

**ORDINANCE NO. 1**  
**Series of 2019**

**AN ORDINANCE OF THE TOWN OF CARBONDALE, COLORADO AMENDING  
CHAPTER 6, ARTICLES 1 AND 8 AND CHAPTER 10, ARTICLES 6 AND 7 OF THE  
MUNICIPAL CODE OF THE TOWN OF CARBONDALE REGARDING  
AMENDMENTS TO THE COLORADO BEER CODE, THE COLORADO LIQUOR  
CODE, AND THE COLORADO SPECIAL EVENT LIQUOR PERMIT CODE**

WHEREAS, Governor Hickenlooper recently signed into law HB 18-1025, which recodifies the State of Colorado's beer, liquor, and special event liquor permit codes from Title 12 of the Colorado Revised Statutes to a newly created Title 44, but did not make substantive changes to these statutes; and

WHEREAS, HB 18-1025 took effect on October 1, 2018; and

WHEREAS, the Town of Carbondale (the "Town") Municipal Code contains numerous references to various provisions of the Colorado Beer Code, the Colorado Liquor Code, and the Colorado Special Event Liquor Permit Code; and

WHEREAS, it is necessary to change the references to such codes contained in the Town Municipal Code to reflect the recodification to Title 44; and

WHEREAS, Governor Hickenlooper signed into law SB 16-197 on June 10, 2016, which restricts the issuance of new liquor-licensed drugstore and retail liquor store licenses except under certain circumstances; allows liquor-licensed drugstore and retail liquor store licensees to obtain additional licenses under limited circumstances; and repeals the limit on the alcohol content of fermented malt beverages (commonly referred to as "3.2% beer") on January 1, 2019; and

WHEREAS, Governor Hickenlooper signed into law SB 18-243 on June 4, 2018, which expands the statutory changes from SB 16-197 by, among other revisions, changing and adding laws for several liquor license types; creating and amending distance restrictions between certain licensed premises; allowing employees of licensees who are 18 years of age or older to handle or sell alcohol; and amending the provisions regulating alcoholic beverage tastings; and

WHEREAS, effective January 1, 2019, grocery stores, convenience stores, and any other person currently licensed or licensed in the future to sell fermented malt beverages for consumption on or off the licensed premises may sell fermented malt beverages containing more than 3.2% alcohol by weight or 4% alcohol by volume; and

WHEREAS, the Board of Trustees desires to update the Town Municipal Code to be consistent with the legislative changes.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO that the Town of Carbondale Municipal Code shall be amended as follows:

1. The foregoing recitals are hereby adopted as findings and determinations of the Board of Trustees.

2. Chapter 6, Articles 1 and 8 and Chapter 10, Articles 6 and 7 of the Town of Carbondale Municipal Code shall be amended by deleting the language stricken and adding the language underlined to read as follows:

**Sec. 6-1-10. Definitions.**

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article ~~46 4~~ of Title ~~42 44~~, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article ~~47 3~~ of Title ~~42 44~~, C.R.S.).

**Sec. 6-1-20. - Application of state statutes.**

The Colorado Beer Code, Section ~~42-46-101~~ 44-4-101, et seq., C.R.S., the Colorado Liquor Code, Section ~~42-47-101~~ 44-3-101, et seq., C.R.S., and Special Event Liquor Permits, Section ~~42-48-101~~ 44-5-101, 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.

**Sec. 6-1-30. - Power and purpose.**

The Board of Trustees finds and determines that it is empowered by Section ~~42-47-505~~ 44-3-505, 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 therefor.

**Sec. 6-1-40. - Licensing fees.**

(a) Each application for a retail liquor store license, liquor-licensed drug store license, beer and wine license, hotel and restaurant license, tavern license, club license, racetrack license, arts license or fermented malt beverage license filed with the Town shall be accompanied by an application fee to cover actual and necessary expenses in the amounts set forth in this Article and the Colorado Department of Revenue Liquor Enforcement Division Fee Schedule, as may be amended from time to time Fee Schedule attached as Appendix A to this Code.

**Sec. 6-1-50. - Disposition of fees.**

The application fees referenced in this Article and the Colorado Department of Revenue Liquor Enforcement Division Fee Schedule, as may be amended from time to time, Appendix A shall be paid into the treasury of the Town, are in addition to other fees required by law and are to defray the expenses incurred for publishing and posting notices, investigations and hearings upon applications.

