

ORDINANCE POSTPONED

AN ORDINANCE AMENDING SECTION 5.06.120 AND ADDING A NEW SECTION 5.06.165 TO THE MANITOU SPRINGS MUNICIPAL CODE TO ALLOW FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES AND CITY PARKS DURING SPECIAL OCCASIONS WITH A CITY-ISSUED PERMIT

WHEREAS, it is currently unlawful to drink or possess alcoholic beverages in open containers in public places in the City, except pursuant to a special events permit;

WHEREAS, special events permits are only available to limited types of organizations under limited conditions; and

WHEREAS, the City desires to permit individuals to drink and possess alcoholic beverages in open containers in public places and City parks as designated by the City Council, if done in connection with special occasions, such as weddings, corporate or social club picnics, or other similar social events.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: Section 5.06.120 of the City of Manitou Springs Municipal Code is hereby amended to read as follows:

5.06.120 – Consumption and opened container in public prohibited.

A. Except pursuant to a valid special occasion permit issued pursuant to Section 5.06.165, it is unlawful for anyone to consume an alcoholic beverage, or to possess or have, within their immediate reach, any opened container containing an alcoholic beverage, including fermented malt beverages, on any street, sidewalk, public park or alley, or other public place in the city, or on the grounds of any public or private school therein.

B. It is unlawful for anyone to consume an alcoholic beverage, or to possess or have, within their immediate reach, any opened container containing an alcoholic beverage, including fermented malt beverages, while in any vehicle on any street, sidewalk, public park or alley or other public place in the city, or on the grounds of any public or private school therein.

C. It is unlawful for a driver, owner or other person in control of a vehicle on any street, sidewalk, public park or alley or other public place in the city, or on the grounds of any public or private school therein, to permit anyone in the vehicle to consume an alcoholic beverage, or to possess, or have within their immediate reach, any opened container containing an alcoholic beverage, including fermented malt beverages.

D. Notwithstanding any provision in this code to the contrary, a hotel or restaurant licensed to serve alcoholic beverages may permit a customer of the hotel or restaurant to reseal and remove from the licensed premises one opened container of partially consumed vinous liquor purchased on the premises so long as the original container did not contain more than seven hundred fifty milliliters of vinous liquor.

Section 2: A new Section 5.06.165 is to read as follows is hereby added to the Manitou Springs Municipal Code:

5.06.165 – Special Private Occasion Permit / Consumption in Public Parks or on Public Property

A. The City Clerk may issue a special private occasion permit for the possession and consumption of alcoholic beverages in certain public places within the City designated by the City Council by separate action, provided the applicant can demonstrate to the satisfaction of the City Clerk that:

- (1) The application is filed at least 14 days prior to the date of the event;
- (2) The applicant is 21 years of age, or older;
- (3) Alcoholic beverages will remain in the area of the event;
- (4) Alcoholic beverages will not be provided to or served to members of the general public or any persons who are not invitees of the event;
- (5) The time, location and duration of the function are not likely to significantly interfere with public services;
- (6) The number and concentration of participants at the function are not likely to result in crowds exceeding limitations in the City fire code, or other significant inconvenience to the residents of the surrounding neighborhoods;
- (7) Under-age persons and persons under the influence of alcohol will not obtain alcoholic beverages served at the function, and the precautions proposed are likely to secure and supervise the area and the participants during the function;
- (8) The applicant agrees to be personally responsible for cleaning, trash disposal or repairs necessary as a result of the event for which the permission was granted;

(9) The applicant agrees to indemnify and hold harmless the City, its employees and agents for all liability claims arising out of the event;

(10) The applicant has an insurance policy currently in effect with liquor liability coverage of not less than the maximum limit established by the Colorado Governmental Immunity Act, Title 24, Article 10, Colorado Revised Statutes, as amended, and the City is named as an additional named insured. Nothing herein shall be construed as a waiver by the City of any defenses or provisions of the Governmental Immunity Act; and

(11) The special occasion is a wedding, corporate or club picnic, or similar event of a social, fraternal, patriotic, political or athletic nature.

(12) Service of alcoholic beverages shall be limited to beer and wine.

(13) No Special Private Occasion Permit shall be issued to any person who is not of good moral character as that term is used in C.R.S. § 12-47-307.

(14) A security deposit in an amount approved by the City Administrator is provided by the applicant.

B. The City Clerk may consult with the Police Department regarding the need for security and, where appropriate, may require the provision of private security at the applicant's expense as a condition to the issuance of a Special Private Occasion Permit.

C. A permit may be denied on the grounds that approval would be detrimental to the public safety, health, morals, order or welfare by reason of the nature of the event, the likelihood that the event would create a public nuisance or result in the consumption of alcoholic beverages by minors, its location within the community, the failure of the applicant to conduct a past event in compliance with applicable laws and regulations, if another event has previously been scheduled for that location on the same day and time, or if the event would unreasonably interfere with normal activities and customary and general use and enjoyment of the property or facility.

D. A denial of an application may be appealed to the Liquor Licensing Authority.

Section 3: If any 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 hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.