

## Rules & Regulations of Alcohol Consumption

**8.04.810 Definitions.** As used within this chapter the following words shall have the following meaning:

- (a) "Alcoholic beverages" or "Alcoholic liquors" means malt, vinous, or spirituous liquors: except that "alcoholic beverages" and "alcoholic liquors" shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-41 (1)(i)(II), C.R.S., as amended.
- (b) "Fermented malt beverage" means any 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 (1/2) of one (1) percent and not more than three and two tenths percent (3.2%) alcohol by weight; except that "fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by Section 25-55-410(1)(i)(II), C.R.S., as amended. (Ord. 1142, 1992).

**8.04.820 Consumption regulated.** (a) It is 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, as amended, of the Colorado Revised Statutes.

- (b) For the purpose of this section, "open container" means any container which is either opened so that the contents can be removed or upon which the bottle cap seal has been broken.
- (c) For the purpose of this section, "in public" means:
- (1) In or upon any public highway, street, alley, walk, parking lot, building, park or other property or place which is owned or leased by the city or other governmental entity, whether in a vehicle or not; and
  - (2) In or upon those portions of any private property upon which the public has express or implied license to enter or remain. If such express or implied license is subject to time or conduct restrictions, consumption or prohibited possession of fermented malt alcoholic beverages on such property shall be deemed to be "in public" even if the entry or remaining on the property is in violation of the time or conduct restrictions.
- (d) For the purposes of this section evidence that a container, or a similar container, if the label is missing or unreadable, lists as contents any fermented malt or alcoholic beverages is prima facie evidence that the substance in such container is fermented malt or alcoholic beverages.
- (e) It is an affirmative defense to a charge of violating this section that the owner of the property involved or the owner's authorized agent gave prior express written permission to the accused or to members of the accused's class to perform the acts complained of.
- (f) The city manager or manager's designee may, as provided below, grant express written permission to persons to consume fermented malt or alcoholic beverages on city owned property for the following special functions: athletic events; artistic events; cultural events; receptions; street closure events; or civic events.
- (1) The city manager shall adopt an administrative directive specifying the city properties or portions thereof upon which fermented malt or alcoholic beverages may be consumed.
  - (2) The city manager shall grant such permission to persons applying therefor if, considering the type of function and type of alcohol to be served, the manager finds that:
    - (a) The application to the city manager was filed not later than forty-eight (48) hours prior to the date of the event.
    - (b) The time, location and duration of the function are not likely to significantly interfere with public traffic or services, including public safety services.

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(c) The number and concentration of participants at the function are not likely to result in crowds exceeding limitations in the city fire code or create a nuisance resulting in inconvenience to the residents of the surrounding neighborhood.

(d) Procedures are proposed that are likely to ensure that underage persons and persons under the influence of alcohol will not obtain or consume fermented malt or alcoholic beverages served at the function.

(e) Procedures are proposed that are likely to secure and supervise the area and the participants during the function.

(f) The applicant agrees to provide sandwiches and other food services at the location during the time consumption is permitted in an amount sufficient to serve the persons anticipated to attend.

(g) The applicant agrees to be personally responsible for and provide financial guarantees to ensure the cleaning, trash disposal or repairs necessary as a result of the event for which the permission was granted. The city manager shall determine the amount of required financial guaranty based upon the city facility involved, the duration of the event, the number of persons anticipated to attend, the type of beverage to be served, the failure of the applicant to clean or repair city property in conjunction with past events and the financial resources of the applicant.

(h) The applicant agrees, to the extent permitted by law, to indemnify and hold harmless the city, its employees and agents for all liability claims arising out of the event and to provide general liability insurance, with minimum liability limits equal to that established by the Colorado Sovereign Immunity Act, as amended, to guarantee indemnification. The city manager may waive or reduce this insurance requirement if the applicant affirmatively establishes that the risk of liability to the city as a result of the function does not present the city with any significant additional risk of liability.

(3) The city manager shall deny permission where:

(a) There is insufficient data presented by the applicant to make the findings required in Subsection (f)(2) of this section.

(b) Approval would be detrimental to the public safety, health, moral, order or welfare by reason of the nature of the event, the likelihood that the event would create a public nuisance, an unreasonable risk of violence or public disorder or result in the consumption of alcoholic beverages by underage persons or, alternatively that the proximity of the event to schools or the failure of the applicant to conduct a past event in compliance with this section and the applicable rules and regulations.

(c) Another event has previously been scheduled for the same location on the same date and time.

(d) The event would unreasonably interfere with normal activities and customary and general use and enjoyment of the facility.

(4) An applicant who has been denied permission or who claims to be otherwise aggrieved by the city manager's decision concerning an application may make written request to the city manager's office for a hearing on the application. Such request shall be made within seven (7) days of the postmarked date of the city manager's decision. Within ten (10) days of receipt of such a request, the city manager shall designate an independent hearing officer who shall conduct a hearing at which the applicant and the city may present such evidence and information as may be relevant to the application.

(5) The granting of permission by the city manager under this section does not relieve the applicant from the responsibility of obtaining any license or special permit as may be required by state law or city ordinances.

(6) This section is not intended to create a right of use or possession of city owned or leased property in any person or group; rather, this section relates only to permission to consume malt, vinous or spirituous liquor or fermented malt beverage by an individual or group who otherwise has the lawful right to use or possess city owned property pursuant to city policy. (Ord. 1142, 1992; Ord. 760 §1, 1976).