...

**Sec. 6-1-70. - Temporary permits.**

The Town Clerk shall have the authority to issue temporary permits in accordance with state law. A temporary permit pending transfer of a license may be issued under the following conditions:

...

(5) The applicant has paid a temporary permit fee of \$100.00 in accordance with Section 44-3-303(3)(c), C.R.S. set forth in the Fee Schedule attached as Appendix A to this Code.

...

**Sec. 6-1-80. - Issuance and renewal of license.**

(a) The Board of Trustees shall have exclusive authority to issue, ~~and renew,~~ and approve the transfer of licenses to sell alcoholic and fermented malt beverages in accordance with the restrictions and limitations contained in C.R.S. Sections 44-3-101 et seq., 44-4-101, et seq., and 44-5-101, et seq., as may be amended from time to time. In the event grounds supported by probable cause exist for nonrenewal of a license, the Board of Trustees may appoint a hearing officer to preside over a public hearing conducted in the manner provided for in Subsection 6-1-90(b) of this Article.

...

(d) A temporary permit may be canceled, revoked or summarily suspended if the Local Liquor Licensing Authority determines that there is probable cause to believe that the transferee or applicant has violated any provision of Articles 3 or 4 of Title 44, Article 46 of Title 12, C.R.S., has violated any rule, regulation or ordinance of the state liquor licensing authority or Local Liquor Licensing Authority or has failed to truthfully disclose those matters required pursuant to the application forms.

...

**Sec. 6-1-210. - Standards adopted.**

(a) Pursuant to the provisions of Section ~~44-3-310~~ ~~12-47-135.5~~, C.R.S., an optional premises license and optional premises for a hotel and restaurant license may be issued by the Local Liquor Licensing Authority.

(b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for an optional premises license or for an optional premises for a hotel and restaurant license. These two types of licenses for optional premises will collectively be referred to as *optional premises* in these standards unless otherwise provided.

(1) Eligible facilities. An optional premises may only be approved when that premises is located on or adjacent to an outdoor sports and recreational facility, as defined in Section 44-3-103(33)(a) ~~12-47-103(13.5)(e)~~, C.R.S. The types of outdoor sports and recreational facilities which may be considered for an outdoor premises license include the following:

...

(c) *Submittal requirements.* When submitting a request for the approval of an optional premises, an applicant shall also submit the following:

(1) An application fee of \$175.00 ~~set forth in the Fee Schedule attached as Appendix A to this Code for optional premises~~ and the local and state license fees as set forth in the Colorado Department of Revenue Liquor Enforcement Division Fee Schedule, as may be amended from time to time;

...

**Sec. 6-1-220. - Advance notification.**

Pursuant to Sections 44-3-310(3) and (4) ~~12-47-135(6) and (7)~~, C.R.S., no alcoholic beverages may be served on an optional premises without the licensee having provided written notice to the state liquor licensing authority and the Local Liquor Licensing Authority 48 hours prior to serving alcoholic beverages on the optional premises. The notice must contain the specific days and hours during which the optional premises is to be used. In this regard, there is no limitation on the number of days which a licensee may specify in each notice. All notices to the Town Clerk and the State must be received by the State and Town Clerk's office at least 48 hours prior to serving alcoholic beverages on the optional premises. If a notice is mailed to the Town Clerk or State, it shall be mailed by certified mail and must be received by the State or Town Clerk's office at least 48 hours prior to serving alcoholic beverages on the optional premises. In computing the 48-hour advance notice requirement, it is sufficient if the notice is delivered to or received by the State and Town Clerk's office at least two business days before the date upon which alcoholic beverages are to be served on the optional premises. Business days

do not include Saturdays, Sundays or any other day upon which the State or Town Clerk's office is closed for business.

