

CITY CLERK'S OFFICE MEMORANDUM
#20-2020

DATE: December 21, 2020

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager *hmg*

FROM: Johanna Small, City Clerk *J*
Lisa Andrews, Deputy City Clerk – Licensing Specialist

SUBJECT: CB-1963 – Liquor Licensing Authority Amendments

PURPOSE

To consider CB-1963, an ordinance on second reading amending the Municipal Code regarding the Liquor Licensing Authority.

BACKGROUND

During the 2020 Legislative Session, the Colorado General Assembly passed several bills related to alcohol regulation. Two of these bills, SB 20-110 – Fines for Violations and SB 20-213 – Alcohol Takeout and Delivery, have a direct impact on local licensing authorities and require amendments to Article 2 of Chapter 18 of the Municipal Code. In addition, the Colorado Department of Revenue has adopted amendments to Reg. 47-603, 1 CCR 203-2, which provides guidance to local authorities when making findings related to liquor code violations. In accordance, on Nov. 16, 2020, the Liquor Licensing Authority approved a resolution to recommend Council adoption of CB-1963.

Senate Bill 20-110, Fines for Violations

Currently, licensing authorities may only impose a fine when a licensee requests a fine to be assessed in lieu of a suspension due to a liquor code violation. SB 20-110 allows licensing authorities to impose a fine first, with or without additional sanctions. SB 20-110 also adjusts the allowable fine amount from the current range between \$200 and \$5,000 to a new range between \$500 and \$100,000. CB-1963 would amend Section 18-2-8 of the Municipal Code to reflect these changes.

Senate Bill 20-213, Alcohol Takeout and Delivery

In response to the Coronavirus (COVID-19) Pandemic, Gov. Jared Polis implemented emergency rules to allow for the takeout and delivery of alcohol beverages from businesses licensed for on-premises consumption. SB 20-213 creates a permit system to be implemented when the declaration of emergency is lifted and the emergency rules are not in effect. CB-1963 would amend Sections 18-2-2, 18-2-4 and 18-2-8.5(c) of the Municipal Code to establish a local takeout and delivery permit to be issued by the Liquor Licensing Authority. The draft ordinance would also allow for administrative approval of takeout and delivery permits absent derogatory information pertaining to the applicant licensee or the conduct of the establishment.

Reg. 47-603, 1 CCR 203-2, Categories of Violations, Aggravating and Mitigating Factors

In 2020, the Colorado Department of Revenue amended Reg. 47-603 to provide specific presumptive guidelines for liquor or beer code violations. The guidelines are intended to provide a framework for local authorities to treat all licensees as equally and consistently as possible when imposing penalties for liquor or beer code violations while still allowing for significant Authority

discretion when considering the type of violation as well as the aggravating and/or mitigating factors of a case. CB-1963 would adopt Reg. 47-603, as amended, by reference. A copy is included as Attachment 1 for Council review.

STAFF RECOMMENDATION

Staff recommends approval of CB-1963 on second reading.

BUDGET/TIME IMPLICATIONS

It is anticipated that existing staff will assume all tasks related to the addition of takeout and delivery permits. No additional resources would be required.

STAFF REFERENCE

If Council members have questions they may contact City Clerk Johanna Small at 303.450.8757 or jsmall@northglenn.org.

ATTACHMENTS

1. Regulation 47-603, 1 CCR 203-3, as amended
2. Senate Bill 20-110 – Fines for Violations
3. Senate Bill 20-213 – Alcohol Takeout and Delivery
4. Northglenn Liquor Licensing Authority Resolution #20-5

CB-1963 – Liquor Licensing Authority Amendments

Regulation 47-603. Assessment of Penalties.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), and 44-3-601, C.R.S. The purpose of this regulation is to establish categories of violations, by level of severity, and associated penalty ranges for those violations to be used by the State and local licensing authorities, as well as establishing aggravating and mitigating factors which may be considered in assessing penalties for violations.

- A. When making a determination regarding the type of penalty to impose for a violation of the Colorado Liquor Code and Rules the State Licensing Authority, or a local licensing authority, shall consider the severity of the violation(s) based on the categories set forth in subsections B through E of this Regulation 47-603, and any aggravating or mitigating factors.
- B. Level One Violations.
1. This category of violations is the least severe and may include, but is not limited to, compliance check failures; licensing infractions that do not directly affect the health, safety, and welfare of the public at large; failure to report changes; product registration and/or labeling violations that do not affect public health, safety, and welfare; mandatory posting violations; trade name violations; minor books and record keeping violations; and minor advertising violations.
 2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, a fine per individual violation, and/or a fine in lieu of suspension. In lieu of imposing a penalty for this category of violation, a licensing authority may, but is not required to, issue a warning or accept an assurance of voluntary compliance pursuant to regulation 47-601.
 3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed five thousand dollars (\$5,000.00) for a first violation. Fines for second and subsequent violations in this category shall not exceed fifteen thousand dollars (\$15,000.00), per violation.
 4. "First violation" as used in this section, means the first occurrence of a violation within a twelve month time period.
- C. Level Two Violations.
1. This category of violations may include, but is not limited to, marketing and minor trade practice violations that do not directly affect the health, safety, and welfare of the public at large; sales to minors that are not a part of compliance check, that are a first violation and that do not result in substantial bodily injury or death; sales to intoxicated persons that are a first violation and that do not result in substantial bodily injury or death; minor delivery or shipping violations; improper storage of alcohol beverages; sale of non-permitted items; allowing the removal of alcohol beverages from an on-premises licensed premises; allowing an open container on an off-premises licensed premises; minor sanitation control violations; minor conduct of establishment violations; allowing minor gambling activities on the licensed premises; minor refilling violations; minor improper source violations; operating with an expired license; minor tasting violations; and sale to non-members for a club license.
 2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, license revocation, a fine per individual violation,

and/or a fine in lieu of suspension. In lieu of imposing a penalty for this category of violation, a licensing authority may, but is not required to, issue a warning or accept an assurance of voluntary compliance pursuant to regulation 47-601.

3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed twenty-five thousand dollars (\$25,000.00), per violation.

D. Level Three Violations.

1. This category of violations may include, but is not limited to; substantial delivery or shipping violations; food requirement violations; substantial refilling violations; substantial improper source violations; exercising the privilege of a license other than that which the licensee holds, or permitting another to exercise the rights of a license they hold; allowing substantial gambling activities on the licensed premises; substantial tasting violations; unlawful financial interests; substantial sanitation control violations; employee age violations; and hours of operation violations.
2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, license revocation, a fine per individual violation, and/or a fine in lieu of suspension. In lieu of imposing a penalty for this category of violation, a licensing authority may, but is not required to, accept an assurance of voluntary compliance pursuant to regulation 47-601.
3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed seventy-five thousand dollars (\$75,000.00), per violation.

E. Level Four Violations.

1. This category of violations is the most severe and includes violations that may directly affect the health, safety, and welfare of the public at large; sales to minors that are not a part of compliance check and that are a second or subsequent violation or that result in substantial bodily injury or death; sales to intoxicated persons that are a second or subsequent violation or that result in substantial bodily injury or death; substantial trade practice violations; substantial conduct of establishment violations; and permitting the consumption of marijuana or marijuana products on the licensed premises.
2. The range of penalties for this category of violation may include license suspension, license suspension held in abeyance, license revocation, a fine per individual violation, and/or a fine in lieu of suspension.
3. Any fine assessed for a violation of this category of offenses, including a fine in lieu of suspension, shall not exceed one-hundred thousand dollars (\$100,000.00), per violation.

F. Calculation of Fines.

1. Except as provided under section 44-3-601(8), C.R.S., any fine assessed for a single violation may be no less than five hundred dollars (\$500.00) and no more than one-hundred thousand dollars (\$100,000.00), per violation.
2. Except as provided under section 44-3-601(8), C.R.S., any fine assessed, including a fine in lieu of suspension, shall be based on the level of violation established in subsections B through E of this Regulation 47-603, and:

- a. The fine shall be the equivalent of twenty percent (20%) of the licensee's estimated gross revenues from sales of alcohol beverages for the following time frames, per violation:
 - i. For a Level One violation, seven (7) days;
 - ii. For a Level Two violation, fourteen (14) days;
 - iii. For a Level Three violation, at least twenty-one (21) days; and
 - iv. For a Level Four violation, at least twenty-eight (28) days.
 - b. Notwithstanding, subsection (F)(2)(a) of this Regulation 47-603, when assessing a fine in lieu of suspension, a licensing authority may, but is not required to, exclude from the calculation any days of suspension held in abeyance. The licensing authority has the discretion to determine the number of days held in abeyance, if any, based on the relevant time frames established in subsection (F)(2)(a).
 - c. Any fine assessed for a single violation shall be subject to the minimum and maximum fines set forth in subsection (F)(1) and shall not exceed the maximum fine established in rule for that category of violation.
3. The time frames detailed above and used for the fine calculation shall be within the same or similar month in which the violation occurred.
 4. For the purpose of calculating fines, sales records must be maintained and made available to State and/or local licensing authorities upon request for the time periods set forth in Regulation 47-700. Failure to provide such records within seven (7) days of a request from the State and/or local licensing authority shall result in the presumption that the maximum fine for the offense category the violation falls under applies.
 5. Notwithstanding the calculation of fines in subsection (F)(2) of this Regulation 47-603, any fine assessed for a single violation, including a fine in lieu of suspension, shall be subject to the maximum fine amounts established for the relevant category of violation in subsections (B) through (E) of this Regulation

