

City of Scottsbluff, Nebraska

Monday, October 17, 2016

Regular Meeting

Item Pub. Hear.1

Council to conduct a public hearing at 6:05 p.m. to consider the Class CK Liquor License application for Blackstone Spirits LLC dba Kelley's Liquor, 817 West 27th St., Scottsbluff, NE.

Staff Contact: Cindy Dickinson, City Clerk

Agenda Statement

Item No.

For meeting of: October 17, 2016

AGENDA TITLE: Council to hold a public hearing as advertised for this date at 6:05 p.m. for a Class CK Liquor License for Blackstone Spirits LLC dba Kelley's Liquor, 817 West 27th St.

SUBMITTED BY DEPARTMENT/ORGANIZATION: Administration

PRESENTATION BY: Applicant

SUMMARY EXPLANATION:

BOARD/COMMISSION RECOMMENDATION:

STAFF RECOMMENDATION: Conduct the public hearing and consider a recommendation to the Nebraska Liquor Commission either approving or denying said application.

EXHIBITS

Resolution ☒

Ordinance ☐

Contract ☐

Minutes ☐

Plan/Map ☐

Other (specify) ☐ Application, Memorandums, Exhibits

Exhibit #1 – Application of Blackstone Spirits LLC dba Kelley's Liquor, 817 West 27th St., Scottsbluff, NE 69361.

Exhibit #2 – City Council Check List for Neb. Rev. Stat. §53-132 Cum Supp 2010

Exhibit #3 – Written Statement of Police Chief

Exhibit #4 – Written Statement of City Clerk

Exhibit #5 – Written Statement of Planning Administrator

NOTIFICATION LIST: Yes ☒ No ☐ Further Instructions ☐

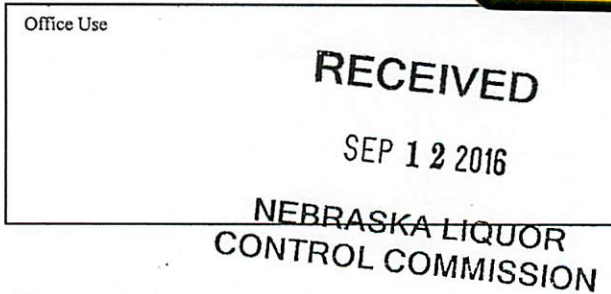
Kelley's Liquor
817 West 27th St.,
Scottsbluff, NE 69361

APPROVAL FOR SUBMITTAL: _____
City Manager



APPLICATION FOR LIQUOR LICENSE
LIMITED LIABILITY COMPANY (LLC)
INSERT - FORM 3b

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov



All members including spouse(s), are required to adhere to the following requirements:

- 1) All members spouse(s) must be listed
- 2) Managing/Contact member and all members holding over 25% interest and their spouse(s) (if applicable) must submit fingerprints. See Form 147 for further information, this form MUST be included with your application.
- 3) Managing/Contact member and all members holding over 25 % shares of stock and their spouse (if applicable) must sign the signature page of the Application for License form 100 (even if a spousal affidavit has been submitted)

Attach copy of Articles of Organization (must show electronic stamp or barcode receipt by Secretary of States office)

Name of Registered Agent: Jerald L. Ostdiek

Name of Limited Liability Company that will hold license as listed on the Articles of Organization
Blackstone Spirits, L.L.C.

LLC Address: 1421 East Overland

City: Scottsbluff State: NE Zip Code: 69361

LLC Phone Number: (308) 631-0740

LLC Fax Number _____

Name of Managing/Contact Member

Name and information of contact member must be listed on following page

Last Name: Kilpatrick First Name: Cory MI: G.

Home Address: 90611 Sugar Factory Road City: Scottsbluff

State: NE Zip Code: 69361 Home Phone Number: (308) 631-0740

Signature of Managing/Contact Member

ACKNOWLEDGEMENT

State of Nebraska
County of Scotts Bluff

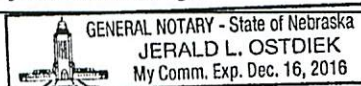
The foregoing instrument was acknowledged before me this

9-9-16

by Cory G. Kilpatrick, Managing Member of Blackstone Spirits, LLC
name of person acknowledge

Date

Affix Seal



**APPLICATION FOR LIQUOR LICENSE
RETAIL**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov/

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**NEBRASKA LIQUOR
CONTROL COMMISSION**

**CLASS OF LICENSE FOR WHICH APPLICATION IS MADE AND FEES
CHECK DESIRED CLASS**

RETAIL LICENSE(S)

Application Fee \$400 (nonrefundable)

