

**Ordinance First Reading
Notice for Publication and Posting**

NOTICE OF PUBLIC HEARING

TOWN OF GYPSUM

P.O. Box 130
50 Lundgren Boulevard
Gypsum, CO 81637

This is to give notice that at a public meeting on May 9th, 2023, the following Ordinance was introduced, read by title, approved on first reading, and ordered posted and published by title only, by the Gypsum Town Council. A public hearing for final approval, rejection, or other action as may be taken by vote of Town Council on second reading is scheduled on May 23rd, 2023, at 7:00 p.m. in the Town Council Chambers at Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum Co 81637.

ORDINANCE NO. 05 (SERIES 2023) AN ORDINANCE An Ordinance Providing for the Repeal and Readoption of Title 19 of The Gypsum Municipal Code.

The text of this Ordinance is available for public inspection at the office of the Town Clerk, 50 Lundgren Blvd., Gypsum, Colorado, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. and on the Town's website at <https://townofgypsum.com>.
/ss: Becky Close, Town Clerk

TOWN OF GYPSUM, COLORADO

ORDINANCE NO.05 SERIES 2023

**AN ORDINANCE PROVIDING FOR THE REPEAL AND READOPTION OF
TITLE 19 OF THE GYPSUM MUNICIPAL CODE**

WHEREAS, the Town of Gypsum (“Town”) is a home rule municipality duly organized and existing under Articles XX of the Colorado Constitution and the Town’s Home Rule Charter effective October 21, 1982; and

WHEREAS, by Ordinance No. 1, Series 1985, and pursuant to the provisions of Section 31-16-201 through 31-16-208 of the Colorado Revised Statutes, as amended, the Town Council adopted the Gypsum Municipal Code (“Code) consisting of a codification of the Town’s ordinances of a general and permanent nature; and

WHEREAS, several titles, chapters, sections and subsections of the Code have been amended and/or repealed and readopted since 1985; and

WHEREAS, in order to reduce liability risks to the Town, add clarity and consistency, and ensure the Code incorporates current legislation and case law, the Town Council has undertaken a comprehensive review of the Code to ensure the Code is adequately serving the community’s needs as the Town grows; and

WHEREAS, the Town Council finds and determines that Title 19 (Alcoholic Beverages) should be repealed and its content readopted and codified, as amended, and that the same is necessary and designed for the purposes of updating Title 19 to comply with changes in the Colorado Revised Statutes, and promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants and visitors of the Town;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Gypsum, Colorado that:

Section 1. Repeal and Readoption of Title 19 (Alcoholic Beverages). Title 19 of the Gypsum Municipal Code is hereby repealed and readopted in its entirety, as attached hereto and incorporated herein.

Section 2. Public Inspection. Copies of this ordinance and the Gypsum Municipal Code are available for public inspection at the office of the Gypsum Town Clerk.


Section 3 Public Hearing: A public hearing on this Ordinance shall be held on the 9th day of May, 2023, at 7 p.m. at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

Section 4. Effective Date. This Ordinance shall become effective as a permanent Ordinance five (5) days after publication, following final adoption after a public hearing held on the 23rd day of May, 2023, at 7 p.m., at the Gypsum Town Hall, 50 Lundgren Blvd., Gypsum, Colorado.

Section 5. Severability. If any portion of this Ordinance, or the Gypsum Municipal Code amended hereby, is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF GYPSUM ON THE 9th DAY OF MAY, 2023.

TOWN OF GYPSUM

By: 
Stephen M. Carver, Mayor

Attest:


Becky Close, Town Clerk



INTRODUCED ON SECOND READING, READ, CONSIDERED AT A PUBLIC HEARING AND FINALLY ADOPTED, PASSED AND APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED POSTED AND PUBLISHED, BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE AND PASSED AT ITS MEETING HELD ON THE 23rd DAY OF MAY, 2023, BY A VOTE OF _____ IN FAVOR AND _____ AGAINST.

TOWN OF GYPSUM

By: _____
Stephen M. Carver, Mayor

Attest:

Becky Close, Town Clerk

(S E A L)

TITLE 19 - ALCOHOLIC BEVERAGES

Chapter 19.01 - PURPOSE

19.01.010 - Purpose.

The purpose of this Title 19, Alcoholic Beverages, is to provide for the regulation of the sale and possession of alcoholic beverages within the Town in order to ensure and provide for the health, safety, morals and general welfare of the Town.

Chapter 19.02 - OPTIONAL PREMISES LIQUOR LICENSES

19.02.010 - Optional Premises Licenses—Standards Adopted.

The following standards for the issuance of annually renewable optional premises liquor licenses, or optional premises for a hotel and restaurant licenses (referred to throughout this Chapter as "optional premises license(s)") for the sale of alcoholic beverages or for storing alcoholic beverages on or off the optional premises for future use on the optional premises, are hereby adopted pursuant to Section 44-3-309, C.R.S., as amended.

19.02.020 - Standards Additional to Standards Under the Colorado Liquor Code.

The standards contained in this Chapter shall be considered in addition to all other standards and requirements applicable to the issuance of licenses under Section 44-3-101 *et seq.*, C.R.S., the "Colorado Liquor Code," for Optional Premises Licenses.

19.02.030 - Eligible Facilities.

An optional premises license may only be approved when the optional premises applied for are:

- (1) In the case of an application for a hotel and restaurant license, the hotel and restaurant's related outdoor sports and recreational facilities established for the convenience of its guests or the general public, located on or adjacent to the hotel or restaurant; or
- (2) In the case of an application for an optional premises license, located on an applicant's outdoor sports and recreational facility (as defined in Section 44-3-103(33)(b), C.R.S.).

(3) The types of outdoor sports and recreation facilities which may be considered for an optional premises license include, without limitation, the following:

- (a) Country clubs;
- (b) Golf courses and driving ranges;
- (c) Ice skating areas;
- (d) Ski areas;
- (e) Swimming pools.

(4) There are no restrictions on the minimum size of the outdoor sports and recreational facilities which may be eligible for the approval of an optional premises license. However, the local licensing authority (as defined in Section 44-3-103(27), C.R.S.) of the Town referred to throughout this Chapter as the "local authority") may consider the size of the particular outdoor sports or recreational facility in relationship to the number of optional premises requested for the facility.

19.02.040 - Submittal Requirements.

When submitting a request for the approval by the local licensing authority of an optional premises license, an applicant shall submit the following information to the local licensing authority:

- (1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises applied for;
- (2) A legal description of the approximate area within which the optional premises shall be located;
- (3) A map or diagram showing seating, restrooms, and restricted access areas;
- (4) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use;
- (5) A description of the provisions which have been made for storing malt, vinous, and spirituous liquors in a secured area on or off the optional premises for future use on the optional premises;
- (6) A written statement setting forth what will be done to secure the optional premises and storage area or areas;
- (7) A written statement indicating why the local authority should grant the license;

(8) If the applicant does not own the proposed optional premises, a written statement by the owner of the premises, approving the application and license sought; and

(9) Other information deemed necessary, by the local authority, to insure the control of the optional premises, the ease of enforcement, and that the health, safety and welfare of the neighborhood and outdoor sports and recreational facility users will not be adversely affected should the license be issued.

19.02.050 - Advance Notification.

Pursuant to Sections 44-3-310(3) and 44-3-310(4), C.R.S., as amended, no alcoholic beverages may be served on the optional premises until the licensee provides written notice to the state and local licensing authorities 48 hours prior to serving alcoholic beverages on the optional premises. Said notice shall contain the specific days and hours on which the optional premises are to be used.

19.02.060 - Ultimate Authority—Illegal Acts.

(1) Nothing contained herein shall preclude the local premises license in order to serve the public health, safety and welfare. Any such conditions may be imposed when the license is initially issued or should any specific event or use of the optional premises so warrant.

(2) It is unlawful for any person to sell, dispense or store alcoholic beverages at an outdoor sports and recreational facility without having first obtained a valid optional premises license as provided in this Chapter and the Colorado Liquor Code, or in violation of any provision, restriction or limitation of any issued optional premises license.

Chapter 19.03 - VIOLATIONS

19.03.010 - Prohibited Distribution.

It is unlawful for any person to sell, serve, give away, dispose of, dispense or permit the sale, serving, giving, disposition or dispensing of any alcoholic beverage, including fermented malt beverages commonly known as 3.2 beer, to any person under the age of 21 years, to a visibly intoxicated person, or to a known habitual drunkard. It is the responsibility of anyone licensed by the Town or licensed by the state and operating within the Town to dispense alcoholic beverages to determine if any person is under the age of 21 or visibly intoxicated before selling, serving, giving, disposing of or otherwise dispensing such beverages to such person.

19.03.020 - Prohibited Possession.

It is unlawful to obtain or possess in any public place, or to attempt to obtain or possess in any public place any alcoholic beverage, including 3.2 beer, by a person under 21 years of age.

