

**ORDINANCE NO. 873**

**AN ORDINANCE AMENDING THE DACONO MUNICIPAL CODE TO UPDATE STATUTORY REFERENCES TO THE COLORADO REVISED STATUTES PERTAINING TO LIQUOR LICENSING**

**WHEREAS**, Section 3-12 of the Dacono City Charter authorizes the City Council to adopt, by ordinance, any code by reference; and

**WHEREAS**, Section 3-14 of the Dacono City Charter directs the City Council to review ordinances for possible amendment or repeal; and

**WHEREAS**, the Dacono Municipal Code incorporates state statutory provisions relating to liquor licensing by reference to Colorado Revised Statutes; and

**WHEREAS**, the Colorado General Assembly recently adopted and the Governor signed into law House Bill 18-1025 to relocate laws related to the regulation of alcoholic beverages from Title 12 to Title 44 of the Colorado Revised Statutes; and

**WHEREAS**, the City Council finds that conforming amendments to the Dacono Municipal Code to reflect the recodification of state statutes by House Bill 18-1025, which took effect on October 1, 2018 and definitional changes which took effect on January 1, 2019, are necessary to provide for the health, welfare, and safety of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:**

**Section 1.** Section 6-60 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

As used in this Article, certain words, unless the context indicates otherwise, shall have the following meanings:

*Malt liquors* includes beer and is construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar products or any combination thereof in water, containing ~~more than 3.2% of alcohol by weight~~ not less than one-half of one percent alcohol by volume.

*Medicinal liquors* means any liquors sold by a duly licensed pharmacist or drugstore solely on a bona fide doctor's prescription.

*Open container* means any container that is either opened so that the contents can be removed or the seal, cork, pull tab or any type of cap applied by the manufacturer has been broken. A container shall be deemed an open container even if such container is resealed by any type of cap or seal.

*Operator or licensed person or licensee* means a person licensed by law to sell any malt, vinous or spirituous liquors, other than medicinal liquors, ~~or to sell 3.2 percent beer~~.

*Public place* means any public or private place upon which the public has an express or implied license to enter or remain and includes, but is not limited to, public streets, alleys, roads or highways, property owned by the City, schools, places of amusement, parks and playgrounds. A place shall be deemed to be a *public place* within the meaning of this Article even if the express or implied license is subject to time or conduct restrictions and the entry to or remaining on the property is in violation of such restrictions.

*Spirituos liquors* is construed to mean any alcoholic beverage obtained by distillation mixed with water and other substances in solution, and includes, among other things, brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as above provided shall not be construed to be malt or vinous liquors, but shall be construed to be spirituous liquors.

~~3.2% beer means malt liquor as defined in this Section containing not more than 3.2% of alcohol by weight.~~

*Vinous liquors* includes wine and fortified wines not exceeding twenty-one percent (21%) of alcohol by volume, and shall be construed to mean alcoholic beverages obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

**Section 2.** Section 6-61 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

It is unlawful for any person to manufacture within the City, for sale, any malt, vinous, or spirituous liquors, ~~or 3.2% beer,~~ without first having obtained a license therefor in accordance with the laws of the state.

**Section 3.** Section 6-62 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

No person shall sell, barter, trade or offer to sell malt, vinous, or spirituous liquors; ~~or 3.2% beer~~ within the City without first having obtained a license so to do from the local liquor licensing authority in accordance with the provisions of the laws of the state.

**Section 4.** The Dacono Municipal Code is hereby amended by repealing the entire Section 6-65.

**Section 5.** Subsection (a) of Section 6-66 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

- (a) It is unlawful to drink or consume any malt, vinous, or spirituous liquors ~~or 3.2% beer,~~ in any restaurant, pool hall, dance hall, retail liquor store, business house, school house

public building or other place of public gathering for amusement or entertainment or upon any street, avenue, alley, sidewalk, vacant lot or other public place within the City; provided that malt and vinous liquors, ~~and 3.2% beer~~, may be consumed upon the premises of a place duly licensed therefor by the City.

...

**Section 6.** Subsections (a) and (b) of Section 6-67 of the Dacono Municipal Code are hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

- (a) It is unlawful for any person to possess an open container of any malt, vinous, or spirituous liquors ~~or 3.2% beer~~ in any public place within the City.
- (b) It is unlawful for any person to drive, ride in or occupy any motor vehicle with an open container of malt, vinous, or spirituous liquors ~~or 3.2% beer~~ at any place within the City.

...

**Section 7.** Subsections (a), (c)(2), (d) and (e) of Section 6-67.5 of the Dacono Municipal Code are hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

- (a) Tastings may be conducted by retail liquor store and liquor-licensed drugstore licensees in accordance with this Section and Section ~~12-47-30144-3-301~~, C.R.S. It is unlawful for any person or licensee to conduct tastings within the City unless a permit has been obtained in accordance with this Section.

