

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 23- 17**

AN ORDINANCE AMENDING CHAPTER 53 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, COLORADO, CONCERNING ALCOHOLIC BEVERAGES, BY AMENDING SECTION 53-2, CONCERNING THE LICENSING AUTHORITY AND ITS ASSISTANT, TO PROVIDE FOR THE DELEGATION OF AUTHORITY TO THE TOWN CLERK FOR APPROVAL OF CERTAIN LIQUOR LICENSING MATTERS.

WHEREAS, pursuant to section 53-2 of the Code of Ordinances of the Town of Frisco (the "Code"), the Town Council functions as the Local Licensing Authority for purposes of the Colorado Liquor Code and Colorado Fermented Malt Beverages Code; and

WHEREAS, certain non-controversial functions of the Local Licensing Authority may appropriately be delegated to the Town Clerk as a means of increasing the efficiency of the Local Licensing Authority and better serving those parties wishing to obtain approvals under the Colorado Liquor Code and Colorado Fermented Malt Beverages Code; and

WHEREAS, the Town Council desires to delegate to the Town Clerk certain authority to act upon specified applications made pursuant to the Code and the Colorado Fermented Malt Beverages Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO THAT:

Section 1. Section 53-2 of the Code of Ordinances of Frisco, Colorado is repealed in its entirety and re-enacted to read as follows:

53-2. Licensing authority; assistant

- A. The liquor and beer licensing authority for the Town of Frisco shall be the Town Council ("Council"). As such, the Town Council shall be known as the "liquor licensing authority" or, in this Chapter, as the "authority."
- B. The Town Clerk shall assist the authority by receiving all applications; coordinating with other town officers and departments when relevant; scheduling required public hearings; and exercising her discretion in forwarding applications for renewals, transfer of ownership, change of manager of a licensee; temporary permits; and special event licenses.

- C. As set forth below, the Town Clerk is hereby vested with authority to administratively review and approve applications for liquor license renewals; transfer of ownership; change of manager of a licensee; temporary permits; and special event licenses; and change in class of license.

1. Renewals. In accordance with the provisions of Section 53-12 below, 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 42 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 her reasonable belief, to believe that some violation of applicable law has occurred or that the license should not be renewed

2. Transfer of ownership. In accordance with the provisions of Section 53-14 below, the Town Clerk is authorized to administratively review and approve an application for the transfer of ownership 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 application for transfer of ownership and tendered all required fees in accordance with this Chapter and the provisions of Title 42 44 C.R.S; and
- b. The applicant satisfies the eligibility criteria set forth in Section ~~12-47-307~~ 44-3-307, C.R.S.

3. Change of manager of a licensee. The Town Clerk is authorized to administratively review and approve an application for the change of manager for a licensed establishment 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 application for change of manager and tendered all required fees in accordance with this Chapter and the provisions of Title 12 44 C.R.S. and the new manager has presented himself to the Police Department for photographing, fingerprinting and background investigation, and
- b. There is no information known by the Town Clerk that could support denial of the application for change in manager under applicable law.

4. Temporary permits. In accordance with the provisions of Section 53-14.E below, the Town Clerk is authorized to administratively review and approve an application for a temporary permit 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 application for a temporary permit and tendered all required fees in accordance with this Chapter and the provisions of Section ~~12-47-303~~ 44-3-303, C.R.S.;
- b. There is pending an application for the transfer of the liquor license corresponding to the application for a temporary permit;
- c. The premises subject to the proposed temporary permit is currently subject to a valid liquor license; and
- d. There is no information known by the Town Clerk that could support denial of the application for change in manager under applicable law.

