

ORDINANCE NO. 17

SERIES 1991

AN ORDINANCE CONCERNING THE ISSUANCE OF TEMPORARY PERMITS  
AUTHORIZING THE SALE OF BEVERAGES CONTAINING ALCOHOL PENDING A  
TRANSFER OF A RETAIL LIQUOR OR FERMENTED MALT BEVERAGE LICENSE

WHEREAS, Senate Bill 91-139, which became effective July 1, 1991, grants to a local licensing authority the discretionary authority to issue a temporary permit authorizing the continued sale of alcoholic beverages or fermented malt beverages at a licensed premises during the period in which an application to transfer the ownership of the license is pending; and

WHEREAS, Senate Bill 91-139 sets for the conditions under which a temporary permit may be issued; and

WHEREAS, Senate Bill 91-139 requires that a temporary permit, if granted, shall be issued by the local licensing authority within three working days after the receipt of an application therefore; and

WHEREAS, the Town Council of the Town of Breckenridge finds and determines that it is proper to delegate to the Town Clerk the administrative function of issuing a temporary permit under the provisions of Senate Bill 91-139 and the provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. There is hereby added to the Breckenridge Town Code a new Chapter 5 of Title 4, to be entitled "Temporary Permits", which shall read in its entirety as follows:

CHAPTER 5  
Temporary Permits

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| Section | 4-5-1: Purpose and Authority.   |
|         | 4-5-2: Definitions.   |
|         | 4-5-3: Requirements For Issuance of Temporary Permits                       |
|         | 4-5-4: Time For Filing of Application for Temporary Permit                  |
|         | 4-5-5: Temporary Permit Fee   |
|         | 4-5-6: Application For Temporary Permit.                                    |
|         | 4-5-7: Issuance of Temporary Permit By Town Clerk.                          |
|         | 4-5-8: Duration of Temporary Permit.  |
|         | 4-5-9: Other Transfers For Which a Temporary Permit Is Available.           |
|         | 4-5-10: Cancellation, Revocation or Summary Suspension of Temporary Permit. |

4-5-1: PURPOSE AND AUTHORITY. This Chapter is adopted by the Town Council to implement the provisions of Section 12-46-106.5 and Section 12-47-106.5 C.R.S., which were adopted by Senate Bill 91-139 and became effective July 1, 1991. The Town Council finds and determines that the issuance of a temporary permit under the provisions of this Chapter is an administrative act capable of being lawfully delegated to the Town Clerk and that Senate Bill 91-139 and this Chapter contain sufficient guidelines to govern the issuance of such permits.

4-5-2: DEFINITIONS. As used in this Chapter, unless the context otherwise requires:

"Applicant" means the proposed transferee of a retail license for the sale of fermented malt beverages or alcoholic beverages and, once issued, the holder of a temporary permit under this Chapter.

"Department of Revenue" means the Department of Revenue of the State of Colorado.

"Temporary Permit" means a permit which authorizes the applicant to continue to sell fermented malt beverages or alcoholic beverages as permitted under the permanent license for a licensed premises during the period in which an application to transfer the ownership of such license to the applicant is pending.

4-5-3: REQUIREMENTS FOR ISSUANCE OF TEMPORARY PERMIT. A temporary permit shall not be issued unless or until the Town Clerk determines that the following conditions have been satisfied.

A. The premises have been previously licensed by the State and the Town, and such license was valid at the time the application for transfer of ownership was filed with the Town Clerk.

B. The applicant has filed with the Town Clerk a properly completed application for the transfer of the license, which application shall include, without limitation, the following information.

1. The name and address of the applicant; if the applicant is a partnership, the names and addresses of all the partners; and, if the applicant is a corporation, association or other organization, the names and addresses of the president, vice-president, secretary, and managing officer.

2. The applicant's financial interest in the proposed transfer.

3. The premises for which the temporary permit is sought.

4. Such other information as is required to properly complete the application for transfer of license form required by the Department of Revenue.

4-5-4: TIME FOR FILING OF APPLICATION FOR TEMPORARY PERMIT. An application for a temporary permit shall be filed no later than 30 days after the filing of the application for transfer of ownership with the Town Clerk.

4-5-5: TEMPORARY PERMIT FEE. Each application for a temporary permit shall be accompanied by the payment of a fee of \$100.00. Such fee shall be refunded if the temporary permit is not issued, but once the temporary permit is issued, such fee shall be non-refundable.

4-5-6: APPLICATION FOR TEMPORARY PERMIT. An application for the issuance of a temporary permit shall be submitted to the Town Clerk on forms provided by the Town Clerk for such purpose.

4-5-7: ISSUANCE OF TEMPORARY PERMIT BY TOWN CLERK. The Town Clerk shall issue a temporary permit to the applicant if she determines that all of the conditions of this Chapter have been satisfied. Such permit shall be issued within three working days after the Town Clerk's receipt of the application for issuance of a temporary permit.

4-5-8: DURATION OF TEMPORARY PERMIT. A temporary permit issued pursuant to this Chapter shall be valid only until such time as the application to the license to the applicant is granted or for 120 days, whichever shall first occur; except that if the application to transfer the license has not been granted within the 120 day period and the applicant demonstrates good cause, the Town Council may, in its discretion, extend the validity of said permit for an additional period not to exceed 60 days.

4-5-9: OTHER TRANSFERS FOR WHICH A TEMPORARY PERMIT IS AVAILABLE. A temporary permit may also be issued by the Town Clerk, subject to the requirements of this Chapter, in the event of a transfer of possession of a licensed premises by operation of law; or the filing of a petition in bankruptcy pursuant to federal bankruptcy law; by the appointment of a receiver; by a foreclosure action by a secured party; or by a court order dispossessing the prior licensee of all rights of possession pursuant to Article 40 of Title 13, C.R.S.

4-5-10: CANCELLATION, REVOCATION, OR SUMMARY SUSPENSION OF TEMPORARY PERMIT. A temporary permit may be cancelled, revoked or summarily suspended by the Town Council if it determines that there is probable cause to believe that the applicant has violated any provision of the Colorado Beer Code

(Article 46 of Title 12, C.R.S.) or the Colorado Liquor Code (Article 47 of Title 12, C.R.S.), whichever statutes govern the license of the licensed premise, or any rule or regulation promulgated by the Department of Revenue pursuant thereto, or any Town ordinance governing the operation of the licensed premises, or if the applicant has failed to truthfully disclose those matters required pursuant to the application forms required by the Department of Revenue or the Town.

Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. The Town Council hereby finds, determines, and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

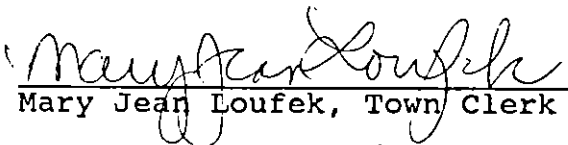
Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of Sections 12-46-106.5 and 12-47-106.5 C.R.S., and the power possessed by home rule municipalities in Colorado.


Section 5. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 9th day of July, 1991. A Public Hearing on the Ordinance shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado, on the 23rd day of July, 1991, at 7:30 p.m. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, Town Clerk

  
Stephen C. West, Mayor

This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, Colorado on July 18, 1991.


READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE this 23rd day of July, 1991.


A copy of this Ordinance is available for inspection in the office of the Town Clerk.

This Ordinance was published by title in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on August 1, 1991.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, Town Clerk

  
Stephen C. West, Mayor

APPROVED IN FORM

  
Town Attorney

7/23/91  
Date