...

- (c) Tastings shall be subject to the following limitations:

...

- (2) The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to Section ~~12-47-40344-3-403~~, C.R.S., at a cost that is not less than the laid-in cost of such alcohol. Such suppliers shall have licenses from the City to the extent required by this Section and Section ~~12-47-30144-3-301~~, C.R.S.

...

- (d) A violation of a limitation specified in this Section or of Section ~~12-47-30144-3-301~~(10) or ~~12-47-80144-3-801~~, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee, the licensee's employees or agents or otherwise, shall be the responsibility of the licensee who is conducting the tasting.
- (e) A licensee conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee and are imposed by the Local Licensing Authority. The Local Licensing Authority shall conduct a hearing with regard

to any violations of this Section in accordance with the requirements of this Code and Section ~~12-47-60144-3-601~~, C.R.S.

...

**Section 8.** Subsection (c) of Section 6-68.5 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

...

- (c) In addition to any other applicable laws, regulations, ordinances and resolutions, the provisions of Section ~~12-47-135(7)44-3-310~~, C.R.S., shall apply to application for and issuance of any optional premises license.

...

**Section 9.** Subsections (a), (b), and (c) of Section 6-70 of the Dacono Municipal Code are hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

- (a) It is unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain malt, vinous, or spirituous liquor ~~or 3.2% beer~~ by misrepresentation of age or by any other method in any place where such beverages are sold.
- (b) It is unlawful for any person under twenty-one (21) years of age to possess malt, vinous, or spirituous liquor ~~or 3.2% beer~~ in any store, in any public place or inside of vehicles any place within the City.
- (c) It is unlawful for any person under twenty-one (21) years of age to make false statements; to furnish, present or exhibit any fictitious or false statements; to furnish, present or exhibit any fictitious or false registration card, identification card, driver's license or other document; or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited Articles, including malt, vinous, or spirituous liquor ~~or 3.2% beer~~.

...

**Section 10.** Subsection (a) of Section 6-71 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

- (a) Except as otherwise permitted by law, it is unlawful for any person to sell, give away, or consume any malt, vinous, or spirituous liquor ~~or 3.2% beer~~, upon any street, avenue, alley, park or other public place within the City, or upon any other property belonging to the City, or upon the premises of any place that is open to the public and is not licensed to sell such liquors or beer.

...

**Section 11.** Subsection (b)(2) of Section 6-96 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

(b) ...

...

- (2) Special event permits. Pursuant to the authority granted in Section ~~12-48-107~~44-5-107(5), C.R.S., such permits shall be granted by the secretary without requiring approval by the state licensing authority. Prior to granting a special event permit, the secretary shall review information on file with the state licensing authority to confirm compliance with Section ~~12-48-104(3)~~44-5-104, C.R.S., which restricts the number of permits issued to an organization in a calendar year. Within ten (10) days of issuing a special event permit, the secretary shall report to the state liquor enforcement division the name of the organization to which a permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service.

...

**Section 12.** Subsection (1) of Section 6-101 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

...

- (1) All fees specified and set in an amount pursuant to Articles ~~46, 47 and 48-3, 4, or 5~~ of Title ~~1244~~, C.R.S.

...

**Section 13.** Section 6-102 of the Dacono Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

The Local Licensing Authority shall have the power to make reasonable rules and regulations with respect to the sale of fermented malt beverages as provided by Article ~~464~~ of Title ~~1244~~, C.R.S.

**Section 14.** Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

**Section 15.** Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this 22<sup>nd</sup> day of July, 2019.**

**PUBLIC HEARING AND SECOND READING WILL BE THE 12<sup>th</sup> day of August, 2019, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.**

**READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this \_\_\_\_ day of \_\_\_\_\_, 2019.**

CITY OF DACONO, COLORADO

\_\_\_\_\_  
Joe Baker, Mayor

ATTEST:

\_\_\_\_\_  
Valerie Taylor, City Clerk

Summary of Ordinance No. 873, **“AN ORDINANCE AMENDING THE DACONO MUNICIPAL CODE TO UPDATE STATUTORY REFERENCES TO THE COLORADO REVISED STATUTES PERTAINING TO LIQUOR LICENSING”** Amends Sections 6-60, 6-61, 6-62, 6-66, 6-67, 6-67.5, 6-68.5, 6-70, 6-71, 6-96, 6-101 and 6-102 and repeals Section 6-65 of the Code concerning liquor licensing to reflect state statutory changes and update references to reorganized state statutes.