G. Aggravating and Mitigating Factors.

1. State and local licensing authorities may take aggravating and mitigating factors into consideration when considering the imposition of a penalty. These aggravating and mitigating factors may result in the movement of a violation into a lower or higher category on a case-by-case basis. These factors may include, but are not limited to:
 - a. Mitigating Factors:
 - i. The licensee and/or its employees maintain responsible vendor training certification;
 - ii. The licensee has a substantial history of compliance with liquor laws and rules;
 - iii. The violation is a first violation, as defined in subsection (B)(4) of this Regulation;

- iv. The violation was self-reported;
- v. The extent to which the licensee took prompt and effective self-initiated action to correct the violation and to prevent future violations of the same type from occurring;
- vi. The violation did not demonstrably result in harm, only the potential for harm;
- vii. The violation was negligent, not willful;
- viii. The violation is not part of a pattern or practice of violations;
- ix. The implicated licensee did not encourage others to participate in the same or similar violations;
- x. The violation did not result in serious bodily injury or death;
- xi. The owner or management personnel was not involved in the violation, and/or did not direct their employees to violate the law;
- xii. The licensee did not substantially benefit, monetarily or otherwise, from committing the violation.

b. Aggravating Factors:

- i. The licensee and/or its employees do not maintain responsible vendor certification when certification is required by statute or regulation;
- ii. The licensee has a substantial history of non-compliance with liquor laws and rules;
- iii. The violation is a second, or subsequent offense;
- iv. The violation was discovered, and later substantiated through investigation, as a result of a complaint, or multiple complaints;
- v. The violation demonstrably resulted in harm, not just the potential for harm;
- vi. The violation was willful, not negligent;
- vii. The violation is part of a pattern or practice of violations;
- viii. The implicated licensee encouraged others to participate in the same, or similar violations;
- ix. The violation resulted in serious bodily injury or death;
- x. The owner or management personnel engaged in the violation and/or directed an employee to violate the law;
- xi. The licensee substantially benefited, monetarily or otherwise, from committing the violation.

- H. This penalty schedule is a framework providing guidance as to the categories of violations, available penalties, and mitigating and aggravating factors that may be considered. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis. Licensing authorities retain discretion in assessing penalties within the bounds of the law.
- I. Nothing in this Regulation 47-603 shall prohibit or prevent a licensing authority from temporarily or summarily suspending a license, regardless of the level of violation set forth in this regulation, if the licensing authority makes the findings required by Regulation 47-602.

An Act

SENATE BILL 20-110

BY SENATOR(S) Williams A. and Holbert, Priola, Tate;
also REPRESENTATIVE(S) Snyder, Herod.

CONCERNING FINES LEVIED BY A LICENSING AUTHORITY FOR VIOLATIONS OF
LAWS RELATED TO ALCOHOL BEVERAGES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 44-3-601, **amend** (1) and (3)(b); **repeal** (3)(c); and **add** (3.5) as follows:

44-3-601. Suspension - revocation - fines - rules. (1) (a) Subject to subsection (8) of this section, in addition to any other penalties prescribed by this article 3 or article 4 or 5 of this title 44, the state or any local licensing authority has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to FINE A LICENSEE OR TO suspend or revoke, in whole or in part, any license or permit issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of the licensee of this article 3; any rules authorized by this article 3; or any of the terms, conditions, or provisions of the license or permit issued by such authority. A LICENSING AUTHORITY MAY IMPOSE A FINE PURSUANT TO THIS

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SUBSECTION (1) REGARDLESS OF WHETHER A LICENSEE HAS PETITIONED THE LICENSING AUTHORITY PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION FOR PERMISSION TO PAY A FINE IN LIEU OF LICENSE OR PERMIT SUSPENSION, AND THE LICENSING AUTHORITY NEED NOT MAKE THE FINDINGS SPECIFIED IN SUBSECTIONS (3)(a)(I) AND (3)(a)(II) OF THIS SECTION.

(b) Any licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing that the licensing authority is authorized to conduct.

