

TOWN OF BUENA VISTA, COLORADO

ORDINANCE NO. 22

(SERIES OF 2018)

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO,
AMENDING CERTAIN PROVISIONS OF THE BUENA VISTA
MUNICIPAL CODE RELATED TO ALCOHOL AND MARIJUANA,
BASED ON CHANGES TO STATE LAW**

WHEREAS, the Colorado General Assembly recently passed House Bill 18-1023 which moves certain sections of Title 12 of Colorado Revised Statutes into a new Title 44; and

WHEREAS, the Town desires to amend portions of the Town Code that refer to the old Title 12 to cite to the new Title 44.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:

Section 1. Section 6-1 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

Sec. 6-1. - Definitions.

As used in this Article, unless the context otherwise requires:

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 4 of Title 44, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 3 of Title 44, C.R.S.).

Retail licensee or *licensee* means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 4 of Title 44, C.R.S.) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 3 of Title 44, C.R.S.).

Section 2. Section 6-2 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

Sec. 6-2. – Power and Purpose

The Board of Trustees finds and determines that it is empowered by Articles 3 and 4 of Title 44, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefor.

Section 3. Section 6-3 of the Buena Vista Municipal Code is hereby amended to read as follows:

Sec. 6-3. – Licensing Application Fees

In addition to the license fee as established by state statute, each application for a license as provided for in Article 3 or 4 of Title 44, C.R.S., shall be accompanied by a local license application fee in an amount as set forth in this Section.

* * *

Section 4. Section 6-5 of the Buena Vista Municipal Code is hereby amended to read as follows:

Sec. 6-5. – Delegation of authority to Town Clerk to Issue Licenses.

The Town Clerk is vested with authority to review and approve applications for liquor license renewals and transfers, special event licenses and temporary permits pursuant to the following criteria:

- (1) Renewals and transfers.

* * *

c. For license transfers, whether the applicant satisfies the eligibility criteria set forth in Section 44-3-307, C.R.S.

* * *

- (2) Special event licenses.

* * *

d. Whether the application and applicant satisfy the eligibility criteria set forth in Sections 44-5-102 and 44-5-103, C.R.S.

* * *

(4) In the event the Town Clerk cannot or will not approve a transfer or renewal of a license, or the issuance of a special event license or temporary permit, then the Clerk shall automatically and promptly agendaize the application for a public hearing before the Board of Trustees, acting as the local liquor licensing authority. Written notice of the time and place of the hearing shall be mailed to the applicant by regular mail at least ten (10) days in advance thereof and shall contain such facts or reasons relied upon by the Clerk to initially deny the license or permit. Notice of the hearing shall also be timely published and

posted on the subject premises in accordance with the requirements set forth in Section 44-3-311, C.R.S, and timely provided to any person who may have filed a protest against the issuance of the license with the Town Clerk. Additionally, any license or permit applicant dissatisfied with a decision of the Town Clerk under this Section may appeal the same to the Board of Trustees by filing a written protest with the Town Clerk not less than ten (10) days after the date of the decision appealed from. The Town Clerk shall promptly set the appeal for hearing before the Board of Trustees in accordance with the notice and hearing procedures described above.

Section 5. Section 6-6 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

Sec. 6-6. – Alcoholic Beverage Tastings Authorized.

Pursuant to Section 44-3-301(10)(a), C.R.S., the Town authorizes alcoholic beverage tastings for licensed retail liquor stores and liquor-licensed drugstores within the Town. The Town shall not require a further application prior to allowing retail liquor licensees to conduct alcoholic beverage tastings and elects not to impose additional limitations on such tastings beyond those limitations set forth in Title 44, Chapter 3, C.R.S.

Section 6. Section 6-7 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

Sec. 6-7. –Distance Restriction from Schools

Pursuant to Section 44-6-313(1)(d)(III) C.R.S., as amended, the distance restriction imposed by Section 44-3-313(1)(d)(I) C.R.S., as amended, is hereby reduced to one hundred fifty (150) feet from the Avery Parsons Elementary School and Chaffee County High School for hotel and restaurant classes of liquor licenses.

Section 7. Section 6-8 of the Buena Vista Municipal Code is hereby amended to read as follows:

Sec. 6-8. – Special Event Permits.

(a) Pursuant to Section 44-5-107(5)(a), C.R.S., the Board of Trustees or its authorized agent, acting as the local licensing authority ("Authority"), elects not to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of applications for special event permits.

* * *

(c) Upon receipt of an application for a special event permit, the Town Clerk shall, as required by Section 44-5-107(5)(c), C.R.S., access information made available on the state licensing authority's website to determine the

statewide permitting activity of the organization applying for the permit. The Authority shall consider compliance with the provisions of Section 12-5-105(3), C.R.S., which restricts the number of permits issued to an organization within a calendar year to fifteen (15), before approving any application.

