

**TOWN OF KEYSTONE
ORDINANCE NO. 2024-O-03**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
KEYSTONE, COLORADO, REGULATING THE LICENSING OF THE
DISTRIBUTION AND SALE OF ALCOHOLIC BEVERAGES**

WHEREAS, the Town of Keystone (“Town” or “Keystone”) is a home rule municipal corporation created pursuant to Article XX of the Colorado Constitution; and

WHEREAS, pursuant to § 31-15-501, C.R.S., municipalities have the power to license, regulate, and tax businesses within the limits of the Town; and

WHEREAS, pursuant to Title 44, Articles 3 and 4, C.R.S., the Town has the authority to establish a local liquor licensing authority; and

WHEREAS, Town Council desires to designate the Town Council as the local liquor licensing authority; and

WHEREAS, Town Council adopts regulations for the licensing of the distribution and sale of alcoholic beverages.

**THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO,
ORDAINS:**

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Council.

Section 2. Town Council adopts the following regulations, Town Liquor Code, for the licensing of the distribution and sale of alcoholic beverages.

LIQUOR LICENSE REGULATIONS

A. Applicability of provisions.

In addition to any other rules or laws which may be applicable, these regulations, hereinafter referred to as “Town Liquor Code,” shall govern all proceedings before the Liquor Licensing Authority of the Town. Unless superseded by these regulations, the provisions of Sections 44-3-101 *et seq.* and 44-4-101 *et seq.*, C.R.S., shall apply to fermented malt and alcoholic beverage licenses. As used in the Town Liquor Code, the term Town license means a license or permit issued pursuant to the Town Liquor Code. The term Town license shall include temporary permits.

B. Designation of Town Council as Liquor Licensing Authority; duties of Town Clerk.

- (a) The Liquor and Fermented Malt Beverage Licensing Authority for the Town is the Town Council and shall be known as the "Liquor Licensing Authority" or "Authority."
- (b) The Town Clerk shall assist the Liquor Licensing Authority by receiving all applications, coordinating with other Town officers and departments when relevant, scheduling public hearings required and exercising his or her discretion in forwarding renewals, change of ownership, change of officers, directors and stockholders, change of trade name, modification of premises, special event permits and change of manager matters to the Liquor Licensing Authority.
- (c) With the exception of issuing new licenses the Town Clerk is hereby vested with authority to administratively review and approve applications for liquor license.
 - (1) Renewals. The Town Clerk is authorized to administratively review and approve an application for the renewal of any previously approved liquor license where, after reasonable investigation by the Town Clerk and consultation by the Town Clerk with other appropriate administrative and law enforcement personnel, all of the following circumstances are found to exist:
 - a. The applicant has timely and properly submitted a complete license renewal application and tendered all required fees in accordance with this Chapter and the provisions of Title 44 C.R.S;
 - b. The applicant's license is in good standing with the Town and the State, and no violation of law has occurred during the previous year;
 - c. To the knowledge of the Town Clerk, there is no pending or proposed criminal or legal investigation or charges against the applicant or the licensed premises; and
 - d. There is no other information known by the Town Clerk that would cause the Town Clerk, in the Town Clerk's reasonable belief, to believe that some violation of applicable law has occurred or that the license should not be renewed.
 - (2) Notwithstanding any authority delegated to the Town Clerk for the administrative approval of applications under this Section, the Town Clerk may, at the Town Clerk's discretion, refer any licensing decision authorized herein to the Authority if, in the Town Clerk's opinion, the matter should be presented to the Authority.

C. Liquor license required.

No person shall sell alcohol beverages at retail within the Town except pursuant to and in compliance with these regulations, the state liquor laws and a currently valid Town license. All previously issued Town licenses must be renewed annually upon proper application and payment of licensing and application fees.

D. Conditions of issuance.

It shall be deemed a condition of the issuance of every Town license that the licensee shall comply with the terms of these regulations, including but not limited to these regulations and the state liquor laws.

E. License display required.

Once a temporary or permanent Town license is issued, it shall be unlawful for the licensee to fail to display said license in a prominent location within the licensed premises.