5. Special event licenses. The Town Clerk is authorized to administratively review and approve an application for a special event 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 application for a special event license and tendered all required fees in accordance with this Chapter and the provisions of Title 42 ~~44~~, Article 48 ~~5~~, C.R.S.;
- b. Notice of the Town's receipt of an application for a special events permit and the ability to protest the issuance of the permit has been posted on the property subject to the proposed special event permit not less than ten (10) days prior to the date of approval of the permit and no protest to the issuance of such permit has been filed on or before such date of approval; and
- c. There is no information known by the Town Clerk that could support denial of the application for the special event permit pursuant to the provisions of Section ~~42-48-106~~ 44-5-106, C.R.S.

6. Certain changes in class of license. The Town Clerk is authorized to administratively review and approve an application for a change in class of 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 holds a Fermented Malt Beverage On-Off Premises License that did not convert pursuant to state law and regulation, on March 1, 2023, to a Fermented Malt Beverage & Wine Retailer License; and
- b. The applicant has timely and properly submitted a complete application for a change in class of license to a Fermented Malt Beverage & Wine Retailer License and tendered all required fees in accordance with this Chapter and the provisions of Title 44, Article 4, C.R.S.;
- c. Notice of the Town's receipt of an application for the change in class of license and the ability to protest the issuance of the license has been posted on the subject property not less than ten (10) days prior to the date of approval of the license, and no protest to the issuance of such license has been filed on or before such date of approval; and

d. There is no information known by the Town Clerk that could support denial of the application for the Fermented Malt Beverage & Wine Retailer License under applicable law.

- D. Notwithstanding any authority delegated to the Town Clerk for the administrative approval of applications under this Section, the Town Clerk may, at her discretion, refer any licensing decision authorized to her under this Section to the authority if, in the Town Clerk's opinion, the matter should be presented to the authority. In the event the Town Clerk cannot or will not approve a transfer or renewal of a license, or the issuance of a special event license or temporary permit, ~~or the approval of a change in manager of a licensee,~~ or a change in class of license, then the Town Clerk shall refer the application to the authority for consideration in accordance with applicable law. Written notice of the time and place of such consideration shall be mailed to the applicant by regular mail at least ten (10) days in advance thereof and shall contain such facts or reasons relied upon by the Town Clerk in declining to issue the license or permit or approval. Notice of the proceedings shall also be timely published and posted on the subject premises in accordance with the requirements set forth in ~~Section 12-47-311~~ 44-3-311, C.R.S., and timely provided to any person who may have filed a protest against the issuance of the license with the Town Clerk. Additionally, any license or permit applicant, or any party in interest (as defined in ~~Section 12-47-311~~ 44-3-311, C.R.S.), who is dissatisfied with a decision of the Town Clerk under this Section may appeal same to the authority by filing a written protest with the Town Clerk not more than ten (10) days after the date of the decision appealed from. The Town Clerk shall promptly set the appeal for hearing before the authority in accordance with the notice and hearing procedures described above.
- E. The Town Clerk shall not approve an application for the renewal or transfer of a license where the Police Department has timely submitted written objections to the Town Clerk concerning such action. Whenever such an objection is received, the Town Clerk shall set the application for hearing before the authority in accordance with the procedures set forth in Subsection D above.
- F. The Town Clerk, for good cause, may waive the forty-five-day time requirement for filing a license renewal application.
- G. The Town Clerk shall regularly report to the authority in a timely manner all licensing actions taken by the Town Clerk under the provisions of this Section.

Section 2. Severability. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Repeal. Existing ordinances or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and any and all

ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed provided, however, that the repeal of any ordinance or parts of ordinances of the Town of Frisco shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

Section 4. Effective Date. This ordinance shall take effect pursuant to the Home Rule Charter of the Town of Frisco, Colorado.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION IN FULL AND POSTING BY TITLE ORDERED THIS _____ DAY OF MAY, 2023.

ADOPTED ON SECOND AND FINAL READING AND PUBLICATION BY TITLE ORDERED THIS _____ DAY OF MAY 2023.

TOWN OF FRISCO, COLORADO

Hunter Mortensen, Mayor

Attest:

Stacey Nell, Town Clerk