

## ORDINANCE 2021-12

### AN ORDINANCE AMENDING CHAPTER 5.20 OF THE FRUITA MUNICIPAL CODE DELEGATING AUTHORITY TO THE CITY CLERK, AS THE LICENSING OFFICER FOR THE CITY, FOR THE ISSUANCE OF TEMPORARY PERMITS PENDING ACTION ON A TRANSFER OF OWNERSHIP APPLICATION AND SETTING FORTH WHEN A PUBLIC HEARING IS REQUIRED ON AN APPLICATION FOR TRANSFER OF OWNERSHIP

**WHEREAS**, §44-3-303, C.R.S. authorizes the issuance of a temporary permit which authorizes a transferee to continue selling alcohol beverages as permitted under the permanent license during the period in which an application to transfer ownership of the license is pending. Said temporary permit shall be issued within five (5) working days after receipt of the application; and

**WHEREAS**, the City Council therefore desires to delegate to the City Clerk, as the Licensing Officer for the City, the authority to administratively process and approve applications for temporary permits pending transfers of ownership subject to the terms and conditions set forth in this Ordinance; and

**WHEREAS**, the City Council desires to establish when a public hearing is required for a transfer of ownership of a liquor license.

#### THE CITY OF FRUITA HEREBY ORDAINS:

(~~red strike through text indicates deletions~~, blue text indicates additions)

**Section 1.** Section 5.20.010 of the Fruita Municipal Code and Ordinance 329, S1, 1975 and Ordinance 2019-14, S2 is hereby amended and numbering removed to read as follows:

**5.20.010 DEFINITIONS.** For purposes of ~~the special occupational tax upon liquors~~, this Chapter the following shall mean:

Alcoholic Beverage<sup>"</sup> means fermented malt beverage or malt, vinous, or spirituous liquors; except that "Alcohol Beverage" shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410 (1)(i)(II), C.R.S.

Criminal Justice Agency means any federal, state, or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

Fermented Malt Beverage means beer and any other 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 percent alcohol by volume; except that "Fermented Malt Beverage" shall not include confectionery containing alcohol.

Malt liquors includes beer and shall be 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 not less than 0.5% alcohol by volume.

Operator means any person licensed by law to sell alcoholic beverages at retail, and who is engaged at any time during the calendar year in such operation in the city.

Spirituuous liquors means any alcoholic beverage obtained by distillation mixed with water and other substances in solution and includes among other things, brandy, rum, whiskey, gin, powdered alcohol, and every other liquid or solid patented or not, containing 0.5% alcohol by volume 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 provided in Paragraph B and D herein, shall not be construed to be fermented malt, malt or vinous liquors, but shall be construed to be spirituous liquors.

Temporary Permit means a permit which authorizes a transferee to continue selling alcohol beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

Vinous liquor includes wine and fortified wines containing not less than 0.5% and not exceeding 21% of alcohol by volume and are produced by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. For the purpose of simplifying the administration of this Chapter, sake is deemed a vinous liquor.

## **Section 2.**

The Fruita Municipal Code is hereby amended by the addition of Section 5.20.110 as follows:

### **5.20.110 TEMPORARY PERMITS PENDING TRANSFERS OF OWNERSHIP, DELEGATION OF AUTHORITY.**

The City Council delegates its authority to the City Clerk, as the Licensing Officer as defined in Chapter 5.05 of the Fruita Municipal Code, to administratively process and approve applications for the issuance of Temporary Permits in accordance with §44-3-303, C.R.S., as existing or as hereafter amended, on the following terms and conditions:

- A. The Licensing Officer may administratively approve the issuance of a Temporary Permit when the Licensing Officer determines that the initial background check through a Criminal Justice Agency is satisfactory and that the applicant for the Temporary Permit has submitted all required paperwork and paid all applicable fees for a transfer of ownership.
- B. If the Criminal Justice Agency advises that the initial background check of the applicant for the Temporary Permit is unsatisfactory or otherwise questionable, the Licensing Officer shall refer the Temporary Permit application to the City Council for decision.

- C. The Licensing Officer may elect to refer any application for a Temporary Permit to the City Council for decision, even when such application is eligible for administrative approval.

**Section 3.** The Fruita Municipal Code is hereby amended by the addition of Section 5.20.120 as follows:

**5.20.120 TRANSFERS OF OWNERSHIP – PUBLIC HEARINGS REQUIRED WHEN.**

- A. If the Licensing Officer determines that the initial background check of a transferee conducted by a Criminal Justice Agency is satisfactory, the Licensing Officer may elect to refer the Transfer of Ownership application to the City Council for decision without holding a public hearing on the application.
- B. If a Criminal Justice Agency advises the Licensing Officer that an initial background check of a transferee is unsatisfactory or otherwise questionable, the Licensing Officer shall refer the Transfer of Ownership application to the City Council for a decision at a public hearing and shall post and publish the public notice thereof not less than ten (10) days prior to the hearing.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS  
16<sup>TH</sup> DAY OF MARCH, 2021**

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Joel Kincaid, Mayor

ATTEST:

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City Clerk