(c) FOR THE PURPOSES OF IMPOSING A FINE, THE STATE LICENSING AUTHORITY SHALL ADOPT RULES ESTABLISHING CATEGORIES OF VIOLATIONS BY LEVEL OF SEVERITY AND ASSOCIATED RANGES OF PENALTIES FOR STATE AND LOCAL LICENSING AUTHORITIES, INCLUDING AGGRAVATING AND MITIGATING FACTORS TO BE CONSIDERED IN DETERMINING PENALTIES. A FINE IMPOSED PURSUANT TO THIS SUBSECTION (1) MUST BE BETWEEN FIVE HUNDRED AND ONE HUNDRED THOUSAND DOLLARS; EXCEPT THAT PENALTIES FOR A FIRST VIOLATION THAT IS IN THE LEAST SEVERE LEVEL OF LICENSE VIOLATIONS ESTABLISHED PURSUANT TO THIS SUBSECTION (1)(c) MUST NOT EXCEED FIVE THOUSAND DOLLARS.

(3)(b) Subject to subsection (8) of this section, the fine accepted BY THE LICENSEE PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION shall be the equivalent to twenty percent of the licensee's estimated gross revenues from sales of alcohol beverages during the period of the proposed suspension; except that the fine must be between ~~two~~ FIVE hundred and ~~five~~ ONE HUNDRED thousand dollars.

~~(c) Payment of any fine pursuant to the provisions of this subsection (3) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the state or local licensing authority, whichever is appropriate.~~


(3.5) THE METHOD OF PAYMENT OF ANY FINE PURSUANT TO SUBSECTION (1) OR (3) OF THIS SECTION:


(a) TO A LOCAL LICENSING AUTHORITY SHALL BE IN THE FORM OF CASH OR IN THE FORM OF A CERTIFIED CHECK OR CASHIER'S CHECK MADE PAYABLE TO THE LOCAL LICENSING AUTHORITY;

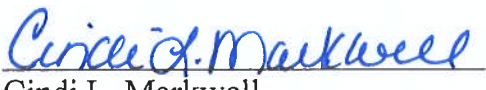
(b) TO THE STATE LICENSING AUTHORITY SHALL BE IN THE FORM DETERMINED BY THE STATE LICENSING AUTHORITY BY RULE.

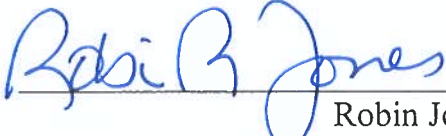
SECTION 2. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.


Leroy M. Garcia
PRESIDENT OF
THE SENATE


KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 13, 2020 at 2:46 pm
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

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An Act

SENATE BILL 20-213

BY SENATOR(S) Bridges and Priola, Zenzinger, Cooke, Crowder, Danielson, Donovan, Gardner, Ginal, Hill, Hisey, Lee, Lundeen, Moreno, Pettersen, Rankin, Smallwood, Story, Tate, Todd, Williams A., Winter, Woodward, Garcia; also REPRESENTATIVE(S) Larson and Roberts, Arndt, Baisley, Bird, Bockenfeld, Buckner, Buentello, Caraveo, Carver, Champion, Cutter, Duran, Esgar, Froelich, Garnett, Geitner, Gray, Herod, Holtorf, Hooton, Jackson, Jaquez Lewis, Kipp, Kraft-Tharp, Landgraf, Liston, Lontine, McLachlan, Melton, Michaelson Jenet, Mullica, Rich, Saine, Sandridge, Singer, Sirota, Snyder, Soper, Sullivan, Tipper, Titone, Valdez A., Valdez D., Van Winkle, Will, Woodrow, Young.

CONCERNING THE AUTHORITY OF BUSINESSES LICENSED TO SELL ALCOHOL BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES TO SELL ALCOHOL BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add 44-3-911** as follows:

44-3-911. Takeout and delivery of alcohol beverages - permit - on-premises consumption licenses - requirements and limitations - rules

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

- definition - repeal. (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44 AND SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION:

(I) A LICENSEE MAY SELL AND DELIVER AN ALCOHOL BEVERAGE TO A CUSTOMER FOR CONSUMPTION OFF THE LICENSED PREMISES; AND

(II) IF AN ALCOHOL BEVERAGE IS PART OF A TAKEOUT ORDER FOR CONSUMPTION OFF THE LICENSED PREMISES:

(A) A CUSTOMER MAY REMOVE THE ALCOHOL BEVERAGE FROM THE LICENSED PREMISES IF THE ALCOHOL BEVERAGE IS IN A SEALED CONTAINER THAT COMPLIES WITH THE RULES OF THE STATE LICENSING AUTHORITY; AND

(B) THE LICENSEE MAY ALLOW A CUSTOMER TO REMOVE THE ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

(b) SUBJECT TO SUBSECTIONS (2) AND (3) OF THIS SECTION, A LICENSEE MAY SELL OR DELIVER ALCOHOL BEVERAGES UNDER THIS SECTION BY THE DRINK.