F. Filing of application; fees.

- (a) All applications for liquor and fermented malt beverage licenses, including new, renewal, change of location or ownership licenses, a transfer of ownership, change of location, and license merger and conversion pursuant to Section 44-3-410(1)(b), C.R.S., modification of premises, special event, retail establishment, and festival permits shall be filed with the Town Clerk. All applications shall be made under oath, on forms provided by the Town.
- (b) The following shall be filed:
 - (1) A state license application form, which shall be filled out and completed in all material details. Incomplete application forms shall be rejected.
 - (2) A local license application form, if provided by the Town, which shall be filled out and completed in all material details. Incomplete application forms shall be rejected.
 - (3) For new license applications and change of ownership applications, if the applicant is a corporation, copies of the articles of incorporation, certificate of incorporation and corporate minutes showing current officers, directors and shareholders. In the case of a foreign corporation, the applicant shall also provide the name and address of the registered agent and proof of qualification to do business in the State. If the applicant is a limited liability company, copies of the articles of organization and operating agreement, and a list of managers and members. If the applicant is a partnership, a copy of the partnership agreement.
 - (4) For new license applications, a description of the kind of business and the nature of the proposed establishment.
 - (5) The name and address of the person managing or in charge of the establishment after the license has been issued, a copy of the management agreement, if any, and the names of other liquor or fermented malt beverage establishments managed by that person.
 - (6) For new license applications and change of location applications, Evidence showing that the proposed location will not violate any Town zoning laws.

- (7) For new license applications and change of location applications, evidence showing all financial interests in the proposed license including, but not limited to, copies of documents governing the contract for purchase, promissory notes, shares of stock, mortgages, leases, insurance binders, recorded and unrecorded security interests and assignments of any of the above.
- (8) For new license applications only, a survey of the adult residents of the Town inquiring whether they favor or do not favor approval of the application. The Town Clerk shall maintain survey forms for use by applicants. The completed survey must be submitted with the application, and no entry or signature on such survey shall be dated earlier than thirty (30) days prior to the date of the application.
- (9) An application fee payable to the Town. Town application fees shall be set out in an administrative fee schedule available in the office of the Town Clerk. The application fee shall be collected to cover the costs of the preliminary investigation made by the Town, administrative checks, publication and posting costs and other necessary and incidental expenses.
- (10) An application fee payable to the State Department of Revenue. The amount shall be as provided by the State Licensing Authority.
- (11) A license fee payable to the Town. Town license fees shall be as set out in Sections 44-3-505, C.R.S.
- (12) A license fee payable to the State Department of Revenue. The amount shall be as provided by the Sections 44-4-107 and 44-3-501, C.R.S.
- (13) For a transfer of ownership, change of location and license merger and conversion pursuant to Section 44-3-410(1)(b), C.R.S., evidence showing that at least twenty percent (20%) of the licensee's gross annual income derived from total sales during the prior twelve (12) months at the drugstore premises is from the sale of food items, as defined by the State Licensing Authority by rule.

G. Application and hearing procedure.

Upon receipt of a complete application, the Town Clerk shall notify the Liquor Licensing Authority at its next meeting of the filing of the application, set a hearing date and give notice of the hearing according to the requirements of Section 44-3-311, C.R.S. This procedure shall apply to hearings concerning applications for new licenses and applications for a change of location.

H. Preliminary investigation; findings.

- (a) The Town Clerk shall, on behalf of the Liquor Licensing Authority, investigate the following except for renewal or transfer of ownership:
 - (1) Whether any of the prohibitions contained in Section 44-3-301(12) or 44-3-313, C.R.S., apply to the applicant.

- (2) The number and type of outlets of a nature similar to the applicant's within one (1) mile in any direction of the proposed location.
- (b) The Town Clerk may request that law enforcement, on behalf of the Liquor Licensing Authority, investigate the following:
 - (1) All pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.
 - (2) Any financial interests, including notes, mortgages, leases, etc., in other licenses.
 - (3) The applicant's criminal records, if any, including all partners, principals or stockholders holding over ten percent (10%) of the outstanding and issued stock.
 - (4) Other matters as the Liquor Licensing Authority shall direct.
- (c) A written report setting out the results of the investigations performed by the Town Clerk and law enforcement shall be prepared and mailed by certified mail, return receipt requested by the Town Clerk to the applicant and, upon request, to other interested parties, as defined by Section 44-3-311(5)(a) or 44-3-312(a), C.R.S., not less than five (5) days prior to the date of the hearing upon the application. The original report may be filed as a public record in the Town Clerk's office.