- ☐ A BEER, ON SALE ONLY
- ☐ B BEER, OFF SALE ONLY
- ☒ C BEER, WINE, DISTILLED SPIRITS, ON AND OFF SALE
- ☐ D BEER, WINE, DISTILLED SPIRITS, OFF SALE ONLY
- ☐ I BEER, WINE, DISTILLED SPIRITS, ON SALE ONLY
- ☐ J LIMITED ALCOHOLIC LIQUOR, OFF SALE – MUST INCLUDE SUPPLEMENTAL FORM 120
- ☐ AB BEER, ON AND OFF SALE
- ☐ AD BEER ON SALE ONLY, BEER, WINE, DISTILLED SPIRITS OFF SALE
- ☐ IB BEER, WINE, DISTILLED SPIRITS ON SALE, BEER OFF SALE ONLY

☒ Class K Catering license (requires catering application form 106) \$100.00

Additional fees will be assessed at city/village or county level when license is issued

Class C license term runs from November 1 – October 31

All other licenses run from May 1 – April 30

Catering license (K) expires same as underlying retail license

CHECK TYPE OF LICENSE FOR WHICH YOU ARE APPLYING

- ☐ Individual License (requires insert 1 FORM 104)
- ☐ Partnership License (requires insert 2 FORM 105)
- ☐ Corporate License (requires insert 3a FORM 101 & 3c FORM 103)
- ☒ Limited Liability Company (LLC) (requires form 3b FORM 102 & 3c FORM 103)

**NAME OF ATTORNEY OR FIRM ASSISTING WITH APPLICATION (if applicable)
Commission will call this person with any questions we may have on this application**

Name Jerald L. Ostdiek

Phone number: (308) 632-7191

Firm Name Douglas, Kelly, Ostdiek, Ossian, Broderick and Vogl, PC

PREMISES INFORMATIONTrade Name (doing business as) Kelley's LiquorStreet Address #1 817 West 27th Street

Street Address #2 _____

City ScottsbluffCounty Scotts BluffPremises Telephone number (308) 632-5855Business e-mail address wheelman88@yahoo.com

Is this location inside the city/village corporate limits:

YES

x

NO

Mailing address (where you want to receive mail from the Commission)

Name Cory G. KilpatrickStreet Address #1 817 West 27th Street

Street Address #2 _____

City ScottsbluffState NEZip Code 69361**DESCRIPTION AND DIAGRAM OF THE STRUCTURE TO BE LICENSED****READ CAREFULLY**

In the space provided or on an attachment draw the area to be licensed. This should include storage areas, basement, outdoor area, sales areas and areas where consumption or sales of alcohol will take place. If only a portion of the building is to be covered by the license, you must still include dimensions (length x width) of the licensed area as well as the dimensions of the entire building. No blue prints please. Be sure to indicate the direction north and number of floors of the building.

****For on premises consumption liquor licenses minimum standards must be met by providing at least two restrooms**

Building: length 60 x width 41 in feet

Is there a basement? Yes _____

No x

If yes, length _____ x width _____ in feet

Is there an outdoor area? Yes _____

No x

If yes, length _____ x width _____ in feet

PROVIDE DIAGRAM OF AREA TO BE LICENSED BELOW OR ATTACH SEPARATE SHEET

SEE ATTACHED

APPLICANT INFORMATION**1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY §53-125(5)**

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name. Include traffic violations. Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

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If yes, please explain below or attach a separate page

**NEBRASKA LIQUOR
CONTROL COMMISSION**

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (city & state)	Description of Charge	Disposition
See Attached				

2. Are you buying the business of a current retail liquor license?☒ YES ☐ NOIf yes, give name of business and liquor license number U-23, Inc., License #053490

- a) Submit a copy of the sales agreement
- b) Include a list of alcohol being purchased, list the name brand, container size and how many
- c) Submit a list of the furniture, fixtures and equipment

3. Was this premise licensed as liquor licensed business within the last two (2) years?☒ YES ☐ NOIf yes, give name and license number U-23, Inc., License #053490**4. Are you filing a temporary operating permit (TOP) to operate during the application process?**☒ YES ☐ NO

If yes:

- a) Attach temporary operating permit (TOP) (Form 125)
- b) TOP will only be accepted at a location that currently holds a valid liquor license.

FORM 100
REV AUG 2016
PAGE 5

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5. Are you borrowing any money from any source, include family or friends, to establish and/or operate the business?

☒ YES ☐ NO

If yes, list the lender(s) Platte Valley Bank, Scottsbluff, NE

NEBRASKA LIQUOR
CONTROL COMMISSION

6. Will any person or entity, other than applicant, be entitled to a share of the profits of this business?

☒ YES ☐ NO

If yes, explain. (all involved persons must be disclosed on application)

Cory G. Kilpatrick and Karen Hunter, Members of LLC

No silent partners

7. Will any of the furniture, fixtures and equipment to be used in this business be owned by others?

☒ YES ☐ NO

If yes, list such item(s) and the owner. See attached

8. Is premises to be licensed within 150 feet of a church, school, hospital, home for the aged or indigent persons or for veterans, their wives, and children, or within 300 feet of a college or university campus?

☐ YES ☒ NO

If yes, provide name and address of such institution and where it is located in relation to the premises (Neb. Rev. Stat. 53-177)(1)

Provide letter of support or opposition, see FORM 134 – church or FORM 135 – campus

9. Is anyone listed on this application a law enforcement officer?

☐ YES ☒ NO

If yes, list the person, the law enforcement agency involved and the person's exact duties.

10. List the primary bank and/or financial institution (branch if applicable) to be utilized by the business.

a) List the individual(s) who will be authorized to write checks and/or withdrawals on accounts at this institution.

Platte Valley Bank (Scottsbluff, NE), Cory G. Kilpatrick, and Karen Hunter

11. List all past and present liquor licenses held in Nebraska or any other state by any person named in this application. Include license holder name, location of license and license number. Also list reason for termination of any license(s) previously held.

None

FORM 100
REV AUG 2016
PAGE 6

CORY G. KILPATRICK				
	06/1998	Otoe County, NE	Speeding 11-15 mph – Infraction	Tried to Court – Guilty – Fine \$75.00
	07/1998	Lincoln County, NE	Overweight Capacity Plates – Infraction	Guilty Plea by Waiver – Fine \$100.00
	01/2001	Scotts Bluff County, NE	No License on Person – Class 3 Misdemeanor	Tried to Court – Guilty – Fine \$25.00
	09/2002	Banner County, NE	Speeding 11-15 mph – Infraction	Guilty Plea by Waiver – Fine \$75.00
	12/2005	Kimball County, NE	Speeding 11-15 mph – Infraction	Guilty Plea by Waiver – Fine \$75.00
	01/2008	Scotts Bluff County, NE	Speeding 11-15 mph – Infraction	Guilty Plea by Waiver – Fine \$75.00

Although Court records indicate a charge of False Reporting – Class 1 Misdemeanor conviction of Guilty by Plea-
Fine \$150.00 in December 1999, in Lancaster County, NE, for Cory G. Kilpatrick, this was not me.

KONI J. KILPATRICK				
	NONE			

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**NEBRASKA LIQUOR
CONTROL COMMISSION**

Form 100
Page 5-A

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12. List the alcohol related training and/or experience (when and where) of the person(s) making application. Those persons required are listed as followed:

- Individual: Applicant and spouse; spouse is exempt if they filed Form 116 – Affidavit of Non-Participation.
- Partnership: All partners and spouses, spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.
- Limited Liability Company: All member of LLC, Manager and all spouses; spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.
- Corporation: President, Stockholders holding 25% or more of shares, Manager and all spouses; spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.

NLCC certified training program completed:

Applicant Name	Date (mm/yyyy)	Name of program (attach copy of course completion certificate)
Cory G. Kilpatrick	10/2016	Responsible Beverage Server Training
Koni J. Kilpatrick	10/2016	Responsible Beverage Server Training

List of NLCC certified training programs

Experience:

Applicant Name/Job Title	Date of Employment:	Name & Location of Business

13. If the property for which this license is sought is owned, submit a copy of the deed, or proof of ownership. If leased, submit a copy of the lease covering the entire license year. **Documents must show title or lease held in name of applicant as owner or lessee in the individual(s) or corporate name for which the application is being filed.**

- ☒ Lease: expiration date September 30, 2021
- ☐ Deed
- ☒ Purchase Agreement

14. When do you intend to open for business? October 1, 2016

15. What will be the main nature of business? Liquor Sales

16. What are the anticipated hours of operation? 8am - 11pm Monday -Saturday; and 12pm to 11pm Sunday

17. List the principal residence(s) for the past 10 years for all persons required to sign, including spouses.

RESIDENCES FOR THE PAST 10 YEARS. APPLICANT AND SPOUSE MUST COMPLETE					
APPLICANT: CITY & STATE	YEAR FROM TO		SPOUSE: CITY & STATE	YEAR FROM TO	
Scottsbluff, NE	2015	2016	Scottsbluff, NE	2015	2016
Gering, NE	1999	2015	Gering, NE	1999	2015

If necessary attach a separate sheet.

FORM 100
REV AUG 2016
PAGE 7

**APPLICATION FOR LIQUOR LICENSE
LIMITED LIABILITY COMPANY (LLC)
INSERT - FORM 3b**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov

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All members including spouse(s), are required to adhere to the following requirements:

- 1) All members spouse(s) must be listed
- 2) Managing/Contact member and all members holding over 25% interest and their spouse(s) (if applicable) must submit fingerprints. See Form 147 for further information, this form MUST be included with your application.
- 3) Managing/Contact member and all members holding over 25 % shares of stock and their spouse (if applicable) must sign the signature page of the Application for License form 100 (even if a spousal affidavit has been submitted)

Attach copy of Articles of Organization (must show electronic stamp or barcode receipt by Secretary of State's office)

Name of Registered Agent: Jerald L. Ostdiek

Name of Limited Liability Company that will hold license as listed on the Articles of Organization

Blackstone Spirits, L.L.C.

LLC Address: 1421 East Overland

City: Scottsbluff State: NE Zip Code: 69361

LLC Phone Number: (308) 631-0740

LLC Fax Number _____

Name of Managing/Contact Member

Name and information of contact member must be listed on following page

Last Name: Kilpatrick First Name: Cory MI: G.

Home Address: 90611 Sugar Factory Road City: Scottsbluff

State: NE Zip Code: 69361 Home Phone Number: (308) 631-0740


Signature of Managing/Contact Member

ACKNOWLEDGEMENT

State of Nebraska
County of Scotts Bluff

The foregoing instrument was acknowledged before me this

by 9-9-16
Date Cory G. Kilpatrick, Managing Member of Blackstone Spirits, LLC
name of person acknowledge

Affix Seal



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The undersigned applicant(s) hereby consent(s) to an investigation of his/her background and release present and future records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant(s) and spouse(s) waive(s) any right or causes of action that said applicant(s) or spouse(s) may have against the Nebraska Liquor Control Commission, the Nebraska State Patrol, and any other individual disclosing or releasing said information. Any documents or records for the proposed business or for any partner or stockholder that are needed in furtherance of the application investigation of any other investigation shall be supplied immediately upon demand to the Nebraska Liquor Control Commission or the Nebraska State Patrol. The undersigned understand and acknowledge that any license issued based on the information submitted in this application, is subject to cancellation if the information contained herein is incomplete, inaccurate or fraudulent.

Individual applicants agree to supervise in person the management and operation of the business and that they will operate the business authorized by the license for themselves and not as an agent for any other person or entity. Corporate applicants agree the approved manager will superintend in person the management and operation of the business. Partnership applicants agree one partner shall superintend the management and operation of the business. All applicants agree to operate the licensed business within all applicable laws, rules, regulations, and ordinances and to cooperate fully with any authorized agent of the Nebraska Liquor Control Commission.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in FBI identification record. The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

Must be signed in the presence of a notary public by applicant(s) and spouse(s). See guideline for required signatures

X 
Signature of Applicant

Cory G. Kilpatrick

Print Name

X 
Signature of Spouse

Koni J. Kilpatrick

Print Name

Signature of Applicant

Print Name


Signature of Spouse

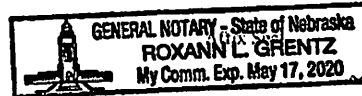
Print Name

ACKNOWLEDGEMENT

State of Nebraska
County of SCOTTS BLUFF

The foregoing instrument was acknowledged before me this
Cory G. Kilpatrick and Koni J. Kilpatrick
name of person(s) acknowledged (individual(s) signing)

9th day of September, 2016 by
date

Notary Public signature



In compliance with the ADA, this application is available in other formats for persons with disabilities.
A ten day advance period is required in writing to produce the alternate format.

FORM 100
REV AUG 2016
PAGE 8

List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: Kilpatrick First Name: Cory MI: G.

Social Security Number: _____ Date of Birth: 02/18/1970

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Spouse Full Name (indicate N/A if single): Koni J. Kilpatrick

SEP 12 2016

Spouse Social Security Number: _____ Date of Birth: 11/19/1969

NEBRASKA LIQUOR
CONTROL COMMISSION

Percentage of member ownership 75%

Last Name: Hunter First Name: Karen MI: _____

Social Security Number: _____ Date of Birth: 04/04/1946

Spouse Full Name (indicate N/A if single): NA

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership 25%

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

FORM 102
REV JUNE 2015
Page 2 of 4

List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

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NEBRASKA LIQUOR
CONTROL COMMISSION

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

Last Name: _____ First Name: _____ MI: _____

Social Security Number: _____ Date of Birth: _____

Spouse Full Name (indicate N/A if single): _____

Spouse Social Security Number: _____ Date of Birth: _____

Percentage of member ownership _____

FORM 102
REV JUNE 2015
Page 3 of 4

**MANAGER APPLICATION
INSERT - FORM 3c**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov

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**NEBRASKA LIQUOR
CONTROL COMMISSION**

MUST BE:

- ✓ Citizen of the United States. Include copy of US birth certificate, naturalization paper or current US passport
- ✓ Nebraska resident. Include copy of voter registration card or print out document from Secretary of State website
- ✓ Fingerprinted. See form 147 for further information, read form carefully to avoid delays in processing, this form **MUST** be included with your application
- ✓ 21 years of age or older

Corporation/LLC information

Name of Corporation/LLC: Blackstone Spirits, L.L.C.

Premises information

Liquor License Number: _____ Class Type _____ (if new application leave blank)

Premises Trade Name/DBA: Kelley's Liquor

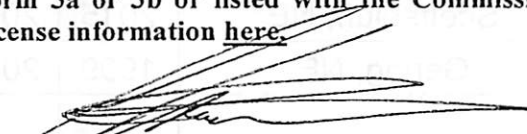
Premises Street Address: 817 West 27th Street

City: Scottsbluff County: Scotts Bluff Zip Code: 69361

Premises Phone Number: (308) 632-5855

Premises Email address: wheelman88@yahoo.com

The individual whose name is listed as a corporate officer or managing member as reported on insert form 3a or 3b or listed with the Commission. To see authorized officers or members search your license information here.



Cory G. Kilpatrick, Managing Member

SIGNATURE REQUIRED BY CORPORATE OFFICER / MANAGING MEMBER
(Faxed signatures are acceptable)

Manager's information must be completed below PLEASE PRINT CLEARLY

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MI: G.
NEBRASKA LIQUOR
CONTROL COMMISSION
Zip Code: 68361

Last Name: Kilpatrick First Name: Cory
Home Address: 90611 Sugar Factory Road
City: Scottsbluff County: NE
Home Phone Number: (308) 631-0740
Driver's License Number & State: _____
Social Security Number: _____
Date Of Birth: 02/18/1970 Place Of Birth: McCook, Nebraska
Email address: wheelman88@yahoo.com

Are you married? If yes, complete spouse's information (Even if a spousal affidavit has been submitted)



YES



NO

Spouse's information

Spouses Last Name: Kilpatrick First Name: Koni MI: J.
Social Security Number: _____
Driver's License Number & State: _____
Date Of Birth: 11/19/1969 Place Of Birth: Scottsbluff, Nebraska

APPLICANT & SPOUSE MUST LIST RESIDENCE(S) FOR THE PAST TEN (10) YEARS
APPLICANT SPOUSE

CITY & STATE	YEAR FROM	YEAR TO	CITY & STATE	YEAR FROM	YEAR TO
Scottsbluff, NE	2015	2016	Scottsbluff, NE	2015	2016
Gering, NE	1999	2015	Gering, NE	1999	2015

MANAGER'S LAST TWO EMPLOYERS

YEAR FROM	TO	NAME OF EMPLOYER	NAME OF SUPERVISOR	TELEPHONE NUMBER
2013	2016	All Star Custom's	Cory Kilpatrick	(308) 631-0740
2010	2013	Greg's Auto Body	Greg Muhr/ Andy Muhr	(308) 632-3113

SEP 12 2016

1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.

Must be completed by both applicant and spouse, unless spouse has filed an affidavit of non-participation.

**NEBRASKA LIQUOR
CONTROL COMMISSION**

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea, include traffic violations. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name. Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

☒ YES ☐ NO

If yes, please explain below or attach a separate page.

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (City & State)	Description of Charge	Disposition
SEE ATTACHED				

2. Have you or your spouse ever been approved or made application for a liquor license in Nebraska or any other state?

☐ YES ☒ NO

IF YES, list the name of the premise(s):

3. Do you, as a manager, qualify under Nebraska Liquor Control Act (§53-131.01) and do you intend to supervise, in person, the management of the business?

☒ YES ☐ NO

**APPLICATION FOR TEMPORARY
OPERATING PERMIT (TOP)**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814

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	SEP 12 2016
	NEBRASKA LIQUOR CONTROL COMMISSION

- ☒ Application for a temporary operation permit (TOP) must be included with the application for liquor license. TOP will not be considered without the completed application for a liquor license.
- ☒ Enclose documentation showing sale of business; document may be in the form of a purchase agreement/contract, management agreement or promissory note. Sale of business document must include the following: name of business being sold, purchase date or closing date within 2-3 weeks of requesting TOP and must be signed by the seller and buyer.
- ☐ TOP's are valid for 90 days from date of issuance and cannot be extended past the expiration date (no exceptions).
- ☐ Seller's liquor license will terminate upon issuance of the TOP.
- ☐ If the seller's liquor license is up for renewal during the TOP it will not be necessary for the seller to renew.

NAME OF CURRENT LICENSEE (SELLER):

SELLER'S LICENSE #:

U-23, Inc., A Nebraska Corporation

053490

On (date) August 29, 2016 seller and buyer entered into a contract for sale of the

business known as (TRADE NAME):

The Liquor Cabinet

Buyer seeks to obtain a temporary operating permit (TOP) to allow buyer to operate the business under the same terms and conditions of the current licensee; subject to approval by the Nebraska Liquor Control Commission (NLCC) for a period not to exceed 90 days (no exceptions).

Seller hereby declares that they are current on all accounts with all Nebraska licensed wholesalers under section §53-123.02. Any seller who provides false information regarding such accounts is guilty of a Class IV misdemeanor for each offense.

BARCODE
for office use only

FORM 125
REV JULY 2016
Page 1 of 2

Gary L. Kelley, Pres.
Signature of **SELLER**

Gary L. Kelley, President

U-23, Inc., A Nebraska Corporation

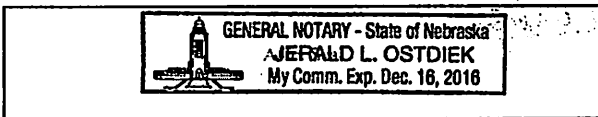
Print Name

State of Nebraska, County of Scotts Bluff

The foregoing instrument was acknowledged before me
this 8th day of September, 2016. (date)

by GARY L. KELLEY, President of U-23, Inc.
Name of person acknowledged
[Individual signing document]

[Signature]
Notary Public signature



[Signature] **RECEIVED**
Signature of **BUYER**

Cory G. Kilpatrick, Managing Member SEP 12 2016

Blackstone Spirits, L.L.C. **NEBRASKA LIQUOR
CONTROL COMMISSION**

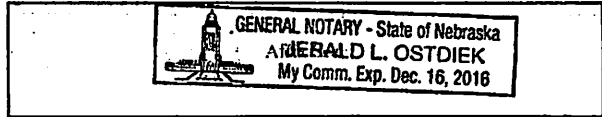
Print Name

State of Nebraska, County of Scotts Bluff

The foregoing instrument was acknowledged before me
this 9th day of September, 2016 (date)

by Cory G. Kilpatrick, Managing Member of
Name of person acknowledged Blackstone Spirits, LLC
[Individual signing document]

[Signature]
Notary Public signature



ADMINISTRATIVE REVIEW – Office use only		
Date: <u>9-12-16</u>	Rep: <u>BH</u>	Application Number: <u>119832</u>
<input checked="" type="checkbox"/> Approved <u>jm</u>	<input type="checkbox"/> Denied _____	
Reason for Denial: _____		

CHECK LIST**Neb. Rev. Stat. §53-132 (Reissue 2010)**

Council should determine the propensity of whether or not to grant the liquor license that has been requested. In that regard, suitability and fitness and the following four criteria are most important:

- (2)(a) Applicant is fit, willing and able to provide the service proposed.
- (2)(b) Applicant can conform to all laws.
- (2)(c) Applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure conformance with law.
- (2)(d) Issuance of the license is or will be required by the present or future public convenience and necessity.

In making its determination Council may also consider as the Nebraska Liquor Control Commission will consider, the following. The Council should not base its recommendation on any of the following criteria, but may chose to comment to the Commission about one or more of the criteria:

- (3)(b) Citizen's protest.
- (3)(c) Existing population/growth.
- (3)(d) The nature of the neighborhood around the location.
- (3)(e) Existence of other licenses.
- (3)(f) Existing motor vehicle and pedestrian traffic in the vicinity.
- (3)(g) Adequacy of existing law enforcement.
- (3)(h) Zoning restrictions.
- (3)(i) Sanitary conditions.
- (3)(j) Whether the type of business or activity proposed will be consistent with the public interest.

*OTHER COUNCIL CONCERNS

Memorandum

To: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
From: Kevin Spencer, Chief of Police
Date: 10/14/2016
Re: Application for a Class CK Liquor License number CK-119832, Blackstone Spirits LLC, dba Kelley's Liquor 817 East 27th Street Scottsbluff, NE

AUTHORITY: The Scottsbluff Police Department reports specific information to the City Council whenever a liquor license application is presented. The information furnished by the Police Department conforms to Chapter 53, Reissue Revised Statutes of Nebraska 1943, and Section 53-132, which outlines the factors which the Commission may consider in granting a liquor license.

COMMENTARY

53-132: Section 2

(A) The applicant is fit, willing and able to properly provide the service proposed within the city where the premises described in the application are located:

A background check was conducted on Corey G. Kilpatrick, Koni J. Kilpatrick, and Karen Hunter as a means to determine their fitness to hold a liquor license. Corey reported 4 speeding citations from 1998 to 2008, an "Overweight" citation in 1998 and a "No License on Person" citation in 2001. I did not find any further criminal history for Corey. Koni Kilpatrick and Karen Hunter did not report any criminal history nor did I find any.

On Thursday, October 13th at 1600 hours the City of Scottsbluff Liquor License Holders Investigatory Board convened to meet with Corey Kilpatrick to discuss his liquor license application. Corey explained to the Board that his Wife Koni, his Mother Karen and he purchased "Kelley's Liquor," and have taken over operations earlier this month. Corey went on to explain that Koni and he attended Responsible Beverage Training course on October 6th. Corey further explained that this will be a requirement of their employees. Corey said that 3 of the part-time employees stayed to work for them one that has several years of experience is responsible for checking in all of the alcohol deliveries. Corey said that he will do all of the ordering. Corey told us that they do have two calendars that assist them with determining age one for tobacco and one for alcohol. Corey added that he is considering a scanner and that they encourage employees to check the ID of anyone that looks under 30.

After giving careful consideration I have concluded that the applicants are fit to hold a liquor license.

(B) The applicant can conform to all provisions, requirements, rules and regulations provided for in the Nebraska Liquor Control Act:

Any operator must adhere to the existing laws while doing business in the community and adhere to acceptable business practices.

Although Corey, Koni and Karen are new to the alcohol industry they have 3 part-time employees that have several years of experience. Also they all own and operate other businesses.

Corey stated that he will be in charge of inventory and placing orders. The alcohol and beer overstock are kept in a locked storage room.

The applicant appears to have the ability and willingness to conform to language within the Nebraska Liquor Control Act.

- (C) The applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to insure that the licensed business can conform to all provisions, requirements, rules and regulations provided for in the Nebraska Liquor Control Act:**

Corey reported that the business does have video surveillance on the inside of the business as well as two cameras on the outside that always record. Corey has been working with the Nebraska Liquor Control Commission and has retained an attorney to help them through this process.

The business has been in operation for several years.

The applicant appears committed to complying with all provisions, requirements, rules and regulations provided for in the Nebraska Liquor Control Act.

- (D) The issuance of the license is or will be required by the present or future public convenience and necessity:**

The establishment will be opened seven days a week Monday thru Thursday 08:00 am to 10:00 pm, Friday and Saturday 08:00 am to 11:00 pm and Sunday 12:00 pm to 10:00 pm.

Oversight and accountability will be a priority for the applicants as it relates to the sale of alcoholic beverages.

SPECIFIC ISSUES COMMISSION MAY CONSIDER

- (E) The existence of a citizen's protest made in accordance with Section 53-133:**

There have been no known citizen protests of this business.

- (F) The nature of the neighborhood or community of the location of the proposed licensed premises:**

The business is located at 817 West 27th Street Scottsbluff, NE. It is a liquor store that will attract customers all hours when opened. Its location is easily accessible and convenient for customers. I would not anticipate any issues with location.

- (G) The existence or absence of other retail licenses or bottle club licenses with similar privilege within the neighborhood or community of the location or the proposed licensed premises.**

There are no other businesses in the immediate area with liquor licenses that allow for offsite sales.

- (H) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises:**

Although no recent traffic studies have been completed regarding motor vehicle traffic of the general area, the traffic flow is not of concern at this time nor is pedestrian traffic.

(I) The adequacy of existing law enforcement:

The Scottsbluff Police Department is allowed 31 full time officers in the department and handled approximately 13,550 calls for service, not including traffic citations during 2015. The number of liquor licenses within the jurisdictional boundaries of the Police Department, regardless of the class, continues to be a concern to the Police Department and even routine monitoring of their business practices is difficult. Compliance checks continue to remain a concern to those businesses that sell alcohol to minors. The Nebraska State Patrol has assumed liquor law enforcement duties and their wide jurisdiction generally precludes any particular focus in the city.

(J) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest:

The Police Department would reserve making any statement which would indicate that the sale of alcohol is consistent with the public interest.

Adequate staffing and training, as well as close supervision of patrons are important. Cooperation with the Police Department by management will help to eliminate or diminish potential problems with violations.

EXHIBIT IV

Memo

Date: October 13, 2016

To: Honorable Mayor Meininger and Members of the City Council

From: Cindy Dickinson, City Clerk

CC: Nathan Johnson, City Manager

Re: Kelley's Liquor, 817 West 27th St., Scottsbluff, NE

The city clerk is required by ordinance to report specific information to the city council whenever a liquor license application hearing is held.

Following are the existing licenses, their class, address and proximity to other licensed premises:

Class of License

Class A	Beer only, for consumption on premises
Class B	Beer only, for consumption off premises
Class C	Alcoholic liquors, for consumption on and off premises
Class D	Alcoholic liquors, including beer, for consumption off premises
Class I	Alcoholic liquors, for consumption on the premises
Class W	Wholesale beer
Catering	Alcohol permitted by licensee's retail license, sold or served at events covered by special designated licenses

Class A Licenses

Restaurants

Pizza Hut of Scottsbluff, Inc.

Mast Enterprises, Inc. dba Godfather Pizza

726 West 27th Street
2203-07 Broadway

Total Class A Licenses **2**

Class B Licenses

Convenience Stores

Total Class B Licenses **0**

Class C Licenses

Restaurants

El Charrito Restaurant & Lounge, Inc.
Tangled Tumbleweed

802 21st Avenue
1823 Ave. A

Hotel/Motel

Holiday Inn Express
Candlelight Inn & Lounge

1821 Frontage Rd.
1822 East 20th Place

Taverns/Lounges

Hight's Tavern
Silver Saddle Lounge
Shots Bar and Grill
Bob's Garage & Bar
Lucky Keno LLC dba FrontSide
Backaracks Bar & Grille
16th Empire (PENDING)

20 West 18th Street
1901-B 21st Ave.
1722 Broadway
1907 Broadway
1001 Avenue I
1402 East 20th St.- Suite B
1605 Ave. A

Retail

Racks (Catering)
Panhandle Cooperative Assn. (Catering)
Kelley's Liquor (Catering) – NEW APPLICATION

1402 East 20th St.- Suite A
401 S. Beltline Hwy West
817 West 27th Street

Clubs

Elks BPO Lodge 1367

1614 1st Avenue

Bowling Alleys

Valley Bowl Fun Center

1702 17th Ave.

TOTAL CLASS C LICENSES 15

Class D Licenses

Grocery Stores

Safeway of Western Nebraska

601 Broadway

Convenience Stores

5th & O Eastco
Scottsbluff Watering Hole
Big Bats
Panhandle Coop Assn.
Git N Split
Cheema's Gas & Liquor
Route 26 Mart
Maverik Stores Inc.,
La Bamba
Walgreens

503 East Overland
121 W 27th Street
902 West Overland
3302 Ave. B
506 West 27th Street
2002 Avenue I
1722 E 20th Street
920 West 36th St.,
721 East Overland
205 West 27th Street

Liquor Stores

Dermer's
Cigarette Chain

1311 E Overland Dr.
323 East Overland

Discount/Grocery Stores

Big Kmart #7024
Wal-Mart Supercenter #867

802 East 27th Street
3322 Avenue I

TOTAL CLASS D LICENSES 15

CLASS I LICENSES

Restaurants

Rosita's
Chili's Grill & Bar (NEW APPLICATION – REORGANIZATION)
Applebee's Neighborhood Grill & Bar
Wonderful House Restaurant
Taco de Oro
Whiskey Creek Steakhouse
Ole, LLC
Oriental House
Emporium Coffeehouse & Cafe
San Pedro Mexican Restaurant
Sam & Louie's Pizzeria
Taco Town
Prime Cut
The Shed

1205 East Overland
826 West 36th St.
2621 5th Avenue
829 Ferdinand Plaza
2601 Avenue I
1802 E 20th Place
1901 East 20th Street
1502 E. 20th St.
1818 1st Avenue
23 West 27th St.
1522 Broadway
1007 West 27th St.
305 West 27th St.
18 West 16th St.

Theater

Hotel/Motel

Hampton Inn & Suites

301 W Hwy 26

TOTAL CLASS I LICENSES 15

Class W Licenses

Wholesale

High Plains Budweiser

2810 Ave M

TOTAL CLASS W LICENSES 1

TOTAL LICENSES

Class A	2
Class B	0
Class C	15 (1 pending)
Class D	15
Class I	15
Class W	1
TOTAL LICENSES	48 (1 pending)



Memo

Date: October 3, 2016
To: Honorable Mayor and City Council
From: Staff, Development Services
CC: Nathan Johnson
Re: Class "C" Liquor License Application
Kelley's Liquor
817 W 27th Street
Scottsbluff, NE 69361

Action:

Kelley's Liquor has recently sold to a new owner. This license will replace one previously held at this location.

The Development Services Department is required by Article 1, Chapter 11 of the Scottsbluff Municipal Code to report specific information to the Mayor and City Council whenever a liquor license application hearing is held. In accordance with that directive the following information is offered:

- (1) The property at 817 W 27th Street is situated in a C-2 (Neighborhood Commercial) zoning district where restaurant/bar/taverns are allowed by right pursuant to the City's Zoning Ordinance, Chapter 25, of the City's Municipal Code of Ordinances.
- (2) In a C-2 Zone (Neighborhood Commercial), there is one parking space required per 250 square feet of retail space, so for the applicant, 10 parking spaces are required. There is adequate parking available on site to meet this requirement.
- (3) The use of this property is consistent with the surrounding neighborhood, which is generally commercial in nature. (Neighborhood commercial all along W 27th Street)
- (4) There are no churches, schools, or other similar institutions within 300 feet of the subject property.
- (5) The existing population of Scottsbluff is approximately 15,039.