**Sec. 6-1-230. - Notice and hearing procedures.**

An application for an optional premises license, or an application for optional premises for a new hotel and restaurant license, shall be scheduled in the same manner as any other new liquor license application, and the posting, publication and hearing requirements of Section ~~44-3-311~~ ~~12-47-136~~, C.R.S., shall apply. An application for an optional premises for an existing hotel and restaurant license shall be scheduled for public hearing not less than ten days from the date of the application, and public notice shall be given by posting and publishing in accordance with ~~44-3-311~~ ~~12-47-136~~, C.R.S. At the public hearing on any optional premises application, the Board of Trustees will consider the criteria of Section ~~44-3-312(2)(a)~~ ~~12-47-137(2)(a)~~, C.R.S., and the within standards, and make findings as to whether the applicant has complied with such criteria and these standards.

**Sec. 6-1-310. - Authority; purpose.**

Pursuant to Section ~~44-3-301(10)(a)~~ ~~12-47-301(10)(a)~~, C.R.S., the Town authorizes alcohol beverage tastings for licensed retail liquor stores and liquor-licensed drug stores within the Town. The Town requires a further application and application fee of \$25.00 for a one-time license or \$100.00 for an annual license ~~as set forth in the Fee Schedule attached as Appendix A of this Code~~, prior to allowing retail liquor licensees to conduct alcohol beverage tastings, and elects not to impose additional limitations on such tastings beyond those limitations and requirements set forth in Section 44-3-301(10) ~~Chapter 47 of Title 12~~, C.R.S.

**Sec. 6-1-320. - Definitions.**

Terms used in this Division which are defined in the Colorado Liquor Code (Article ~~47~~ 3 of Title ~~12~~ 44, C.R.S.) or in the Colorado Beer Code (Article ~~46~~ 4 of Title ~~12~~ 44, C.R.S.) shall have the meanings provided in such statutes. Additionally, as used in this Division, the following words shall have the following meanings, unless the context clearly requires otherwise:

...

**Sec. 6-1-340. - Application.**

A retail liquor store which wishes to conduct tastings shall submit an application to the Town Clerk on forms approved by the Liquor Licensing Authority. Such application shall be accompanied by a nonrefundable fee of \$25.00 for a one-time license or \$100.00 for an annual license ~~as set forth in the Fee Schedule attached as Appendix A to this Code~~.

**Sec. 6-1-350. - Approval or denial of application.**

If the applicant demonstrates that he or she is able to conduct tastings without violating the provisions of this Division or Section 44-3-301(10)~~12-47-301(10)(a)~~, C.R.S., and without creating a public safety risk to the neighborhood, the application shall be approved and the tastings license issued. Otherwise, the application shall be denied.

...

**Sec. 6-1-370. - Limitations on tastings.**

Tastings conducted by the holder of a tastings license shall be subject to the limitations and requirements as set forth in Section 44-3-301(10)(c)~~12-47-301(10)(e)~~, C.R.S. Compliance with the limitations and requirements as set forth in this Division and in Section 44-3-301(10)(c)~~12-47-301(10)(e)~~, C.R.S., shall be a term and condition of any tastings license, whether or not expressly set forth in the tastings license.

**Sec. 6-1-380. - Licensee responsibilities.**

A violation of the provisions of this Section or of Section 44-3-301(10), C.R.S. by a retail liquor store licensee or a liquor-licensed drugstore licensee, whether by ~~his or her~~ the licensee's employees, agents or otherwise or by a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant that promoted the alcohol beverages for the tasting, shall be the responsibility of the licensee who is conducting the tasting.

...

**Sec. 6-8-10. - Purpose and intent.**

The purpose of this Article is to authorize the creation of an Entertainment District within which the Board of Trustees may permit the establishment of common consumption areas pursuant to C.R.S. § 44-3-301(11)~~12-47-301(11)~~.

...

**Sec. 6-8-50. - Creation of Downtown Entertainment District.**

In order to exercise the Town's local option to allow common consumption areas within the Town and to effectuate the purposes and intent of C.R.S. § 44-3-301(11)~~12-47-301(11)~~, there is hereby designated the "Downtown Entertainment District," which contains an area within the Main Street right-of-way, from Weant Drive to Snowmass Drive, as shown in the Downtown Entertainment District Map, a copy of which is on file with the Town Clerk. Said District has been determined to satisfy the size and

licensed premises conditions contained within the definition of Entertainment District in this Article.

**Sec. 6-8-60. - Certification of Common Consumption Areas and Promotional Associations.**

...

(c) The Board of Trustees shall consider the merits of the application for certification of a Promotional Association and may refuse to certify or recertify or may decertify a Promotional Association if the Association:

...

(6) Is in violation of C.R.S. § 44-3-910 ~~42-47-909~~, as may be amended from time to time, related to common consumption area operations.

...

(g) The Board of Trustees may deauthorize or refuse to authorize or reauthorize a licensee's attachment to a Common Consumption Area if the licensed premises are not within or on the perimeter of the Common Consumption Area and if the licensee:

(6) Violates any provision of C.R.S. § 44-3-910 ~~42-47-909~~.

**Sec. 6-8-70. - Review of applications for certification, recertification, and attachment to Promotional Association and decertification.**

...

(c) The Board of Trustees may decertify a Promotional Association. Decertification shall follow the provisions of C.R.S. § 44-3-601 ~~42-47-604~~ as related to liquor licenses.

...

**Sec. 10-6-60. - Sale of cigarettes, tobacco products, and electronic smoking devices.**

(g) No person shall sell or permit the sale of tobacco products by use of a self-service display tobacco product retailers shall stock and display all tobacco products in a manner so as to make all such products inaccessible to customers without the assistance of a retail clerk, thereby requiring a direct face-to-face exchange of the tobacco products from an employee of the business to the customer. Cigarettes may be sold at retail through self-service displays only in:

...

(3) Places where the self-service display is under the direct supervision of the owner of the establishment or an adult employee of the owner, including, but not limited to, establishments holding a valid liquor license issued pursuant to C.R.S. Article 3-47 of Title 44-12.

**Sec. 10-7-10. - Definitions.**

...

*Fermented malt beverage* means beer and any 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 0.5 percent alcohol by volume and not more than 3.2 percent alcohol by weight, excluding confectionary alcohol within the limits prescribed by applicable state law.

*Malt liquor* 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 product, or any combination thereof, in water containing more than 3.2 percent of alcohol by weight not less than 0.5 percent alcohol by volume.

*Private property* means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately owned real property which is not open to the public. *Private property* shall not include:

- (1) Any establishment which has or is required to have a license pursuant to Article 3, 4, or 5 -46, 47 or 48 of Title 44 12, C.R.S.;
- (2) Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- (3) Any establishment which leases, rents or provides accommodations to members of the public generally.

*Spirituos liquor* 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 liquid or solid, patented or not, containing at least 0.5 percent 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 malt liquors and vinous liquors shall be construed to be spirituous liquor.

**Sec. 10-7-20. - Alcohol-related violations.**

...



(d) It is unlawful to sell, transfer or supply, with or without compensation, any fermented malt beverage or alcoholic beverage to any person under the age of 21 years; to permit any fermented malt beverage, malt, spirituous, or vinous liquors to be sold or dispensed by a person under ~~21~~ 18 years of age; or to permit any such person to participate in the sale or dispensing thereof.

...

**Sec. 10-7-30. - Illegal possession or consumption of ethyl alcohol by underage person.**

...

(f) A parent or legal guardian of a person under 21 years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, fermented malt beverages or alcoholic beverages to or by a person under the age of 21 years under the conditions described in Paragraph (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 3, 4, or 5 ~~46, 47 or 48~~ of Title 44 ~~42~~, C.R.S., or any members, employees or occupants of any such establishment, to give, provide, make available or sell alcoholic beverages to a person under 21 years of age.

...

**Sec. 10-7-50. - Sales near schools.**

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of 500 feet from any public or parochial school or the principal campus of any college, university or seminary, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal or reissuance, upon the expiration thereof, of any license in effect, or affect any such business as set forth in Section 44-3-302 ~~42-47-302~~, C.R.S.

3. This Ordinance shall be effective upon posting and publication in accordance with the Carbondale Home Rule Charter.

INTRODUCED, READ AND PASSED THIS 8<sup>TH</sup> day of January 2019.

TOWN OF CARBONDALE, COLORADO  
a Colorado home rule municipal corporation,

  
\_\_\_\_\_  
Dan Richardson, Mayor

ATTEST:  
  
\_\_\_\_\_  
Cathy Derby, Town Clerk

POSTED: 1/9/19  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE: \_\_\_\_\_

