~~12-47-103(2)~~ *44-3-103(2)*.

Section 12. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 13. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 14. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 15. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 16. This ordinance shall become effective upon the latter of the 10<sup>th</sup> day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 7TH DAY OF AUGUST,  
2018.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THE 21ST DAY OF AUGUST 2018.

CITY OF LAFAYETTE, COLORADO

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Christine Berg, Mayor

ATTEST:

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Susan Koster, CMC, City Clerk

APPROVED AS TO FORM:

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David S. Williamson, City, Attorney