* * *

(e) Each application for a special event permit shall be accompanied by an application fee in an amount equal to the maximum local licensing fee established by Section 44-5-107(2), C.R.S.

Section 8. Section 6-50(a) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(a) The purpose of this Article is to implement the provisions of the Colorado Medical Marijuana Code, Section 44-11-101, C.R.S., which authorizes the licensing and regulation of medical marijuana businesses and affords local government the option to determine whether to allow medical marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law. By adoption of this Article, the Board of Trustees does not intend to authorize or make legal any act that is not permitted under federal or state law.

Section 9. Section 6-67(a) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(a) Subject to the limitations set forth in this Section and Section 44-11-403, C.R.S., and other applicable laws, the growing, cultivation or processing of marijuana shall be allowed contiguous or not contiguous to the licensed premises of a licensed medical marijuana business.

Section 10. Section 6-69.1(3) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(3) Possess more than six (6) medical marijuana plants and two (2) ounces of any usable form of medical marijuana per patient, except a licensee may, in the case of a patient authorized to possess more than the six-plant or two-ounce limit, possess such additional marijuana as provided by Section 44-11-901(4)(e), C.R.S.

Section 11. Section 6-111 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

Sec. 6-111. – Purpose.

It is the purpose of this Article for the Town to exercise its local option to allow common consumption areas in the Town by establishing an entertainment

district as provided in C.R.S. § 44-3-301(11), as it may be amended. The standards adopted herein shall be considered in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code and this Code.

Section 12. Section 6-114(a) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(a) In order to exercise the Town's local option to allow common consumption areas in the Town and to effectuate the purposes and intent of C.R.S. § 44-3-301(11), there is hereby designated the "Town of Buena Vista East Main Street Downtown Entertainment District" whose boundaries include all land, inclusive of rights-of-way, located and as shown on the map attached to hereto as Exhibit A.

Section 13. Section 6-115(b) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(b) Upon approval of a certification by the local licensing authority and subject to decertification under C.R.S. § 44-3-301(11)(c)(III), the terms and conditions of the approval shall remain effective until and unless a revised or amended application is submitted to the local licensing authority and approved using the same procedures under which the original application was approved, or action is taken by the local licensing authority to modify the terms and conditions.

Section 14. Section 6-117(b)(4) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(4) Violates C.R.S. § 44-3-910 of the Colorado Liquor Code.

Section 15. Section 10-201 of the Buena Vista Municipal Code is hereby amended to read as follows:

Sec. 10-201. – Definitions

* * *

(1) *Alcoholic beverages* means a fermented malt beverage as defined by the Colorado Beer Code (Article 4 of Title 44, C.R.S.) and malt, vinous or spirituous liquor as defined by the Colorado Liquor Code (Article 3 of Title 44, C.R.S.)

(2) *Colorado Beer Code* means the provisions of Article 4 of Title 44, C.R.S., and the rules and regulations of the Colorado Department of Revenue promulgated thereunder.

(3) *Colorado Liquor Code* means the provisions of Article 3 of Title 44, C.R.S., and the rules and regulations of the Colorado Department of Revenue

promulgated thereunder.

* * *

(14) *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 license pursuant to the Colorado Beer Code, Colorado Liquor Code or the provisions of Article 5 of Title 44, C.R.S., pertaining to special events licenses; or

* * *

(17) *Special events permits* means a special permit to sell fermented malt beverages or malt, vinous or spirituous liquors issued pursuant to the provisions of Article 5 of Title 44, C.R.S., and the rules and regulations of the Colorado Department of Revenue promulgated thereunder.

* * *

Section 16. Section 10-202(e) of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

(e) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, ethyl alcohol to or by an underage person under the conditions described in Subsection (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to the Colorado Beer Code, Colorado Liquor Code or the provisions of Article 5 of Title 44, C.R.S., or any members, employees or occupants of any such establishment, to give, provide, make available or sell ethyl alcohol to any underage person.

Section 17. Section 10-208 of the Buena Vista Municipal Code is hereby repealed and reenacted as follows:

Sec. 10-208. – Unlawful Sale of Alcoholic Beverage by Unlicensed Person.

It shall be unlawful for any person to sell or possess for sale any malt, vinous or spirituous liquor or fermented malt beverage, unless licensed to do so pursuant to the Colorado Beer Code, Colorado Liquor Code or the provisions of Article 5 of Title 44, C.R.S., and unless all required licenses are in full force and effect.


INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 11th day of December, 2018.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: 
Duff Lacy, Mayor

ATTEST:


Paula Barnett, Town Clerk

