

**ORDINANCE NO. 5
SERIES 2022**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE VAIL
TOWN CODE RELATING TO ALCOHOLIC BEVERAGES, TO REFLECT
CHANGES IN STATE LAW**

WHEREAS, the Colorado General Assembly recently passed, and the Governor recently signed into law, House Bill 18-1023 and House Bill 18-1025, which will move sections of Title 12 of Colorado Revised Statutes into a new Title 44, effective October 1, 2018; and

WHEREAS the Town Council wishes to update the Vail Town Code accordingly.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF VAIL, COLORADO, THAT:**

Section 1. Section 3-5-2 of the Vail Town Code is hereby amended as follows:

3-5-2: LOCAL AUTHORITY DESIGNATED:

Pursuant to the provisions of ~~Colorado Revised Statutes section 12-46-103(4), section 12-47-103(9)~~ C.R.S. §§ 44-4-103(4), 44-3-103(27), and the Town Charter § 8.6, there is designated a Local Licensing Authority of the Town (the "Authority"), a commission composed of five members appointed by the Town Council, for the licensing of locations within the town to sell alcoholic liquors and fermented malt beverages and for the local administration of the Colorado Liquor Code of 1935, and the Colorado Beer Code Fermented Malt Beverages Act, in accordance with said statutes.

Section 2. Section 3-5-8 of the Vail Town Code is hereby amended as follows:

3-5-8: CONDUCT OF PROCEEDINGS AND HEARINGS:

The ~~Local Licensing~~ Authority shall conduct its proceedings in accordance with the provisions of the Colorado Liquor Code of 1935 and the Colorado Beer Code Fermented Malt Beverages Act. In order to ensure due process of law the ~~Local Licensing~~ Authority shall conduct its hearings and make its determinations as nearly as practicable in accordance with the procedures set forth in ~~Colorado Revised Statutes section~~ C.R.S. § 24-4-105, as amended. Written records of its proceedings shall be maintained, which shall be open to public inspection.

Section 3. Section 4-2-1 of the Vail Town Code is hereby repealed in its entirety.

Section 4. Section 4-2-2 of the Vail Town Code is hereby amended as follows:

4-2-2: STANDARDS FOR ISSUANCE OF OPTIONAL PREMISES LICENSE:

The following standards for the issuance of optional premises licenses or for optional premises for a hotel and restaurant license are hereby adopted pursuant to ~~the provisions of Colorado Revised Statutes section 12-47-135.5~~ C.R.S. § 44-3-310, as amended.

* * *

B. Eligible Facilities:

1. 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 ~~Colorado Revised Statutes section 12-47-103(13.5)(b)~~ C.R.S. § 44-3-103(33)(b), as amended. The types of outdoor sports and recreational facilities which may be considered for an outdoor premises license include the following:

- a. Country club.
- b. Golf courses and driving ranges.
- c. Ice skating areas.
- d. Ski areas.
- e. Swimming pools.

* * *

E. Advanced Notification. Pursuant to ~~Colorado Revised Statutes section 12-47-135(6) and (7)~~ C.R.S. § 44-3-310(3) and (4), as amended, no alcoholic beverages may be served on the optional premises until the licensee has provided written notice to the state and local licensing authorities forty eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notice must contain the specific days and hours on which the optional premises are to be used. ~~In this regard, there is~~ *with* no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is more than one hundred eighty (180) days from the notice date.

Section 5. Section 4-2-3.A of the Vail Town Code is hereby amended as follows:

4-2-3: TEMPORARY PERMITS:

A. Statutory *Authority Authorization*. This Section is enacted in accordance with ~~Colorado Revised Statutes sections 12-46-106.5 and 12-47-106.5~~ C.R.S. § 44-3-303 which authorize a local licensing authority, at its discretion, to issue a temporary permit to a transferee of a fermented malt beverage license or a liquor license issued by the state licensing authority.

Section 6. Section 4-2-4 of the Vail Town Code is hereby amended as follows:

4-2-4: BED AND BREAKFAST PERMIT:

A. Statutory Authority. This Section is enacted in accordance with ~~Colorado Revised Statutes section 12-47-118.5~~ C.R.S. § 44-3-412, as amended, which authorizes a Local Licensing Authority, at its option, to issue a bed and breakfast permit to a person operating a bed and breakfast establishment.

* * *

E. Cancellation. A bed and breakfast permit may be suspended or revoked in accordance with ~~Colorado Revised Statutes section 12-47-110~~ C.R.S. § 44-3-412, as amended, if the permittee violates any provision of ~~Colorado Revised Statutes article 47~~ C.R.S. Title 44 Article 3, or any rule adopted pursuant to said ~~Colorado Revised Statutes article 47~~ C.R.S. Title 44 Article 3, or fails truthfully to furnish any required information in connection with a permit application.