19.03.030 - Related Prohibitions.

It is unlawful for any person to assist any other person in the violation of Sections 19.03.010 and 19.03.020. It is unlawful to make false statements or to furnish, present or exhibit any false documentation for the purpose of violating Sections 19.03.010 and 19.03.020.

Chapter 19.04 - TASTINGS

19.04.010 - Definitions.

As used in this Chapter, unless the context clearly requires otherwise, the following terms shall have the meanings set forth herein:

(1) *Liquor authority* means the Town Council of the Town, sitting as the local liquor licensing authority of the Town.

(2) *Sample* means a one ounce serving of a malt or vinous liquor or a one-half ounce serving of a spirituous liquor. The term shall also include any opened bottle or container of malt or vinous liquor intended to be dispensed in one ounce servings or spirituous liquor intended to be dispensed in one-half ounce servings to patrons for the purpose of allowing them to taste its contents.

(3) *Tastings* means the sampling of malt, vinous or spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor-licensed drugstore licensee by adult patrons of the licensee.

19.04.020 - Tastings.

(1) The Town hereby authorizes tastings to be conducted by licensed retail liquor stores and liquor-licensed drugstores in accordance with this Chapter and pursuant to Section 44-3-301, C.R.S. No tastings shall be conducted in any licensed retail liquor store or liquor-licensed drugstore until such establishment obtains a tastings permit from the Town.

(2) Any licensed retail liquor store or liquor-licensed drugstore desiring to conduct tastings on its premises shall obtain a permit from the liquor authority by first completing a tastings permit application and paying a permit fee, which shall be established by and periodically amended by resolution of the Town Council.

(3) The liquor authority is hereby authorized to establish the procedures for processing a tastings permit application. The liquor authority may deny issuance of a tastings permit if it determines that the applicant has failed to establish that the licensee is able to conduct tastings without violating the provision of this Chapter or that the granting of a permit would create a public safety risk to the neighborhood. Issued permits shall not be transferable to a new owner in the event of a sale of the permitted establishment.

(4) Tasting permits shall not be issued by the liquor authority until the applicant provides proof of liability insurance in the amount of \$1,000,000.00 to cover any potential claims that could arise as a result of serving liquor on the premises.

(5) Tastings shall be subject to the limitations set forth in §44-3-301(1), C.R.S. and as follows:

(a) At the discretion of the liquor authority, violations of these provisions shall be grounds for revocation of the tastings permit and may be considered as part of the annual review and renewal of the establishment's liquor license.

(b) Prior to any revocation, suspension or imposition of fines or penalties, the liquor authority shall conduct a public hearing, pursuant to Section 44-3-601, C.R.S., at which hearing the licensee shall be afforded the opportunity to be heard to defend the revocation, suspension, or imposition of fines or penalties.

Chapter 19.05 - SPECIAL EVENT LIQUOR PERMIT

19.05.010 - Definitions.

As used in this Chapter, unless the context clearly requires otherwise, the following terms shall have the meanings set forth herein:

- (1) *Alcoholic beverage* means malt, spirituous or vinous liquor sold by the drink.
- (2) *Licensee* means an applicant granted a special event liquor permit.
- (3) *Liquor authority* means the Town Council of the Town, sitting as the local liquor licensing authority of the Town, or an administrative officer of the Town designated by the Town Council.
- (4) *Organization* means an organization incorporated under the laws of Colorado for purposes of a social, fraternal, patriotic, political or athletic nature and not for pecuniary gain, or a regularly chartered branch, lodge or chapter of a national nonprofit organization or society which is organized for social, fraternal, patriotic, political or athletic purposes, or a regularly established religious or philanthropic institution.
- (5) *Political candidate* means a political candidate who has filed the necessary reports and statements with the Secretary of State pursuant to Title 1, Article 45, C.R.S.

19.05.020 - Application.

(1) Pursuant to Section 44-5-107(5)(a), C.R.S., the Town Council, acting as the liquor authority, elects not to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of applications for special event liquor permits. The Town hereby authorizes the issuance of special event liquor permits for the sale, by the drink only, of malt beverages, or the sale, by the drink only, of malt, spirituous or vinous liquors to the Town, organizations, and political candidates in accordance with this Chapter and pursuant to Section 44-5-101, *et seq.*, C.R.S. No alcoholic beverages shall be sold at any special event until a special event liquor permit is obtained from the Town. The standards contained in this Chapter shall be considered in addition to all other standards and requirements applicable to the issuance of licenses under "the Colorado Liquor Code".

