



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443 ♦ FRISCOGOV.COM

TO: MAYOR AND TOWN COUNCIL

FROM: STACEY NELL, TOWN CLERK

**RE: Town of Frisco Code Change Discussion: Chapter 53, Section 7,
Subsection D (Liquor Licensed Establishment Distance Requirements)**

DATE: MARCH 26, 2024

Summary and Background: All applicants interested in applying for a liquor license in the Town of Frisco are subject to Federal and State laws and regulations, as well as Frisco's Town Code.

Colorado Liquor Code, Title 44, Article 3, Section 313, titled "Restrictions for applications for new licenses", states:

"(1) An application for the issuance of any license specified in section 44-3-309 (1) or 44-4-107 (1) shall not be received or acted upon:

(d) (I) If the building in which the alcohol beverages are to be sold pursuant to a license described in section 44-3-309 (1) is located within five hundred feet of any public or parochial school or the principal campus of any college, university, or seminary; except that this subsection (1)(d)(I) does not:

(III) The local licensing authority of any city and county, by rule or regulation; the governing body of any other municipality, by ordinance; or the governing body of any other county, by resolution, may:

(A) Eliminate or modify the distance restrictions imposed by this subsection (1)(e); or Page 43 of 127 (B) Eliminate one or more types of schools or campuses from the application of any distance restriction established by or pursuant to this subsection (1)(e).

(IV) In addition to the requirements of section 44-3-312 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the fermented malt beverages and wine are to be sold is located within any distance restriction established by or pursuant to this subsection (1)(e)..."

The Town of Frisco's Town Council, through adoption of Ordinance 89-28 on November 21, 1989, established a distance of 250 feet: "That the building wherein the license is sought to be exercised is located more than 250 feet from any public or parochial school or the principal campus of any college, university or seminary. For the purposes of measuring the distance between the building wherein the license is sought to be exercised and said public or parochial school or the principal campus of any college, university or seminary, a measurement shall be made from the nearest property line of the land used for the above school purposes to the

nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.”

Analysis: Questions have arisen concerning: (i) the scope of the terms “public school;” and (ii) whether the distance limitation of 250 feet between liquor licensed facilities and schools remains the preferred public policy option, given the expansion of the population of the Town over the last 35 years, and the relative lack of expansion (from a zoning perspective) of areas available for liquor-licensed facilities during the same period.

The questions concerning the scope of the terms “public school” has arisen in the context of a privately operated preschool that is open to the public and receives significant financial support from various public entities. While there is a very limited number of cases that address this issue in Colorado, the Town Attorney has opined that the case law indicates that the question is as likely to turn on the question of whether the school in question is open to the public, as it is to turn on the question of whether it is owned by a public entity. Staff seeks guidance from the Council of its preferred interpretation of those terms, and a discussion of whether the Code may need to be amended to achieve that interpretation.

On the question of the appropriate distance between a liquor licensed facility and a school or any of the other uses listed in the Town’s Code and in state statutes, staff notes that the state statute allows the Town Council to completely eliminate those distance limitations, if desired. Staff seeks a policy determination as to whether the distance limitation should stay the same, be reduced in some measure, or be eliminated entirely.

Financial Impact: There is no anticipated negative financial impact on the Town regarding this matter. Less restrictions on businesses, especially with regard to where they can operate, could potentially lead to more business operations

Alignment with Strategic Plan:

The policy determinations that are requested of the Council align with the 4 Strategic Plan Principles:

- We provide vibrant **Arts, Cultural, and Recreational Opportunities**
- We enhance **Community Inclusivity**
- We support a **Thriving Economy**
- We provide progress-driven **Quality Core Services**

As this Code is related to restriction of businesses, the “Thriving Economy” Principle is the most directly attributable Strategic Plan Principle to this situation.

Staff Recommendation: Staff remains neutral. The Town Clerk requests Council’s decision: (i) concerning the preferred interpretation of the terms “public school;” and (ii) whether to maintain, amend, or eliminate the distance requirement between proposed liquor license establishments and schools or any of the other uses listed in the . The decision should be made in a general manner, and not with one specific business in mind.

Approved By:

Thad Renaud, Town Attorney
Tom Fisher, Town Manager
Stacey Nell, Town Clerk

Attachments:

- Attachment 1 – Ordinance 89-28
- Attachment 2 – Frisco Town Code 52-7(D)