(2) TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES AS EITHER IS AUTHORIZED UNDER SUBSECTION (1) OF THIS SECTION, THE LICENSEE MUST:

(a) HAVE ANY APPLICABLE PERMITS ISSUED UNDER THIS SECTION TO SELL ALCOHOL BEVERAGES FOR TAKEOUT OR DELIVERY; EXCEPT THAT THIS SUBSECTION (2)(a) DOES NOT APPLY IF THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF TITLE 24;

(b) SELL OR DELIVER:

(I) THE ALCOHOL BEVERAGE ONLY TO A CUSTOMER WHO IS TWENTY-ONE YEARS OF AGE OR OLDER;

(II) THE ALCOHOL BEVERAGE IN A SEALED CONTAINER THAT COMPLIES WITH THE RULES OF THE STATE LICENSING AUTHORITY; AND

(III) NO MORE THAN THE FOLLOWING AMOUNTS OF ALCOHOL

BEVERAGES PER DELIVERY OR TAKEOUT ORDER UNLESS THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF TITLE 24:

(A) SEVEN HUNDRED FIFTY MILLILITERS, APPROXIMATELY 26.4 FLUID OUNCES, OF SPIRITUOUS LIQUORS AND VINOUS LIQUORS; AND

(B) SEVENTY-TWO FLUID OUNCES, APPROXIMATELY TWO THOUSAND FORTY-SIX MILLILITERS, OF MALT LIQUORS, FERMENTED MALT BEVERAGES, AND HARD CIDER;

(c) DERIVE NO MORE THAN FIFTY PERCENT OF ITS GROSS ANNUAL REVENUES FROM TOTAL SALES OF FOOD AND ALCOHOL BEVERAGES FROM THE SALE OF ALCOHOL BEVERAGES THROUGH TAKEOUT ORDERS AND THAT THE LICENSEE DELIVERS; EXCEPT THAT:

(I) THIS SUBSECTION (2)(c) DOES NOT APPLY IF THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY UNDER PART 7 OF ARTICLE 33.5 OF TITLE 24; OR

(II) THIS SUBSECTION (2)(c) DOES NOT APPLY TO A SALES ROOM AT A PREMISES LICENSED UNDER SECTION 44-3-402 OR 44-3-407; AND

(d) IF AN ALCOHOL BEVERAGE IS BEING DELIVERED, USE A DELIVERY PERSON WHO COMPLIES WITH SUBSECTION (3) OF THIS SECTION.

(3) TO DELIVER AN ALCOHOL BEVERAGE UNDER THIS SECTION, THE DELIVERY PERSON MUST:

(a) DELIVER THE ALCOHOL BEVERAGE TO A PLACE THAT IS NOT LICENSED UNDER THIS ARTICLE 3 OR ARTICLE 4 OF THIS TITLE 44;

(b) BE AN EMPLOYEE OF THE LICENSEE WHO IS TWENTY-ONE YEARS OF AGE OR OLDER;

(c) DELIVER AN ALCOHOL BEVERAGE ONLY TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER; AND

(d) HAVE SATISFACTORILY COMPLETED THE SERVER AND SELLER TRAINING PROGRAM ESTABLISHED UNDER SECTION 44-3-1002.

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(4) (a) THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES:

(I) SPECIFYING THE TYPES OF CONTAINERS THAT MAY BE USED FOR TAKEOUT OR DELIVERY OF AN ALCOHOL BEVERAGE UNDER THIS SECTION;

(II) CREATING A PERMIT FOR TAKEOUT AND DELIVERY OF ALCOHOL BEVERAGES;

(III) SETTING FEES FOR THE PROCESSING AND APPROVAL OF A TAKEOUT OR DELIVERY PERMIT APPLICATION; AND

(IV) CONCERNING ANY OTHER MATTER NECESSARY FOR THE SAFE AND EFFECTIVE IMPLEMENTATION OF THIS SECTION.

(b) THE STATE LICENSING AUTHORITY SHALL ISSUE A PERMIT TO A LICENSEE TO SELL ALCOHOL BEVERAGES FOR TAKEOUT AND DELIVERY IF THE LICENSEE DEMONSTRATES THE ABILITY TO COMPLY WITH THIS SECTION. A PERMIT ISSUED UNDER THIS SUBSECTION (4) IS SUBJECT TO THE SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN SECTION 44-3-601.