Section 7. Section 4-2-5 of the Vail Town Code is hereby amended as follows:

4-2-5: ALCOHOLIC BEVERAGE TASTINGS:

Pursuant to ~~section 12-47-301(10)(a)~~, ~~Colorado Revised Statutes~~ C.R.S. § 44-3-301(10)(a), the Town hereby authorizes alcoholic beverage tastings at licensed retail liquor stores and liquor licensed drugstores in the Town, subject to the limitations contained in ~~section 12-47-301(10)~~, ~~Colorado Revised Statutes~~ C.R.S. § 44-3-301(10), and subject to the approval by the local licensing authority of a tastings permit.

Section 8. Section 4-2-6 of the Vail Town Code is hereby amended as follows:

4-2-6: SPECIAL EVENT PERMITS:

A. Pursuant to ~~Colorado Revised Statutes section 12-48-107(5)(a)~~ C.R.S. § 44-5-107(5)(a), the local licensing authority ("Authority") elects not

to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of applications for special event permits.

* * *

C. Upon receipt of an application for a special event permit, the Authority shall, as required by ~~Colorado Revised Statutes section 12-48-107(5)(c)~~ C.R.S. § 44-5-107(5)(c), access information made available on the state licensing authority's website to determine the statewide permitting activity of the organization applying for the permit. The Authority shall consider compliance with ~~the provisions of Colorado Revised Statutes section 12-48-105(3)~~ C.R.S. § 44-5-105(3), which restricts the number of permits issued to an organization within a calendar year to fifteen (15), before approving any application.

* * *

E. Each application for a special event permit shall be accompanied by an application fee in an amount equal to the maximum local licensing fee established by ~~Colorado Revised Statutes section 12-48-107(2)~~ C.R.S. § 44-5-107(2)(c).

Section 9. Section 5-13-7.B. of the Vail Town Code is hereby amended as follows:

5-13-7: EXEMPTIONS:

* * *

B. A retail liquor store, as defined in ~~Colorado Revised Statutes section 12-47-103(31)~~ C.R.S. § 44-3-103(48), may provide a disposable paper bag to a customer with no fee if the disposable paper bag is provided for the containment of carry out alcoholic beverages as defined in ~~Colorado Revised Statutes section 12-47-103(2)~~ C.R.S. § 44-3-103(2).

Section 10. Section 6-3C-4.A. of the Vail Town Code is hereby amended as follows:

6-3C-4: DRINKING IN PUBLIC:

A. Prohibited: It is unlawful for any person to drink any malt, vinous, or spirituous liquors upon any street, alley, sidewalk, public building or public parking lot in the Town or within any vehicle upon the streets, alleys, sidewalks or public parking lots in the Town except by written authorization of the Town Council. It is unlawful for any person to possess in or upon any street, alley, sidewalk, public building or public parking lot in the Town, any malt, vinous, or spirituous liquors in any container of any kind or description which is not sealed or upon which the seal is broken. The word "sealed"

means the regular seal applied by the United States government over the cap of all malt, vinous or spirituous liquors. Notwithstanding the foregoing, it ~~is shall~~ not be unlawful for any person to have in ~~his or her~~ their possession or under ~~his or her~~ their control one open container of vinous liquor removed from a licensed premises pursuant to and subject to the limitations set forth in compliance with Colorado Revised Statutes section 12-47-411(3.5) C.R.S. § 44-3-423, as amended.

Section 11. Section 6-3C-5.C.1 of the Vail Town Code is hereby amended as follows:

6-3C-5. SALE OF INTOXICATING LIQUORS:

C. Illegal Possession or Consumption of Liquor By Underage Persons:

1. As used in this subsection, unless the context otherwise requires:

* * *

PRIVATE PROPERTY: Any dwelling and its curtilage which is being used by a natural person or natural persons 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:

a. Any establishment ~~which has or is~~ required to have a license pursuant to ~~article 46, 47, or 48 of title 12, Colorado Revised Statutes~~ C.R.S. Title 44, Article 3, 4, or 5; or

* * *

Section 12. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this ordinance; and the Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 13. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and the inhabitants thereof.

Section 14. The amendment of any provision of the Vail Town Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 15. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this ____ day of _____, 2022 and a public hearing for second reading of this Ordinance is set for the ____ day of _____, 2022, in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED this ____ day of _____, 2022.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk