

Ordinance 8, Series 2011

**AN ORDINANCE CONCERNING MALT, SPIRITUOUS, AND VINOUS LIQUORS
AND FERMENTED MALT BEVERAGES**

WHEREAS, the Town of Jamestown adopted Ordinance 12, Series 1992, which implemented licensing and regulation of malt, vinous and spirituous liquors within the Town; and

WHEREAS, the Colorado Legislature adopted and modified legislation concerning licensing and practice over the years; and

WHEREAS: Title 12, Article 46, 47 and 48 C.R.S., provide for licensing by local option and control, and the Town Board wishes to continue to exercise that authority within the Town limits;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

Section 1. License Required: No person shall manufacture, sell, or possess for sale any malt, vinous or spirituous liquors or fermented malt beverages unless licensed to do so pursuant to applicable provisions of Title 12, Articles 46, 47 and 48 C.R.S. as amended, and this ordinance, and unless all applicable licenses and permits are in full force and effect and all applicable fees have been paid in full.

Section 2. Local Authority: The Town Board of Trustees of Jamestown shall be the Local Licensing Authority for all licenses and permits issued pursuant to this ordinance.

Section 3. Application of State Statutes: Pursuant to declaration by the General Assembly, the Colorado Beer Code, Section 12-46-101 et seq., C.R.S., the Colorado Liquor Code, Section 12-47-101 et seq., C.R.S., and Special Event Permits, Section 12-48-101 et seq., C.R.S., as they presently exist or may hereafter be amended, shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the Town

Section 4. Definitions:

(a) As used in this Article, unless the context otherwise requires:

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.).

Retail licensee or licensee means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.).

Neighborhood: The Town limits shall be considered the boundaries of the relevant "neighborhood" for licenses issued pursuant to this ordinance unless the Local Licensing Authority determines, based on evidence presented to it, that other boundaries should apply.

(b) All other terms shall be defined as set forth in the provisions of the Colorado Beer Code, the Colorado Liquor Code and Special Event Permits, as the definitions presently exist or may hereafter, be amended.

Section 5. Power and Purpose: The Board of Trustees finds and determines that it is empowered by 12-46, 12-47 and 12-48 C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefore.

Section 6. Application and Licensing Fees: Applicants for licenses and permits shall complete all applicable forms and provide pertinent information as may be required by the State of Colorado or the Town. The following fees shall be paid to the Town Clerk by the applicant at the time of the filing of the application:

- (1) For a new license, the sum of three hundred twenty-five dollars (\$325.00);
- (2) For a transfer of location or ownership, the sum of one hundred fifty dollars (\$150.00);
- (3) For renewal of a license, the sum of fifty dollars (\$50.00);
- (4) For a temporary liquor license, the sum of two hundred fifty dollars (\$250.00); and
- (5) For a special event permit, the sum of twenty-five dollars (\$25.00) per day.

Section 7. Suspension or Revocation; Fine.

(a) Whenever a decision of the Board of Trustees, acting as the Local Licensing Authority (hereinafter "Authority"), suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Authority for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the 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 retail 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 retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefore; and

(3) That the retail licensee has not had his or her 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.

(b) The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the Town Clerk and shall be deposited in the general fund of the Town.

(d) Upon payment of the fine pursuant to this Section, the Authority shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this Section, the authority of the Authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Authority, does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority.

Section 8. Special Event Permit:

The Board of Trustees shall be empowered to issue permits which exempt special events, meetings or functions from regulations prohibiting the possession or consumption of alcoholic beverages in public upon application to the Board by the organization holding said event. Said application shall be received and acted upon by the Board of Trustees no less than ten (10) days prior to the date of said event. The permit issued shall designate the specific time and place of the exempted event, the purpose for which the event is being held and the anticipated number of parties in attendance. Nothing in this Section shall be construed as a waiver of the enforcement of any other ordinance of the Town or state statute.

Section 9. Repeal: Upon the effective date of this ordinance, Ordinance 12, Series 1992, is hereby repealed in its entirety. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 10. Severability: If any portion of this ordinance is held to be invalid for any reason, such decisions shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

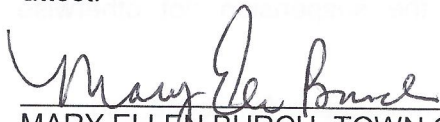
Section 11. Saving Clause: The repeal or modification of any provision of this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings or prosecutions.

Section 12. Safety Clause; Ordinance Immediately Effective: The Board of Trustees herewith finds, determines and declares that this ordinance is necessary to the immediate preservation of the public health and safety in order to timely provide for safety of citizens and preservation of property. This ordinance shall be effective upon adoption and signing by the Mayor if approved by three-fourths of the members of the Board of Trustees.

INTRODUCED, READ, ADOPTED, APPROVED, SIGNED AND ORDERED PUBLISHED THIS
7 DAY OF Nov, 2011.

TOWN OF JAMESTOWN, COLORADO

attest:



MARY ELLEN BURCH, TOWN CLERK



TARA SCHOEDINGER, Mayor