I. Authority determinations.

- (a) Appeals. The Authority shall determine all appeals of administrative applications, matters for which a hearing is required pursuant to the Town Liquor Code or the state liquor laws, and all matters not authorized to be determined administratively.
- (b) Public notice. The Authority shall cause to be posted and published public notice of any hearing as required by the state liquor laws.
- (c) Investigation. At least five (5) days prior to the hearing, the Town Clerk shall send a letter to the applicant, by certified mail, enumerating the results of any and all investigations performed by the Town Clerk. The letter shall be available for public inspection at least five (5) days prior to the hearing.
- (d) Authority powers. The Authority shall have 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 which the Authority is authorized to conduct. It shall be unlawful for any person to fail to comply with any subpoena issued by the Authority in the proper conduct of its hearings. The Municipal Court shall enforce the subpoenas of the Authority.
- (e) Deliberations. The Authority may continue any hearing from time to time as may be required to gather necessary facts and evidence and to permit witnesses to testify. Before entering any decision on any matter before it, the Authority shall consider the facts and evidence adduced as a result of the investigation, evidence and testimony and, when applicable, the desires of the inhabitants of the neighborhood, the reasonable requirements of the neighborhood for the type of license for which

application has been made, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

- (f) Decisions. The Authority shall render its decision no later than thirty (30) days following the conclusion of a public hearing.
- (g) The Town Clerk shall send a written copy of the Authority's decision and the reasons for the decision, by certified mail, to the applicant at the address shown on the application, and to any other party in interest upon written request.

J. Suspension, revocation and fines.

- (a) The Authority shall have the power upon its own motion or upon complaint, and in accordance with the state liquor laws, to:
 - (1) Summarily suspend any Town license for a period not to exceed the maximum suspension period allowed by state law.
 - (2) Upon notice to the licensee and hearing, suspend any Town license for a period not to exceed the maximum suspension period allowed by state law.
 - (4) Upon notice to the licensee and hearing, revoke the license.
 - (3) Accept payment of a fine in lieu of suspension.
- (b) Whenever the Authority or the Town Clerk receives a written complaint charging any person with a violation of the state liquor laws or the Town Liquor Code, the Authority shall cause an investigation to be made to determine the veracity of the charge. After investigating the charge and determining the probable truth of the charge, the Authority shall issue a written notice to show cause directed to such person. The notice to show cause shall be served personally or by certified mail to the licensee at the address contained in the license or to such other person at the person's residence or principal place of business. The notice shall direct the person to appear at a certain place and at a time designated, which date shall be not earlier than ten (10) days after mailing, to show cause, if any, why the Town license should not be suspended or revoked or the person found in violation of the state liquor laws or Town Liquor Code. The notice shall further contain information generally describing the alleged charge.

K. License renewals.

- (a) All applications for renewal of fermented malt beverage, malt, vinous and spirituous liquor licenses shall be on forms provided by the State Licensing Authority and the Liquor Licensing Authority and must be submitted in duplicate to the Town Clerk not less than forty-five (45) days prior to the license expiration date, together with the required license fees and renewal application fee.
- (b) Upon receiving the renewal application, the Town Clerk shall assemble the file of the applicant, which file shall contain all of the various Town departments' records regarding the applicant or the premises dating back for a period of at least one (1)

year. Unless there is evidence to the contrary, whether contained in the applicant's file or otherwise, it will be presumed that the occupied premises complies with the provisions of the statutes and applicable regulations, that the character of the applicant continues to be satisfactory and that such license, if granted, continues to meet the reasonable requirements of the neighborhood and the desires of the inhabitants. If these presumptions apply, the Town Clerk will administratively process the renewal application.

