

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER KUETER
COUNCIL BILL NO. 04
ORDINANCE NO. 1665
Series 2019

TITLE: AN ORDINANCE AMENDING SECTIONS 11-51, 11-52, 11-53, 11-56, 11-63, 11-64 AND 17-27 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING THE LICENSING AND USE OF ALCOHOL BEVERAGES AND MAKING ADDITIONAL HOUSEKEEPING REVISIONS TO SAID CODE UPDATING STATUTORY CITATIONS TO CONFORM TO RECENT LEGISLATIVE CHANGES

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, the Council has previously adopted laws governing the regulation of liquor licensing and consumption consistent with state law; and

WHEREAS, the Colorado legislature has recently adopted bills amending the Colorado Revised Statutes as they pertain to its liquor code, beer code, and other related codes, and have adopted a new Title 44, entitled "Department of Revenue Activities Regulation Act," which requires conforming changes to the Wheat Ridge Code of Laws;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Section 11-51 is amended to read as follows:

Sec. 11-51. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ALCOHOL BEVERAGE MEANS FERMENTED MALT BEVERAGES OR MALT, VINOUS, OR SPIRITUOUS LIQUORS; EXCEPT THAT ALCOHOL BEVERAGE SHALL NOT INCLUDE CONFECTIONERY CONTAINING ALCOHOL WITHIN THE LIMITS PRESCRIBED BY C.R.S. §25-5-410(1)(i)(II).

Applicant means and includes:

- (1) If an individual, OR A HUSBAND AND WIFE, that person OR PERSONS making an application for a license ~~under this chapter;~~
- (2) If a partnership, ~~ALL the partners, ANY OFFICERS, AND ANY MEMBERS~~ owning ten (10) percent or more INTEREST IN ~~of the partnership which is making application for a license under this chapter;~~
- (3) If a corporation, the president, vice-president, secretary, treasurer, the directors, ~~manager~~MANAGING OFFICER, and each stockholder owning ten (10) percent or more of the stock of the corporation; AND
- (4) IF AN ASSOCIATION, ORGANIZATION, OR COMPANY NOT LISTED ABOVE, ITS OFFICERS, DIRECTORS, AND ANY OF ITS MEMBERS OWNING A TEN (10) PERCENT OR MORE INTEREST THEREIN.

Authority or licensing authority means the liquor licensing authority of the city.

FERMENTED MALT BEVERAGE ~~Beer, 3.2 percent~~ means BEER AND ANY OTHER BEVERAGE OBTAINED BY THE FERMENTATION OF ANY INFUSION OR DECOCTION OF BARLEY, MALT, HOPS, OR ANY SIMILAR PRODUCT OR ANY COMBINATION THEREOF IN WATER CONTAINING NOT LESS THAN ONE-HALF OF ONE ~~any fermented malt beverages as herein defined containing not more than three point two (0.5 3.2) percent of alcohol by VOLUME weight.~~

Immediate family means spouse, mother, father, children, brothers, sisters, mother-in-law, father-in-law, brothers-in-law, or sisters-in-law.

Investigator means a member of the Wheat Ridge Police Department.

Malt liquors INCLUDES ~~means~~ beer and MEANS any ~~other~~ beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar products, or any combination thereof, in water, containing NOT LESS THAN ONE-HALF OF ONE ~~more than three point two (0.5 3.2) percent of alcohol by VOLUME weight.~~

Manager includes 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 chapter.

Medicinal liquors means any liquor sold by a duly licensed pharmacist or drugstore solely on a bona fide doctor's prescription.

Operator means a person licensed by law to sell FERMENTED MALT BEVERAGES OR malt, vinous, or spirituous liquors, other than medicinal liquors, for beverage purposes at retail, and who is engaged at any time during the calendar year in such operation in the city.

Spirituous liquors means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, POWDERED ALCOHOL, and every liquid or solid, patented

or not, containing AT LEAST ONE-HALF OF ONE PERCENT alcohol BY VOLUME and which IS ~~are~~ fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as ~~above~~ provided IN THIS SECTION, shall not be construed to be FERMENTED MALT OR malt or vinous liquors, but shall be construed to be spirituous liquors.