(2) Any organization or political candidate desiring to sell alcoholic beverages at a special event shall obtain a permit from the liquor authority by first completing a special event liquor permit application and paying a permit fee, which shall be established by and periodically amended by resolution of the Town Council. An

applicant must file the application at least 30 days prior to the date of the event, unless waived by the liquor authority for good cause shown.

(3) The liquor authority is hereby authorized to establish the procedures for processing a special event liquor permit application. The application must be verified by oath or affirmation. Public notice of the proposed permit and of the procedure for protesting issuance of the permit shall be conspicuously posted at the proposed location for at least ten days before approval of the permit by the liquor authority.

(4) Upon receipt of an application for a special event liquor permit, the liquor authority shall, as required by Section 44-5-107(5)(c), C.R.S., access information made available on the state licensing authority's website to determine the statewide permitting activity of the organization applying for the permit. Before approving an application, the liquor authority shall consider compliance with Section 44-5-105(3), C.R.S., which restricts the number of permits issued to an organization in a calendar year.

(5) The liquor authority may deny issuance of a special event liquor permit if it determines that the issuance would be injurious to the public welfare because of the nature of the special event, its location within the community, or the failure of the applicant in a past special event to conduct the event in compliance with applicable laws. Issued permits shall not be transferable.

(6) The liquor authority shall cause a hearing to be held if, after investigation and upon review of the contents of any protest filed by affected persons, sufficient grounds appear to exist for denial of a permit. Any protest shall be filed by affected persons within ten days after the date of notice. The hearing shall be held at least ten days after the initial posting of the notice, and notice of the hearing shall be provided the applicant and any person who has filed a protest.

(7) As required by Section 44-5-107(5)(a), C.R.S., the liquor authority shall report to the Colorado Liquor Enforcement Division, within ten days after it issues a permit, the name of the organization to which a permit was issued, the address of the permitted location, and the permitted dates of alcohol beverage service.

(8) The liquor authority is hereby authorized to establish the procedures for processing a special event liquor permit application. The application must be verified by oath or affirmation. Public notice of the proposed permit and of the procedure for protesting issuance of the permit shall be conspicuously posted at the proposed location for at least ten days before approval of the permit by the liquor authority.

19.05.030 - Limitations.

Special event liquor permits shall be subject to the limitations set forth in §44-5-105, C.R.S.

19.05.040 - Violation.

At the discretion of the liquor authority, violations of these provisions shall be grounds for revocation of the special event liquor permit. Prior to any revocation, suspension or imposition of fines or penalties, the liquor authority shall conduct a public hearing, at which hearing the licensee shall be afforded the opportunity to be heard to defend the revocation, suspension, or imposition of fines or penalties. These provisions shall also be enforced in accordance with Chapter 19.05 of this Code.

Chapter 19.06 - POSSESSION OF OPEN ALCOHOLIC OR FERMENTED MALT BEVERAGE CONTAINER IN LUNDGREN PARK AND TOWN HALL PARK.

19.06.010 - Possession on Parks. The consumption or possession of fermented malt beverages (beer) and vinous liquors (wine) are permitted in the following public parks: the Lundgren Park at 789 Valley Road and Town Hall Park at 46 Lundgren Boulevard, subject to the following limitations. The consumption or possession of alcoholic beverages in all other Town parks is strictly prohibited.

- (1) No alcohol beverages in glass containers are allowed.
- (2) No alcohol beverage shall be consumed in any parking lot or inside a motor vehicle.
- (3) No alcohol beverage shall be possessed or consumed in any designated park when the park is closed, and between the hours of 11:00 p.m. and 7:00 a.m.
- (4) Any Town official, including without limitation the Town Manager, Town Clerk, Town Special Event Coordinator, and any Town Police Officer, may order any individual to remove alcohol beverages from the parks at any time, for any reason.

Chapter 19.07 - ENFORCEMENT

19.07.010 - Enforcement Officer.

The Town Council appoints the Town Manager or such other person as may be designated as the alcoholic beverage enforcement officer. If such enforcement officer shall find that any provisions of the Title are being violated, he has the authority to enforce this Title. Enforcement may be effected via the provision of written notice demanding immediate cessation of the violation or by initiation of any action in the municipal court. Enforcement options shall be at the sole discretion of the enforcement officer.

19.07.020 - Municipal Court.

Upon filing of a complaint by the alcoholic beverage enforcement officer, the municipal court shall retain full jurisdiction over the matter and shall dispose of the matter within the bounds of its authority and discretion.