

ORDINANCE NO. 10

Series 1998

AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE TO REFLECT AMENDMENTS MADE TO THE COLORADO LIQUOR CODE AND THE COLORADO BEER CODE

WHEREAS, House Bill 97-1076, which became effective July 1, 1997, recodified the Colorado Liquor Code and the Colorado Beer Code; and

WHEREAS, as a result of the recodification of the Colorado Liquor Code and Colorado Beer Code it is necessary for the Town to amend various provisions of Title 4 of Breckenridge Town Code.

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

Section 1. The introductory paragraph of Section 4-3-1 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

In addition to applicable requirements of Colorado Revised Statutes and regulations adopted thereunder, the Town, pursuant to C.R.S. 12-47-310 hereby adopts the following standard for issuance of an optional premises license or for optional premises for a hotel and restaurant license:

Section 2. Section 4-4-1 of the Breckenridge Town Code, entitled "Definitions", is hereby amended so as to read in its entirety as follows:

4-4-1: DEFINITIONS:

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

LICENSE: A grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (article 46 of Title 12, Colorado Revised Statutes) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (article 47 of title 12, Colorado Revised Statutes).

LICENSEE: The holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (article 46 of title 12, Colorado Revised Statutes), or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (article 47 of Title 12, Colorado Revised Statutes).

Section 3. Paragraph A of Section 4-4-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

A. Whenever a decision of the Town Council, acting as the local licensing authority, suspending a license for fourteen (14) days or less becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition the Town Council, acting as the local licensing authority, for permission to pay a fine in lieu of having his license suspended for all or part of the suspension period. Upon the receipt of the petition, the Town Council, acting as the local licensing authority, may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

1. That the public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
2. That the books and records of the licensee are kept in such a manner that the loss of sales of alcoholic beverages which the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
3. That the licensee has not had his license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

Section 4. Section 4-5-1 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

4-5-1: PURPOSE AND AUTHORITY:

This Chapter is adopted by the Town Council to implement the provisions of section 12-47-303, C.R.S.-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 this Chapter contain sufficient guidelines to govern the

issuance of such permits.

Section 5. The definition of "Temporary Permit" set forth in Section 4-5-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

TEMPORARY PERMIT: A permit which authorizes the applicant to conduct business and 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.

Section 6. Section 4-5-7 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

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 five (5) working days after the Town Clerk's receipt of the application for issuance of a temporary permit.

Section 7. Section 4-5-8 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

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 for the license to the applicant is granted or denied for one hundred twenty (120) days, whichever shall first occur; except that if the application to transfer the license has not been granted or denied within the one hundred twenty (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 sixty (60) days.

Section 8. Section 4-5-9 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

4-5-9: OTHER TRANSFERS FOR WHICH A TEMPORARY PERMIT IS AVAILABLE:

A temporary permit shall 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.

Section 9. Section 4-5-10 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

4-5-10: CANCELLATION, REVOCATION, OR SUMMARY SUSPENSION OF TEMPORARY PERMIT:

A temporary permit may be canceled, 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 premises, or any rule or regulation adopted by the Department of Revenue pursuant thereto, or any Town ordinance governing the operation of 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 10. Chapter 7 of Title 4 of the Breckenridge Town Code, entitled "Temporary Licenses", is hereby repealed in its entirety.

Section 11. 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 12. 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, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

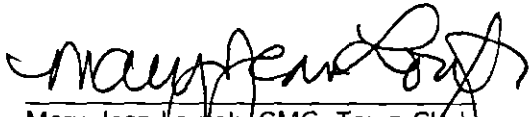
Section 13. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 14. 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 24th day of February, 1998. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 10th day of March, 1998, 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, CMC, Town Clerk


Stephen C. West, Mayor

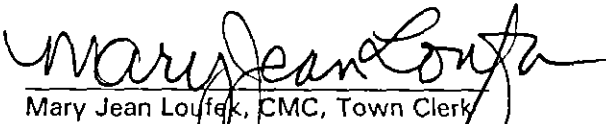
This Ordinance was published in full in The Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on March 5, 1998.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE this 10th day of March, 1998.

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

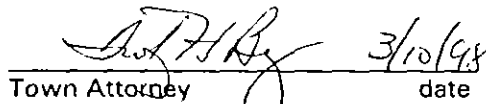
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Stephen C. West, Mayor

APPROVED IN FORM


Town Attorney 3/10/98
date

This Ordinance was published by title in The Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on March 19, 1998.