(c)(I) THE LOCAL LICENSING AUTHORITY MAY CREATE A PERMIT FOR TAKEOUT AND DELIVERY OF ALCOHOL BEVERAGES TO IMPLEMENT THIS SECTION. IF A LOCAL LICENSING AUTHORITY DOES NOT CREATE A PERMIT UNDER THIS SUBSECTION (4)(c), A LICENSEE NEED NOT OBTAIN A LOCAL PERMIT TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

(II) A LOCAL LICENSING AUTHORITY MAY ESTABLISH FEES FOR THE PROCESSING AND APPROVAL OF A TAKEOUT OR DELIVERY PERMIT APPLICATION, BUT THE AMOUNT OF THE FEE MUST NOT EXCEED THE AMOUNT OF THE FEE SET BY THE STATE LICENSING AUTHORITY UNDER SUBSECTION (4)(a)(III) OF THIS SECTION.

(III) IF A LOCAL LICENSING AUTHORITY CREATES A TAKEOUT OR DELIVERY PERMIT:

(A) THE LICENSEE MUST OBTAIN THE PERMIT TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN

ALCOHOL BEVERAGE FROM THE LICENSED PREMISES AS EITHER IS AUTHORIZED UNDER SUBSECTION (1) OF THIS SECTION; AND

(B) THE LOCAL LICENSING AUTHORITY SHALL ISSUE A PERMIT TO A LICENSEE TO SELL ALCOHOL BEVERAGES FOR TAKEOUT AND DELIVERY IF THE LICENSEE DEMONSTRATES THE ABILITY TO COMPLY WITH THIS SECTION.

(IV) A PERMIT ISSUED UNDER THIS SUBSECTION (4)(c) IS SUBJECT TO THE SUSPENSION AND REVOCATION PROVISIONS SET FORTH IN SECTION 44-3-601.

(V) A MANUFACTURER LICENSED UNDER SECTION 44-3-402 THAT OPERATES A SALES ROOM OR A WHOLESALER LICENSED UNDER SECTION 44-3-407 THAT OPERATES A SALES ROOM NEED NOT OBTAIN A PERMIT FROM THE LOCAL LICENSING AUTHORITY TO SELL AND DELIVER AN ALCOHOL BEVERAGE OR TO ALLOW A CUSTOMER TO REMOVE AN ALCOHOL BEVERAGE FROM THE LICENSED PREMISES.

(d) THE LICENSEE SHALL SUBMIT AN APPLICATION FOR A PERMIT ISSUED UNDER THIS SECTION TO THE STATE LICENSING AUTHORITY AND THE LOCAL LICENSING AUTHORITY, IF APPLICABLE, SIMULTANEOUSLY. APPROVAL BY EITHER THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY DOES NOT GUARANTEE APPROVAL BY THE OTHER LICENSING AUTHORITY.

(5) FOR THE PURPOSES OF THIS ARTICLE 3 AND ARTICLE 4 OF THIS TITLE 44, AN ALCOHOL BEVERAGE THAT IS SOLD AND DELIVERED TO A CUSTOMER'S HOME FOR CONSUMPTION OFF THE LICENSED PREMISES UNDER THIS SECTION IS SOLD AT THE LICENSED PREMISES.

(6) (a) AS USED IN THIS SECTION, "LICENSEE" MEANS A PERSON ISSUED A LICENSE UNDER SECTION 44-3-402 THAT OPERATES A SALES ROOM OR SECTION 44-3-407 THAT OPERATES A SALES ROOM OR SECTION 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), OR 44-4-104 (1)(c)(III).

(b) (I) THIS SECTION DOES NOT APPLY TO A PERSON ISSUED A LICENSE OR PERMIT THAT IS NOT LISTED IN SUBSECTION (6)(a) OF THIS SECTION OR TO A CATERER WHO IS LICENSED TO SELL ALCOHOL BEVERAGES.

(II) SUBSECTION (2)(b)(III) OF THIS SECTION DOES NOT APPLY TO:

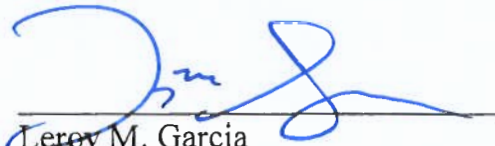
(A) A MANUFACTURER LICENSED UNDER SECTION 44-3-402 THAT OPERATES A SALES ROOM OR A WHOLESALER LICENSED UNDER SECTION 44-3-407 THAT OPERATES A SALES ROOM; AND


(B) THE SALE OF AN ALCOHOL BEVERAGE MANUFACTURED BY THE LICENSEE AND SOLD BY A BREW PUB LICENSED UNDER SECTION 44-3-417, A VINTNER'S RESTAURANT LICENSED UNDER SECTION 44-3-422, OR A DISTILLERY PUB LICENSED UNDER SECTION 44-3-426.