Vinous liquors means wines, INCLUDING SAKE, and fortified wines THAT: (1) CONTAIN NOT LESS THAN ONE- HALF OF ONE (0.5) PERCENT AND not MORE THAN ~~exceeding~~ twenty-one (21) percent of alcohol by volume; and (2) ARE PRODUCED ~~shall be construed to mean alcoholic beverages obtained~~ by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

All other words and phrases used in this chapter shall have the meanings attached by the Colorado Statutes regulating the sale of ALCOHOL BEVERAGES ~~liquor~~, or if not otherwise defined by law, as used in their common, ordinary and accepted sense and meaning.

Section 2. Section 11-52 is amended to read as follows:

Sec. 11-52. - Purpose.

In pursuance of the authority conferred by C.R.S. Aarticles 3, 4 AND 5 ~~46, 47 and 48~~ of Title 44 ~~12, C.R.S., 1997 Volume~~, this chapter is enacted for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the city by regulating, controlling and licensing the sale of malt, vinous or spirituous liquors and fermented malt beverages.

Section 3. Subsection 11-53 (b) is amended to read as follows:

Sec. 11-53. - Governance by state laws, rules and regulations.

- (b) Notwithstanding the provisions in subsection (a) to the contrary, the distance restrictions imposed by C.R.S. § 44-3-313(1)(d) ~~12-47-313(1)(d)(l)~~ prohibiting the sale of ALCOHOL BEVERAGES ~~malt, vinous or spirituous liquor~~ within five hundred (500) feet of any public or parochial school or the principal campus of any college, university or seminary, are eliminated for all hotel and restaurant licenses, beer and wine licenses, brew pub licenses, DISTILLERY PUB LICENSES, arts licenses, and vintner's restaurant licenses issued pursuant to this article.

Section 4. Section 11-56 is amended to read as follows:

Sec. 11-56. - Alcohol beverage tastings.

- (a) Subject to the limitations of this section, alcohol beverage tastings are permitted within the city. For the purposes of 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 and C.R.S. § 44-3-301(10). ~~Section 12-47-301(10), C.R.S.~~

- (b) A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct tastings may submit an application or application renewal for that purpose to the liquor licensing authority. The applicant for a tastings permit shall state on the application the days and times that tastings will occur. The applicant shall give at least twenty-four (24) hours' prior notice to the CITY CLERK'S OFFICE AND THE police department of any deviations in the tastings schedule as set forth in the application. The liquor licensing authority may grant, grant with restrictions, or reject the application if the applicant fails to establish that he or she is able to conduct tastings without violating the provisions of this section, OR C.R.S. § 44-3-301(10) ~~Section 12-47-310(10), CRS,~~ or creating a public safety risk to the neighborhood. The liquor licensing authority shall establish its own application procedure and shall charge a reasonable application fee. The liquor licensing authority may delegate review and decision on the application to its clerk or administrative official.
- (c) Tastings ARE ~~shall be~~ subject to the following limitations:
- (1) Tastings shall be conducted only:
 - a. BY A PERSON WHO: ~~HAS by a person who has~~ completed a server training program that meets the standards established by the liquor enforcement division in the department of revenue and IS ~~who is either a retail liquor store licensee or a liquor-licensed drugstore 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 an employee of a licensee, and only on a licensee's licensed premises.~~
 - b. ON A LICENSEE'S LICENSED PREMISES.
 - (2) The alcohol BEVERAGE used in tastings MUST ~~shall be~~ purchased through a licensed wholesaler, licensed brew pub, LICENSED DISTILLERY PUB, or winery licensed pursuant to C.R.S. § 44-3-403 AT A COST THAT IS NOT LESS THAN THE LAID-IN COST OF THE ALCOHOL BEVERAGE ~~Section 12-47-403 CRS.~~
 - (3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half (½) ounce of spirituous liquor.
 - (4) Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.
 - (5) THE LICENSEE MAY CONDUCT 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 97:00 p.m.