- (c) If there is evidence that the presumptions given in Subsection (b) above do not apply, the Town Clerk shall immediately notify the licensee in writing of the objections to approving the renewal application and that a public hearing will be held not less than ten (10) nor more than thirty (30) days after the date of such notice to determine if there is cause to deny the renewal application. The hearing shall be held only after notice of the hearing has been conspicuously posted on the premises for a period of ten (10) days. The hearing shall be conducted in the same manner as provided for hearings on revocation or suspension of the type of license involved.
- (d) A late renewal application may be filed with the State Licensing Authority and Liquor Licensing Authority pursuant to Section 44-3-302(2)(a) and in compliance with all requirements therein. No application for renewal will be accepted more than ninety (90) days after expiration of licensee's permanent annual license. A licensee who files a late renewal application may continue to operate until final actions have been taken on the application.
- (e) An application for a reissued license may be filed with the State Licensing Authority and Liquor Licensing Authority pursuant to Section 44-3-302(2)(d) and in compliance with all requirements therein. No application for a reissued license will be accepted more than one hundred eighty days after expiration of a licensee's permanent annual license.

L. Change of location.

- (a) Before the location of a licensee is changed, the licensee shall submit an application, on forms provided by the State Licensing Authority and the Town, to the Town Clerk for such change. An application fee, as provided in Paragraph F of these regulations, shall accompany the application.
- (b) All applications for a change in the location of a licensee shall be filed with the Town Clerk and shall be subject to requirements for a new liquor license, except that the character of the applicant shall not be considered.
- (c) The scheduling and notice of the hearing on a change of location shall be as provided in Section 44-3-311, C.R.S.

M. Change of ownership.

- (a) All applicants for the issuance of a license by reason of transfer of ownership of the business or of possession of the licensed premises pursuant to 44-3-303(1)(c) shall file, with the Town Clerk, an application on forms provided by the State Licensing Authority and by the Town. The application form shall be accompanied by application fees and license fees as provided in Paragraph F of these regulations.
- (b) The Town Clerk shall request that law enforcement conduct an investigation of the character of the applicant, including, when applicable, the principals, partners, officers, directors and shareholders holding over ten percent (10%) of the issued and outstanding stock.
- (c) Upon review of the report from law enforcement and the requirements of Section 44-3-307, C.R.S., and 1 CCR 203-2, rule 47-302, the Liquor Licensing Authority may approve the application for transfer of ownership without hearing.
- (d) If after review of the report from the law enforcement and the requirements of Section 44-3-307, C.R.S., and 1 CCR 203-2, rule 47-302, the Liquor Licensing Authority determines it is warranted, it shall hold a public hearing after notice of the hearing pursuant to Section 44-3-303(1)(c)(III), C.R.S. The Liquor Licensing Authority shall consider only the requirements of Section 44-3-307, C.R.S., and 1 CCR 203-2, rule 47-302, and the applicant shall not be required to submit information, except as it concerns those requirements.
- (e) A temporary permit may be issued to an applicant pending approval by the Liquor Licensing Authority of a change in ownership pursuant to Section 44-3-303(5), C.R.S.

N. Optional premises license.

Pursuant to Section 44-3-310, C.R.S., the Town adopts the following standards for issuance of an optional premises license and, upon meeting such standards by an applicant, authorizes the issuance of such license.

- (a) The application for an optional premises license shall include all the requirements of Paragraph F above.
- (b) The application for an optional premises license shall include a legal description of the premises on which liquor is to be served.
- (c) Number of optional premises. The Authority, in its discretion, may restrict the number of optional premises which any one (1) licensee may have. Any licensee requesting approval of more than one (1) optional premises shall:
 - (1) Explain the reason for each optional premises requested.
 - (2) Demonstrate how the optional premises relate to each other from an operational standpoint.
 - (3) Demonstrate the need for each optional premises in relationship to the outdoor sports and recreational facility and its guests.

- (4) Demonstrate that the optional premises will not adversely affect the neighborhood in which it is located.
- (d) Submittal requirements. Each initial application and annual renewal application for an optional premises shall be accompanied by:
 - (1) An application fee, plus the local and state license fees.
 - (2) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premise requested.
 - (3) A description of the approximate area within which the optional premises shall be located.
 - (4) A description of the method which shall be used to identify the boundaries of and to control the optional premises when it is in use. For example, the applicant may describe the types of signs, fencing or other notices or barriers to be used in order to control the optional premises.
 - (5) A description of the provisions which have been made for storing alcohol beverages in a secured area, on or off the optional premises, for the future use of the optional premises.
- (e) Advance notification. No alcohol beverages may be served at optional premises without the licensee providing written notice to the State and the Authority forty-eight (48) hours in advance, stating the specific days and hours on which the optional premises are to be used.