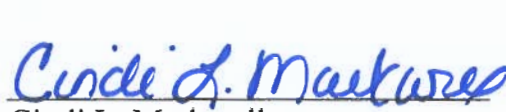
(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.


SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

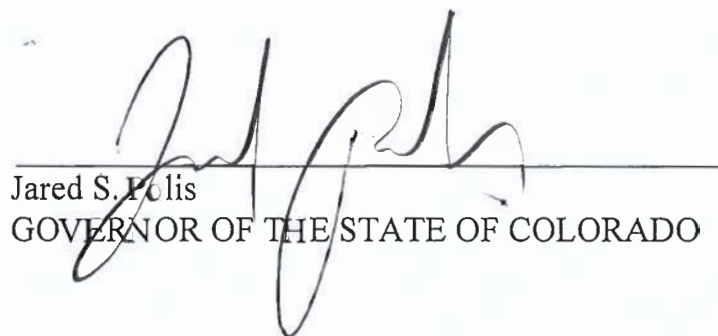

Leroy M. Garcia
PRESIDENT OF
THE SENATE


KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 10, 2020 at 12:55pm
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

NORTHGLENN LIQUOR LICENSING AUTHORITY

RESOLUTION NO.

20-5
Series 2020

A RESOLUTION RECOMMENDING CERTAIN PROPOSED CHANGES TO ARTICLE 2 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING THE NORTHGLENN LIQUOR LICENSING AUTHORITY, AUTHORIZING THE ISSUANCE OF TAKEOUT AND DELIVERY PERMITS, IMPOSING FINES AND FINES IN LIEU OF SUSPENSION, AND ADOPTING BY REFERENCE THE CATEGORIES OF VIOLATIONS AND AGGRAVATING AND MITIGATING FACTORS CREATED BY THE DEPARTMENT OF REVENUE IN REGULATION 47-603 of 1 CCR 203-2, AS AMENDED


BE IT RESOLVED BY THE LIQUOR LICENSING AUTHORITY OF THE CITY OF NORTHGLENN, THAT:

Section 1. The Northglenn Municipal Code amendments proposed by the draft ordinance attached hereto as Exhibit A, which would amend Article 2 of Chapter 18 of the Northglenn Municipal Code, are hereby endorsed by the Liquor Licensing Authority and forwarded to the City Council for its consideration with a recommendation of approval.


DATED, at Northglenn, Colorado, this 16th day of November, 2020.


MICHAEL OLIVIERI
Chairperson

ATTEST:


LISA ANDREWS, CMC
Deputy City Clerk

APPROVED AS TO FORM:


HILARY M. GRAHAM
Attorney to the Authority

SPONSORED BY: _____

COUNCILMAN'S BILL

ORDINANCE NO.

No. _____
Series of 2020

Series of 2020

A BILL FOR AN ORDINANCE AMENDING ARTICLE 2 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING THE NORTHGLENN LIQUOR LICENSING AUTHORITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 18-2-2 of the Northglenn Municipal Code is amended as follows:

Sec. 18-2-2. Licensing Authority.

* * *

(c) The Authority shall have and is vested with the authority to grant or refuse licenses for the sale at retail of malt, vinous or spirituous liquors and fermented malt beverages, as provided by law, to conduct investigations as required by law, to allow "tastings," as that term is defined in C.R.S. § 44-3-103(56), at licensed retail liquor stores and liquor-licensed drug stores subject to the requirements and limitations contained in C.R.S. § 44-3-301, TO ISSUE TAKEOUT AND DELIVERY PERMITS, and to suspend or revoke such licenses for cause in the manner provided by law. Such Authority shall have all the powers of the local liquor licensing authority as set forth in Articles 3 and 4 of Title 44, C.R.S.

* * *

Section 2. Section 18-2-4 of the Northglenn Municipal Code is amended as follows:

Sec. 18-2-4. Administrative Approval of Certain Applications.