- (6) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
 - (7) 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.
 - (8) The licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated.
 - (9) The licensee shall not serve more than four (4) individual samples to a patron during a tasting.
 - (10) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
 - (11) THE LICENSEE MAY CONDUCT T~~tastings ON~~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 FIFTY-SIX ~~four~~ (156-104) 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 RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE licensee shall bearS the financial and all other responsibility for a tasting CONDUCTED ON ITS LICENSED PREMISES.
- (D43) A violation of a limitation specified in this section, OR C.R.S. § 44-3-301(10) ~~Section 12-47-301(10) CRS or Section 12-47-801 (CRS)~~ by a retail liquor store or LIQUOR-LICENSED drug licensee, whether by THE LICENSEE'S ~~his or her~~ employees, agents, or otherwise, shall be 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 TASTING, IS the responsibility of, AND C.R.S. 44-3-801 APPLIES TO, the retail liquor store or liquor-licensed drugstore licensee THAT CONDUCTED ~~who is conducting~~ the tasting.

- (E14) 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.
- (F) NOTHING IN THIS SECTION SHALL AFFECT THE ABILITY OF A COLORADO WINERY LICENSED PURSUANT TO C.R.S. § 44-3-402 OR 44-33-403 TO CONDUCT A TASTING PURSUANT TO THE AUTHORITY OF C.R.S. §44-3-402(2) OR 44-3-403(2)(e).

Section 5. Section 11-63 is amended to read as follows:

Sec. 11-63. - Classification of operators.

The business of selling at retail any FERMENTED MALT BEVERAGE OR ~~three point two (3.2) percent beer, malt,~~ vinous or spirituous liquor other than medicinal liquors for beverage purposes is hereby defined and separately classified as such occupation for the purpose of this chapter as follows:

- (1) *Class "C" operators.* All operators licensed to sell ALCOHOL BEVERAGES ~~malt, vinous or spirituous liquors~~ as clubs are Class "C" operators.
- (2) *Class "D" operators.* All operators licensed as retail stores to sell in original containers ALCOHOL BEVERAGES, ~~malt, vinous or spirituous liquors~~ for consumption off the premises shall be Class "D" operators.
- (3) *Class "E" operators.* All operators licensed as drugstores to sell ALCOHOL BEVERAGES ~~malt, vinous or spirituous liquors~~ in original containers for consumption off the premises shall be Class "E" operators.
- (4) *Class "F" operators.* All operators licensed to sell malt or vinous liquors only by the drink for consumption on the premises shall be Class "F" operators.
- (5) *Class "G" operators.* All operators who are licensed to sell ALCOHOL BEVERAGES ~~beer, wine and spirituous liquors~~ for consumption on the premises either as BREW PUBS; DISTILLERY PUBS, VINTNER'S RESTAURANTS, hotels AND/or restaurants shall be Class "G" operators.
- (6) *Class "J" operators.* All operators licensed to sell only FERMENTED MALT BEVERAGE ~~three point two (3.2) percent beer~~ shall be classified as follows:
 - a. *Class "J1" operators.* All operators licensed to sell or selling FERMENTED MALT BEVERAGE ~~three point two (3.2) percent beer~~ for consumption off the premises of the licensee shall be Class "J1" operators.
 - b. *Class "J2" operators.* All operators licensed to sell or selling FERMENTED MALT BEVERAGE ~~three point two (3.2) percent~~

~~beer~~ for consumption on the premises of the licensee shall be Class "J2" operators.

~~e. Class "J3" operators. All operators licensed to sell or selling three point two (3.2) percent beer for consumption both on and off the premises of the licensee shall be Class "J3" operators.~~

- (7) *Class "T" operators.* All operators selling ALCOHOL BEVERAGES ~~malt, vinous or spirituous liquors~~, by the drink, only for consumption on the premises; and such operators shall have available for consumption on the premises during business hours, sandwiches and light snacks; but they need not have meals available for consumption.

Section 6. Section 11-64 is amended to read as follows:

Sec. 11-64. - Amount of tax levied.

There is hereby levied and assessed for each year an annual occupation tax upon the business of selling ALCOHOL BEVERAGES ~~three point two (3.2) percent beer, malt, vinous or spirituous liquors~~, except medicinal liquors, in the city, as such occupation has been herein classified as follows:

- (1) For all Class "G" operators, nine hundred dollars (\$900.00).
- (2) For all Class "F" operators, six hundred dollars (\$600.00).
- (3) For all Class "D" operators, six hundred fifty dollars (\$650.00).
- (4) For all Class "E" operators, six hundred dollars (\$600.00).
- (5) For all Class "C" operators, nine hundred dollars (\$900.00).
- (6) For all Class "J-1" operators, seven hundred dollars (\$700.00).
- (7) For all Class "J-2" operators, seven hundred dollars (\$700.00).
- (8) ~~For all Class "J-3" operators, two thousand two hundred dollars (\$2,200.00).~~
- (9) ~~For all Class "T" operators, one thousand three hundred dollars (\$1,300.00).~~

Section 7. Section 17-27 is amended to read as follows:

Sec. 17-27. – ALCOHOL ~~Alcoholic~~ beverages.

- (a) The storage, sale or consumption of any ALCOHOL BEVERAGE ~~malt, vinous or spirituous liquors~~, as defined by the Colorado Liquor Code, is prohibited in any park, recreation area or recreation building within the city except as specifically provided herein or as may be authorized pursuant to a special event permit issued by the city in accordance with C.R.S., Aarticle 5 48, Ttitle 12 44.
NOTWITHSTANDING THE FOREGOING, Tthe consumption and/or storage of ANY fermented malt beverages is permitted in any park or recreation area within the city so long as, and only so long as, such fermented malt beverage has been purchased in a manner

authorized, and is being consumed by persons permitted, by applicable state law. It shall be unlawful to sell any fermented malt beverage within any park or recreation area within the city unless such sales are made pursuant to a special event permit granted by the city and unless such sales are made in accordance with the Colorado Beer Code.

- (b) Storage and consumption of fermented malt BEVERAGE and vinous liquor is permitted at the Wheat Ridge Senior/Community Center, the Wheat Ridge Recreation Center and the Richards-Hart Estate in conjunction with an event sanctioned and authorized by the director; and provided further that such alcoholic beverages are neither sold to, served to, or consumed by any person not authorized by the Colorado Liquor Code or the Code of Laws of the City of Wheat Ridge to possess or consume such alcoholic beverages. The director is hereby authorized to establish rules for serving and consumption of alcoholic beverages at the Richards-Hart Estate, the Wheat Ridge Senior/Community Center, and the Wheat Ridge Recreation Center.

Section 8. The revisions described in Exhibit A, attached hereto and incorporated herein by this reference, shall be included in the codification of the Wheat Ridge Code of Laws in order to conform various cross-references to the Colorado Revised Statutes and to delete obsolete provisions.

Section 9. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 10. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 0 on this 11th day of March, 2019, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for March 25, 2019, rescheduled to April 8, 2019, continued to April 22, 2019, at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

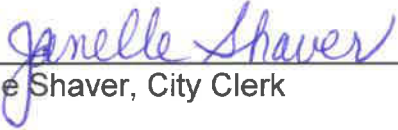
READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 22nd day of April, 2019.

SIGNED by the Mayor on this 22nd day of April, 2019.



Bud Starker, Mayor

ATTEST:



Janelle Shaver, City Clerk

Approved as to Form:



Gerald E. Dahl, City Attorney

First Publication: March 14, 2019; April 11, 2019

Second Publication: April 25, 2019

Wheat Ridge Transcript

Effective Date: May 10, 2019

Published:

Wheat Ridge Transcript and www.ci.wheatridge.co.us

EXHIBIT A

to

**Wheat Ridge City Council Ordinance No. 1665, Series 2019, Amending Sections 11-51, 1-52, 11-53, 11-56, 11-63, 11-64 and 17-27 of the Wheat Ridge Code of Laws Concerning the Licensing and Use of Alcohol Beverages and Making Additional Housekeeping Revisions to said Code
Updating Statutory Citations to Conform to Recent Legislative Changes**

In addition to the revisions/updates to the Wheat Ridge Liquor code in Sections 11-51, 11-52, 11-53, 11-56, 11-63, 11-64 and 17-27, the following code sections will be updated as follows:

Sections	Current reference	Revised to Read
3-20(b)	Title 12, Article 46 or Article 47	Title 44, Article 4 or Article 3
9-22. Definitions <i>Bar</i>	Article 47 of Title 12	Articles 3 and 4 of Title 44
11-52.5(a), (f) and (h)	articles 46, 47 and 48 of Title 12	Articles 3, 4 and 5 of Title 44
11-250. Definitions <i>Alcohol beverage</i>	§§12-46-103 and 12-47-103	§§44-4-103 and 44-3-103
11-290(7)	Article XVIII Section 14 of the Colorado Constitution	Article XVIII Section 14 of the Colorado Constitution and C.R.S. §44-11-301 et seq. (concerning municipal authority to license and regulate medical marijuana)
11-291. Definitions <i>Colorado Medical Marijuana Code Licensee</i> <i>Medical marijuana center</i> <i>Medical marijuana testing facility</i> <i>Medical marijuana-infused product manufacturer</i> <i>Optional premises cultivation operation</i>	C.R.S., tit. 12, art.43.3 §12-43.3-402 §12-43.3-402 §12-43.3-405 and 408(1)(a) §12-43.3-404 §12-43.3-403	C.R.S., Title 44. Article 11 §44-11-402 §44-11-402 §44-11-405 and 408(1)(a) §44-11-404 §44-11-403
11-298(b)	§12-43.3-302	§44-11-302
11-400(f)	§12-43.4-101 et seq.	§44-12-101 et seq.

11-401. Definitions <i>Colorado Medical Marijuana Code</i> <i>Colorado Retail Marijuana Code</i> <i>Licensee</i> <i>Medical marijuana center</i> <i>Medical marijuana testing facility</i> <i>Medical marijuana-infused product manufacturer</i> <i>Optional premises cultivation operation</i> <i>Retail marijuana cultivation facility</i> <i>Retail marijuana products manufacturer</i> <i>Retail marijuana store</i> <i>Retail marijuana testing facility</i> <i>State licensing authority</i>	Article 43.3 of Title 12 of the Colorado Revised Statutes Article 43.4 of Title 12 of the Colorado Revised Statutes §12-43.4-401 §12-43.3-402 §12-43.3-405 and 408(1)(a) §12-43.3-404 §12-43.3-403 §12-43.4-403 §12-43.4-404 §12-43.4-402 §12-43.4-405 and §12-43.3-408(1)(a) §12-43.4-201	C.R.S., Title 44. Article 11 C.R.S., Title 44, Article 12 §44-12-402 §44-11-402 §44-11-405 and 408(1)(a) §44-11-404 §44-11-403 §44-12-403 §44-12-404 §44-12-402 §44-12-405 and §44-11-408(1)(a) §44-12-201
11-408(b)	§12-43.4-412	§44-12-302
15-34. Definitions <i>Proscribed act(s)</i> --(2) --(9) --(10) --(11)	gambling on premises, C.R.S. § 18-10-102(7) §§12-46-101 and 12-47-101 §12-25.5-101 et seq. A violation of any provision of the Colorado Massage Parlor Code, C.R.S. § 12-48.5-101, et seq.	gambling, C.R.S. § 18-10-102(2) §§44-4-101 and 44-3-101 §29-11.8-101 et seq. [DELETE – Massage Parlor Code has been repealed.]
16-127(h)(1)	Article 46, 47 or 48 of Title 12	Article 3, 4 or 5 of Title 44
16-177(a)(4)a. and (d)	Article 46, 47 or 48 of Title 12	Article 3, 4 or 5 of Title 44
16-227(a)(5) “WARNING”	“AND ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES”	[DELETE as Colo. Massage Code has been repealed.]
16-235(2)	C.R.S. Title 12, Article 59	C.R.S. Title 23, Article 64
17-42	Article 48, title 12	Article 5, Title 44