O. Alcoholic beverage tastings.

Tastings shall be permitted pursuant to Section 44-3-301(10), C.R.S. as may be amended, and conducted subject to the enumerated limitations therein.

P. Retail establishment permit.

The Liquor Licensing Authority is authorized to issue a retail establishment permit to a person operating a retail establishment that offers complimentary alcohol beverages for consumption only on the premises pursuant to Section 44-3-424, C.R.S., and subject to the requirements and limitations set forth therein. The application for a retail establishment permit shall include all the requirements of Paragraph F of these Regulations. The Liquor Licensing Authority may reject the application for a retail establishment permit if the applicant fails to establish that the applicant is able to offer complimentary alcohol beverages without violating Section 44-3-424, C.R.S., or creating a public safety risk to the neighborhood.

Q. Festival permit.

The Liquor Licensing Authority is authorized to issue a festival permit to a person listed in Section 44-3-404(9), C.R.S., pursuant to Section 44-3-404, C.R.S., and subject

to the requirements and limitations set forth therein. The application for a festival permit shall include all the requirements of Paragraph F of these regulations. If a licensee is applying for both a festival permit and a special event liquor permit issued under Article 5 of Title 44, C.R.S., the licensee need not apply for a festival permit from the Liquor Licensing Authority.

R. Communal outdoor dining areas.

- (a) Pursuant to C.R.S, § 44-3-912, two (2) or more liquor licensees may apply to the Town for approval of a permit to attach to a Communal Outdoor Dining Area (CODA).
- (b) An application for a permit to attach to a Communal Outdoor Dining Area shall be filed with the Town using the same form and attachments filed with the State for a CODA permit. The application must be accompanied by the local application fee as set forth in. the Town Fee Schedule.
- (c) An application that proposes to attach to a CODA temporarily located wholly or partially within a Town street, sidewalk or trail must be accompanied by a separate and approved Special Event Permit application (and associated application fee).
- (d) To be approved, an applicant must be within one thousand (1,000) feet of the proposed or established communal outdoor dining area. This distance shall be computed by direct measurement, using a route of direct pedestrian access, from the nearest property line of the land used for the communal outdoor dining area to the nearest portion of the building where the permanent licensed premises is located.
- (e) It is unlawful for an applicant who has obtained a permit to attach to a CODA pursuant to this Section to commence operating within the CODA without first obtaining the necessary attendant approval to modify its licensed premises to include the CODA area. All applications required in association with this Code Section may be filed and processed concurrently, while each remains subject to its own review and approval process and respective application fee.
- (f) If a violation of this Article III or of the State Liquor Code or Rules occurs within a CODA and the licensee responsible for the violation can be identified, that licensee is subject to discipline as set forth in CRS S 443-601. If the licensee responsible for the violation cannot be identified, each attached licensee is deemed jointly responsible and subject to discipline for the violation.

S. Effective date.

These regulations shall become effective as of May 9, 2024, and enforceable on and after that date. Any businesses in the Town holding a Summit County liquor and fermented malt beverage license will be transferred to the Town of Keystone without the assessment of a fee and the retailer will be required to follow these regulations.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 4. Codification. This ordinance may be codified and numbered for purposes of codification without the need for further approval by the Town Council.

Section 5. Effective Date. This ordinance shall take effect and be enforced thirty (30) days after final publication.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING, AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO, THIS

26th DAY OF March, 2024.

READ, PASSED AND ADOPTED AS AN ORDINANCE ON SECOND READING, AT A
REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEYSTONE,
COLORADO, THIS
~~23rd~~ DAY OF April, 2024.

Kenneth D. Riley
Kenneth D. Riley, Mayor

ATTEST:

Madeline Siew
Town Clerk

APPROVED AS TO FORM:

Jennifer Maden
Town Attorney