(a) In the event that there have been no violations of the Colorado Liquor or Beer Code, as applicable, during the preceding year, and if there is no other derogatory information regarding the licensee, its partners, officers, directors, managers, or shareholders, then the City Clerk may grant the renewal of a liquor license, transfer of ownership, change of corporate status, a transfer of ownership, change of location, ~~and~~ a merger and conversion of retail liquor store licenses into a single liquor-licensed drugstore license, A TAKEOUT OR DELIVERY PERMIT, or manager registration on behalf of the Licensing Authority. If, however, the City Clerk's investigation discloses any proved or alleged violations of the Liquor or Beer Code or derogatory information as described above, the Clerk shall schedule action on the application before the Licensing Authority.

* * *

Section 3. Section 18-2-8 of the Northglenn Municipal Code is amended as follows:

Sec. 18-2-8. Imposing Fines in Lieu of Suspension. IMPOSING FINES AND FINES IN LIEU OF SUSPENSION.

(a) The Northglenn Liquor Licensing Authority ("Authority") shall have the power and authority, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license or permit issued by such authority for any violation by the licensee or by any of the agents, servants, or employees of such licensee of the Colorado Liquor OR BEER CODES Code, C.R.S. 44-3-101 et. seq., or any of the rules or regulations authorized pursuant to the Colorado Liquor Code OR BEER CODES or of any of the terms, conditions, or provisions of the license or permit issued by such Authority. ANY FINE FOR INDIVIDUAL VIOLATIONS SHALL NOT BE LESS THAN FIVE HUNDRED DOLLARS (\$500.00) NOR MORE THAN ONE HUNDRED THOUSAND DOLLARS (\$100,000.00). A FINE SCHEDULE MAY BE ADOPTED BY RESOLUTION. The Authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing that the ~~licensing authority~~ AUTHORITY is authorized to conduct.

* * *

(d) The fine accepted IN LIEU OF SUSPENSION shall be the equivalent to twenty percent (20%) of the licensee's estimated gross revenues from sales of alcohol beverages during the period of the proposed suspension; except that the fine shall not be less than ~~two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00)~~ FIVE HUNDRED DOLLARS (\$500.00) NOR MORE THAN ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

(e) Payment of any fine pursuant to the provisions of ~~subsection (e)~~ THIS SECTION shall be in the form of cash or in the form of a certified check or cashier's check made payable to Authority.

* * *

Section 4. Article 2 of Chapter 18 of the Northglenn Municipal Code is hereby amended with the addition of a new subsection 18-2-8.5(c) entitled "Takeout and Delivery Permits" to read as follows:

Sec. 18-2-8.5(c). Takeout and Delivery Permits.

(1) The Authority may issue takeout and delivery permits for the following types of licenses in compliance with C.R.S. § 44-3-911, as amended: beer and wine, hotel and restaurant, tavern, brew pub, club, vintner's restaurant, distillery

pub, lodging and entertainment, fermented malt beverage on- or off-premise retailers, and manufacturers and wholesalers with an approved sales room.

(2) The fees for Takeout and Delivery Permits shall be set by resolution and shall not exceed the state fees for such permits.

Section 5. Section 18-2-10 of the Northglenn Municipal Code is hereby repealed and reenacted to read as follows:

Section 18-2-10. Guidelines for Violations of the Colorado Liquor or Beer Code.

(a) Purpose. The purpose of this Ordinance is to provide the Northglenn Liquor Licensing Authority (the "Authority") with presumptive guidelines for certain liquor and beer code violations occurring within the City. The guidelines are to be used to allow the Authority to treat all licensees as equally and consistently as possible when imposing penalties pursuant to the Colorado Liquor Code or the Colorado Beer Code, while at the same time allowing for sanctions that still take into account any aggravating or mitigating factors resulting from the particular facts and circumstances in each case.

(b) Guidelines. The Authority hereby adopts by reference the categories of violations and aggravating and mitigating factors created by the Department of Revenue in Regulation 47-603 of 1 CCR 203-2, as amended.

(c) Authority Discretion. The Authority retains the discretion in assessing penalties within the bounds of the law.

Section 6. Section 4 of this Ordinance as to Takeout and Delivery Permits shall be effective only upon expiration of the Governor's Executive Order D 2020 003, as amended or extended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, D 2020 176, D 2020 205, and as may be amended by any further Executive Order.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____, 2020.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2020.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

SPONSORED BY: MAYOR LEIGHTY

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1963
Series of 2020

Series of 2020

A BILL FOR AN ORDINANCE AMENDING ARTICLE 2 OF CHAPTER 18 OF THE NORTHGLENN MUNICIPAL CODE REGARDING THE NORTHGLENN LIQUOR LICENSING AUTHORITY

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INTRODUCED, READ AND ORDERED POSTED this 14th day of December, 2020.


MEREDITH LEIGHTY
Mayor

ATTEST:


JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2020.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney