



Liquor & Marijuana Licensing Authority

Tuesday, October 17, 2017, 9:00 AM

Council Chambers

150 Ski Hill Road

1. Call to Order, Roll Call

2. Approval of Minutes

September 19, 2017

3. Approval of Agenda

4. Action Items

- a. Rules of Procedure
- b. Resolution No. 1, 2017 - A RESOLUTION ADOPTING REVISED RULES OF PROCEDURE FOR THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY
- c. Rules and Regulations for Public Hearings Conducted by the Town of Breckenridge Liquor and Marijuana Licensing Authority
- d. Resolution No. 2, 2017 - A RESOLUTION ADOPTING RULES AND REGULATIONS FOR PUBLIC HEARINGS CONDUCTED BY THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY

5. Consent Calendar

- a. Liquor Consent Calendar
- b. Marijuana Consent Calendar

6. Public Hearing

- a. Liquor Public Hearing
 - i. Tiki Mana Breckenridge, Inc. d/b/a Tiki Mana Island Grill
100 S. Park Ave., Unit C-102
Hotel & Restaurant License
 - ii. The Gold Pan Saloon and Carboy Winery, LLC d/b/a Carboy Winery
103 N. Main St.
Vintners Restaurant License
- b. Marijuana Public Hearing - None

7. Informal Discussion

- a. Police Department Update
- b. Town Clerk Update

- c. Public Comment
- d. Approved Special Events

8. Adjournment

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- 1) Call to Order, Roll Call
Chair Katz called the regular meeting of Tuesday, September 19, 2017, to order at 9:00 am. Mr. Faust arrived at 9:01 AM. Mr. Tatro was absent.
- 2) Approval of Minutes
With no changes or corrections to the meeting minutes of August 15, 2017 Chair Katz declared they would stand as approved.
- 3) Approval of Agenda
Ms. Taryn Power, Deputy Town Clerk, stated that there was the addition of an executive session to the end of the meeting.
- 4) Consent Calendar
 - a) Liquor Consent Calendar
Ms. Girvin motioned to remove the modification for Rocky Mountain Underground from the consent calendar. The consent calendar, with the removal of Rocky Mountain Underground, stood as approved.

Mr. Mike Waesche, founder of Rocky Mountain Underground, stated that he was present to discuss the noise violation that they had received and their modification of premises. Mr. Waesche stated that it has been a learning process for them as they started as just a bar, then added the store and the beer garden. They thought that they had added all of the premises to the liquor license and they hadn't. They were missing the walkway from the front patio to the back area and the back stairs up to the street. Mr. Faust inquired about the noise complaint. Mr. Waesche stated that it has not gone through municipal court yet. Mr. Faust inquired about Oktoberfest. Mr. Waesche stated that it was very challenging. Chair Katz inquired as to when they had door men at RMU because she did not see any door men watching the front patio. Ms. Suzy Wasick, RMU bar manager, stated that the door men were not present until noon and that it is a good idea to have them there earlier in the day. Mr. Blank inquired as to how the beer garden will operate in the winter. Mr. Waesche stated that he believes that they will shut the back area down for the winter with the exception of a few events. Detective Williamson stated that she would like to see more permanent or forceful signage to enforce the liquor licensed premises as opposed to the paper signs that are there currently. Ms. Girvin moved to approve the modification of premises. A roll call vote was taken and the modification of premises passed 4-0.
 - b) Marijuana Consent Calendar
With no changes to the agenda, the Marijuana Consent Calendar stood as approved
- 5) Public Hearing; Action Items - None
- 6) Informal Discussion
 - a) Police Department Update
Detective Williamson, Breckenridge Police Department, stated that MED did an underage compliance check at all of our marijuana locations and that they all passed the check.

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- b) Town Clerk Update
Ms. Power, Deputy Town Clerk, stated that the State is behind in processing all liquor applications and wanted the LMLA to be aware.
 - c) Public Comment
Ms. Girvin inquired as to how Oktoberfest and the Wine Festival were. Detective Williams stated that they went well from a police perspective. Mr. Faust stated that he is concerned with the porous nature of Main Street during Oktoberfest and that he would like to see some more security to walk up and down the street to help patrol the perimeter of the event. Ms. Girvin did notice that no one was at Columbine Square and it is very easy to leave from that point.
- 7) Adjournment
With no further business to discuss, the meeting adjourned at 9:35 am. The next regular meeting will be held on October 17, 2017. Submitted by Taryn Power, Deputy Town Clerk, Municipal Services.

ATTEST:

Helen Cospolich, Town Clerk

Jeri Beth Katz, Chair

MEMO

TO: Liquor and Marijuana Licensing Authority

FROM: Tim Berry

RE: Proposed New “Rules of Procedure” and “ Rules and Regulations for Public Hearings”

DATE: October 11, 2017 (for October 17th meeting)

The ordinance that established the Liquor and Marijuana Licensing Authority authorizes the Authority to adopt “rules and regulations governing its operations.” The Authority’s rules and regulations are required to be consistent with applicable law.

Having an agreed upon set of written procedural rules is helpful because the rules can address matters not covered in the ordinance that established the Authority and flesh out matters that are incompletely addressed in the ordinance. Having established rules avoids the need to come up with rules of operation on an ad hoc basis. Everyone – Authority members, staff, applicants, licensees, and their respective attorneys – need to know in advance what the rules are. From a legal perspective having a written set of rules of procedure helps assure the procedural due process rights of the applicants and licensees.

Since the “new” Authority was created in 2016 we have been operating under the Rules of Procedure that were put in place by the old Liquor Licensing Authority. That has not presented a significant problem, but the new Authority should have its own set of Rules of Procedure if for no other reason than to correctly refer to the Authority as the “Liquor and Marijuana Licensing Authority” in the Rules of Procedure. In addition, some aspects of the old rules need to be clarified.

Enclosed with this memo are a proposed new set of “Rules of Procedure,” together with a proposed resolution to adopt the new Rules. The new Rules are based on the previous set of procedural rules adopted by the old Authority, although provisions related to the conduct of public hearings (including disciplinary hearings) have been pulled out of the new Rules of Procedure and incorporated into a separate set of rules governing the conduct of public hearings by the Authority as discussed below.

The fact that the Authority now deals with both liquor and marijuana licensing has greatly complicated the rules for setting and holding public hearings, particularly disciplinary hearings involving alleged licensee misconduct. Because liquor licensing has been held to be a “matter of statewide concern,” the state liquor laws and rules are binding upon a home rule municipality such as the Town. With marijuana licensing, on the other hand, the Town has the ability to establish some of its own procedural rules and procedures that are not necessarily the same rules and procedures contained in the state marijuana laws and rules.

There are a few state laws and rules for the conduct of public hearings for liquor matters (which the Authority is required to comply with), but there is a need to address at the local level certain matters not covered or not adequately covered by the state liquor laws and rules. The state's administrative rules for marijuana licensing are written with the State licensing board in mind, and are in many respects too complicated for us to follow. I do not recommend that the Authority follow the entirety of the procedural rules established by the State for marijuana licensing.

For these reasons I thought it best for the Authority to have its own set of procedural rules governing the conduct of public hearings (both liquor and marijuana) held by the Authority. This approach allows the Authority to establish its own set of procedural rules for public hearings/disciplinary hearings which I think is beneficial.

Also enclosed with this memo are a proposed new set of "Rules and Regulations For Public Hearings," together with a proposed resolution to adopt the new Rules. These Rules are divided into two parts. Part 1 contains the general rules for all public hearings conducted by the Authority. Part 2 contains the specific rules for licensee disciplinary hearings. Some of the state's laws and rules for liquor and marijuana licensing hearings have been incorporated into the Rules and Regulations for Public Hearings. Other provisions in this draft document reflect my suggestions for how I think these hearings should be conducted.

I would urge you to review both the Rules of Procedure and the Rules and Regulations For Public Hearings so that we can discuss these on Tuesday. I will be happy to answer any questions you may have about the various rules, and to make any changes that you feel are required before the rules can be adopted and implemented by the Authority.

I look forward to seeing you on Tuesday.

**TOWN OF BRECKENRIDGE
LIQUOR AND MARIJUANA LICENSING AUTHORITY**

**RULES OF PROCEDURE
(October 2017)**

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**TOWN OF BRECKENRIDGE
LIQUOR AND MARIJUANA LICENSING AUTHORITY**

**RULES OF PROCEDURE
(October 2017)**

Rule 1. Authority For Adoption

These Rules of Procedure are adopted pursuant to the authority granted to the Town of Breckenridge Liquor and Marijuana Licensing Authority by Section 2-5-10 of the Breckenridge Town Code.¹

Rule 2. Applicability; Definitions

2.1 Applicability. These Rules of Procedure shall apply to all meetings of the Town of Breckenridge Liquor and Marijuana Licensing Authority.

2.2 Definitions. The term “Rules” shall mean these Rules of Procedure, as amended from time to time. The term “Authority” shall mean the Town of Breckenridge Liquor and Marijuana Licensing Authority.

2.3 “Neighborhood” Defined. For the purpose of all applications for an alcoholic beverage license, the term “neighborhood” is defined to mean the Upper Blue River Basin, with general boundaries being Farmers Korner to the North, Hoosier Pass to the South, the Continental Divide to the East, and the top of the Ten Mile Range to the West.

Rule 3. Regular Meetings

3.1 Date, Time, and Place of Regular Meetings

Unless otherwise ordered by the Authority, the Authority shall hold its regular meeting on the third Tuesday of each month in the Town Council Chambers of the Breckenridge Town Hall, 150 Ski Hill Road, Breckenridge, Colorado commencing at 9:00 A.M. If the date scheduled for a regular meeting is a legal holiday, the meeting shall be held on the next business day unless the Authority shall otherwise order.

3.2 Notice of Regular Meetings

Notice of each regular meeting shall be posted by the Secretary of the Authority at the Authority’s official bulletin board as designated in Rule 7 not less than twenty-four (24) hours prior to the holding of the meeting. The posting shall include specific agenda information where possible.

¹ Chapter 5 of Title 2 of the Breckenridge Town Code is the Town ordinance concerning the Authority.

Rule 4. Special, Emergency, and Adjourned Meetings

4.1 Special Meetings

The Chair may call a special meeting of the Authority at any time. A special meeting may also be called or scheduled by vote of the Authority in open session during another duly called meeting. The motion scheduling a special meeting shall specify its time, place, and purpose. At least twenty four (24) hours before a special meeting is held notice of the time, place, and purpose of the meeting shall be: (i) given to each Authority member; (ii) posted on the Authority's official bulletin board as described in Rule 7; and (iii) provided to each person who has filed a written request for notice with the Authority's Secretary pursuant to Rule 12. Only those items of business specified in the notice may be discussed or transacted at a special meeting, except as authorized in Rule 13.2.

4.2 Emergency Meetings

The Chair may call an emergency meeting of the Authority by signing a written notice stating the time and place of the meeting and the subject(s) to be considered. An emergency meeting may be held anywhere within the Town limits. Written or oral notice of the meeting shall be given to each Authority member and provided to each person who has filed a written request for notice with the Authority's Secretary pursuant to Rule 12. Action taken at an emergency meeting shall be effective only until the first to occur of: (i) the next regular meeting of the Authority; or (ii) the next special meeting of the Authority at which the emergency issue is on the public notice of the meeting. At such subsequent meeting the Authority may ratify any emergency action taken. If any emergency action taken is not ratified by the conclusion of the next regular meeting, then such action shall be deemed rescinded.

Emergency meetings may be called only because of unexpected circumstances that require immediate consideration by the Authority. Only business connected with the emergency may be considered at an emergency meeting.

4.3 Adjourned Meetings

A properly called regular or special meeting may be adjourned to a date, time, and place certain by motion made and adopted in open session during the regular or special meeting. The motion shall state the date, time, and place when the meeting will reconvene. No further notice need be given of such an adjourned session of a properly called regular, special, or emergency meeting. An emergency meeting may not be adjourned to another date, time, and place.

4.4 Cancellation

If no business is scheduled before the Authority, or if it is apparent that a quorum will not be available, any meeting may be cancelled by the Chair. The Secretary shall give notice of cancellation of a meeting. Notice of cancellation of a meeting shall be: (i) given to each Authority member prior to the time set for such meeting; (ii) posted on the Authority's official bulletin board as described in Rule 7; and (iii) provided to each person who has filed a written request for notice with the Authority's Secretary pursuant to Rule 12. If no quorum is present at the meeting, the Secretary shall cancel the meeting and all items scheduled to be heard shall be rescheduled by the

staff.

Rule 5. Quorum

Three members of the Authority shall constitute a quorum, and a decision of the majority of those present constituting a quorum shall control.² A majority is more than half. The Chair shall be considered a member of the Authority in determining the number on which a majority is based, and in counting the number of members actually present.

Rule 6. Applicability of Colorado Open Meetings Law

All meetings of the Authority shall be subject to the provisions of the Colorado Open Meetings law.³

Rule 7. Place for Posting Meeting Notices

The designated place for the posting of public notice of all regular and special meetings of the Authority shall be the bulletin board located outside the southerly front door of the Breckenridge Town Hall, 150 Ski Hill Road, Breckenridge, Colorado.

Rule 8. Electronic Record/Minutes

The Authority shall keep an electronic record of its meetings, including any executive sessions. In addition, full and accurate minutes of the Authority proceedings, except executive sessions, shall be kept as required by the Colorado Open Meetings law.⁴ Records of executive sessions shall be kept in accordance with the requirements of the Colorado Open Meetings law. These minutes shall be open to inspection of the public only as provided in the Colorado Open Meetings law. The exact wording of each motion and the vote of each member of the Authority thereon shall be recorded in the minutes. Audio recordings of an executive session shall be retained by the Secretary for ninety (90) days following the executive session. Such recordings shall be destroyed by the Secretary on the first business day following the expiration of ninety (90) days following the executive session unless prior to the expiration of such ninety (90) day period the Town has received actual notice of the filing of an application seeking access to such recording pursuant to Section 24-72-204(5.5), C.R.S. If the Town receives timely notice of the filing of an action pursuant to Section 24-72-204(5.5), C.R.S., the Secretary shall not destroy the recording that is the subject of such action unless and until advised by the Town Attorney that such destruction is legally permissible.

² Pursuant to Section 2-5-8 of the Breckenridge Town Code

³ Pursuant to Section 2-5-9 of the Breckenridge Town Code. The Colorado Open Meetings law is found at Part 4 of Article 6 of Title 24, C.R.S.

⁴ Pursuant to Section 2-5-8 of the Breckenridge Town Code

Rule 9. Organizational Meeting

9.1 First Organizational Meeting. The initial organizational meeting of the Authority occurred on April 19, 2016.

9.2 Subsequent Organizational Meetings. Beginning in 2017, the regular meeting in April each year shall be the organizational meeting of the Authority. At such meeting the newly appointed members of the Authority shall take and subscribe the oath of office as the first order of business. As the second order of business, the Authority shall elect a Chair and Vice-Chair.⁵

Rule 10. Terms of Office of Chair and Vice Chair

The terms of the office of Chair and Vice-Chair shall be one year, commencing with the organizational meeting each April, and ending with the organizational meeting the following year.

10.1 Vacancies

If there is a vacancy in either the office of Chair or Vice-Chair of the Authority, the remaining members of the Authority shall fill such vacancy by election. The person elected to fill the vacancy shall serve only until the next organizational meeting of the Authority. In the event that a vacancy shall occur during the term of any member of the Authority, a successor shall be appointed by the Town Council to serve the unexpired portion of the term.⁶

Rule 11. Secretary

The Town Clerk of the Town of Breckenridge shall serve as the ex officio Secretary to the Authority. The Town Clerk shall designate a person or persons to provide the necessary administrative support services for the Authority. The Town Clerk or the Town Clerk's designee shall attend the meetings of the Authority. The Town Clerk shall be responsible for the giving of all required notice of Authority public hearings and actions.⁷

Rule 12. List of Interested Parties

The Secretary shall maintain a list of persons who, within the previous two years, have requested notification of all meetings of the Authority, or meetings when certain specified policies will be discussed, and shall provide not less than twenty four (24) hours' advance notification of such meetings to such persons. Notice may be given by telephone, electronically, fax, or in person. Such notice as may be provided by the Secretary pursuant to this Rule 12 is determined to be reasonable and sufficient. The unintentional failure to provide such advance notice will not nullify actions taken by the Authority at an otherwise properly noticed meeting.

⁵ Pursuant to Section 2-5-8 of the Breckenridge Town Code

⁶ Pursuant to Section 2-5-4(B) of the Breckenridge Town Code

⁷ Pursuant to Section 2-5-14(B) of the Breckenridge Town Code

Rule 13. Agenda

13.1 Proposed Agenda

The Secretary shall prepare a proposed agenda for each meeting, together with an agenda packet. The agenda packet shall include the agenda and as much background information on each agenda item as is available and feasible to reproduce. A copy of each agenda and agenda packet for a regular meeting shall be made available to each Authority member not later than forty eight (48) hours prior to the meeting. A copy of each agenda and agenda packet for a special or emergency meeting shall be made available to each Authority member as soon as possible prior to the meeting. The Secretary's unintentional failure to provide agenda packets as required by this such advance notice, or the failure of a member to actually receive an agenda packet prior to the meeting, will not nullify actions taken by the Authority at an otherwise properly noticed meeting.

13.2 Adoption of the Agenda

As its first order of business at each meeting, the Authority shall discuss and revise the proposed agenda and adopt an agenda for the meeting. The Authority may add items to or delete items from the proposed agenda, except that the Authority may not add items to the agenda of a special meeting unless: (i) all members are present; and (ii) the Authority determines at the meeting that it is essential to discuss or act on the item immediately. If an item is to be added to the agenda, written copies of the particular documents connected with such item shall be made available at the meeting to all Authority members.

13.3 Consent Calendar

As part of the new business portion of each agenda, the Authority shall consider items placed upon the "Consent Calendar" by the Secretary. The Consent Calendar shall include all matters of a non-controversial nature which require Authority approval or action but do not require a public hearing. No item requiring a public hearing shall be placed on the Consent Calendar. Any member of the Authority may request that any item on the Consent Calendar be removed from the Consent Calendar and set aside for discussion and action. Upon such request, the item shall be removed from the Consent Calendar and scheduled for discussion immediately following the approval of the Consent Calendar, or at such other time during the meeting that is acceptable to the Authority. If more than one item is removed from the Consent Calendar, such items shall be considered in the order as the items were removed from the Consent Calendar. The Consent Calendar, after removal of any item as described above, shall stand approved without a specific motion upon the declaration by the Chair to that effect.

Rule 14. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- Roll call
- Discussion and revision of the proposed agenda; adoption of an agenda
- Approval of the minutes of previous meeting(s)

Consent Calendar
Public hearings/action on public hearing matters
Action on other matters not requiring a public hearing
Informal discussion and public comment
Adjournment

By general consent of the Authority, items may be considered out of order.

Rule 15. Presiding Officer

The Chair of the Authority shall preside at Authority meetings if he or she is present. The Chair may vote in all cases. In order to address the Authority, a member must be recognized by the Chair.

If the Chair is absent, the Vice-Chair shall preside. If both the Chair and Vice-Chair are absent, another member designated by vote of the Authority shall preside as Temporary Chair. The Vice-Chair or Temporary Chair retains all of his or her rights as a member, including the right to make motions and the right to vote.

In accordance with these and other applicable rules, the Presiding Officer shall decide all points of procedure or order, unless otherwise directed by a majority of the members of the Authority in attendance on motion duly made and passed. The Presiding Officer shall maintain order and decorum, and to that end may order removal of disorderly or disruptive persons.

Rule 16. Conduct of Authority Members

16.1 Applicability of Town's Ethics Ordinance

The conduct of Authority members shall at all times conform with the requirements of the Town of Breckenridge "Code of Ethics."⁸

16.2 Ex Parte Contacts

Each member of the Authority must exercise care in responding to and reporting any ex parte contact with respect to any matter which is pending before the Authority.

- A. An ex parte contact is any contact (written, oral or electronic) concerning a matter pending before the Authority for which a hearing has been scheduled, or for which a hearing may be scheduled, that is offered to or received by a member of the Authority outside of the actual hearing process.
- B. Whenever a person attempts to make an ex parte contact with a member of the Authority, the member shall, to the extent possible, refuse to accept such ex parte contact. The member shall advise the person who is attempting to make the ex parte contact that all comments and

⁸ Pursuant to Section 2-5-11 of the Breckenridge Town Code. The Code of Ethics is found at Chapter 16 of Title 1 of the Breckenridge Town Code.

information related to the pending matter should be presented to the entire Authority, as well as all interested parties, at the time of the public hearing.

- C. Any member of the Authority who has received an ex parte contact must report the information, and identify the source and date of the contact, to the full Authority for inclusion in its formal record.⁹
- D. Any written ex parte contact transmitted to or received by a member of the Authority, including, but not limited to, printed and electronic communications (e-mails, text messages, etc.), shall be forwarded directly to the Secretary for review and inclusion in the agenda packet of the meeting at which the hearing on the matter to which the ex parte contact relates will occur. A copy of such written material shall also be provided to the applicant/licensee prior to the hearing.
- E. The rule against ex parte contacts shall not apply to preclude members of the Authority from seeking and receiving information from other members, the Secretary, the Town Attorney, or staff serving the Authority, but prior to the hearing no member of the Authority shall discuss the matter with any other person reasonably anticipated to be a witness at the public hearing.
- F. If a hearing was set based upon a complaint submitted by the Police Department, prior to the hearing no member of the Authority shall discuss the matter with any member of the Police Department.

16.3 Site Visits

- A. The Authority finds that visiting the site that is involved in a pending license application or disciplinary action can be a helpful way to gather relevant facts concerning the application or disciplinary action. A site visit may lead to a better understanding of a pending application or disciplinary action and, therefore, enhance the ability of the Authority to make an appropriate decision. However, site visits present unique problems in the context of the formal application and disciplinary hearing processes.
- B. The Authority may schedule and conduct a site visit when requested to do so by the applicant or licensee, the Police Department, the Town Attorney, or on its own initiative. In connection with any site, the applicant/licensee shall be notified not less than one week in advance and given an opportunity to attend and participate in the site visit. A site visit is to be noticed by the Secretary as a public meeting of the Authority.
- C. However, a site visit is not a public hearing. Members of the public and the media are permitted to attend the site visit to listen to the questions and comments of the staff, the applicant/licensee, and the Authority, but the public and media do not have the right to ask questions of the staff, the applicant/licensee, or the Authority members at a site visit. Authority members must avoid engaging in improper ex parte contacts during a site visit.

⁹ See Section 1-16-9(B) of the Town of Breckenridge Code of Ethics.

No minutes of a site visit shall be kept by the Secretary, although the minutes of the Authority should reflect that a site visit was conducted.

- D. Nothing in this Rule 16.3 prevents a member of the Authority from visiting a site that is involved in a pending application or disciplinary action on his or her own time for the limited purpose of becoming familiar with the site. In connection with such visit, however, the Authority member must avoid ex parte contacts.

16.4 Expressions of Bias, Prejudice, or Individual Opinion Prior to Hearing and Determination

No member of the Authority shall express any bias, prejudice, or individual opinion on the proper outcome of a matter prior to its hearing and determination.

16.5 Members Not to Vote Unless Present at Hearing

No member of the Authority shall vote on any matter requiring a public hearing, except after attending the public hearing or after listening to the tapes of the hearing, reviewing all relevant application materials, and so stating prior to the vote.¹⁰

Rule 17. Action by the Authority

The Authority shall proceed by motion, unless otherwise required by applicable law. Any member of the Authority, including the Chair, may make a motion.

Rule 18. Second Not Required

A motion does not require a second.

Rule 19. Motions

19.1 Motions May Be Written or Oral

Motions may be either written or oral. Written motions shall be read into or summarized for the record.

19.2 One Motion at a Time

A member may make only one motion at a time.

Rule 20. Adoption by Majority Vote

A motion must be adopted by a majority of the votes cast. A majority is more than half.

¹⁰ See Section 2-5-8 of the Breckenridge Town Code

Rule 21. Debate

The Chair shall state the motion and then open the floor to debate. The Chair shall preside over the debate according to the following general principles:

The maker of the motion is entitled to speak first; and
A member who has not spoken on the issue shall be recognized before someone who has already spoken.

To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 22. Ratification of Actions

To the extent permitted by law, the Authority may ratify actions taken on its behalf but without its prior approval.

Rule 23. Duty to Vote

Every member of the Authority must vote unless excused by the remaining members of the Authority. A member who wishes to be excused from voting shall so inform the Chair, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving a conflict of interest, as defined by the Town’s Code of Ethics, or as otherwise required by law. In all other cases, a failure to vote by a member who is physically present in the Town Council Chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as a vote with the prevailing side.

Rule 24. Executive Sessions

All regular and special meetings of the Authority shall be open to the public and citizens shall have a reasonable opportunity to be heard as provided by these Rules; provided, however, that the Authority, by consent of two thirds (2/3) of the quorum present, may go into executive session for those purposes authorized by law.

No adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session of the Authority which is not open to the public, except as authorized by the Colorado Open Meetings law.

Prior to the Authority going into executive session the Chair shall announce to the public the general topic of executive session, including a specific citation to the applicable provision of the Colorado Open Meetings law which authorizes the Authority to meet in an executive session, and identification of the particular matters to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized.

The Authority shall terminate the executive session by a majority vote.

Only those actions authorized by statute may be taken in an executive session. A motion to adjourn or recess a meeting shall not be in order during an executive session.

Rule 25. Transfer of Ownership; Applicant to Attend Meeting (Applicable to Both Alcohol Beverage and Marijuana Licenses)

No application for a transfer of ownership of an alcohol beverage or marijuana license shall be approved by the Authority until the applicant, or a representative of the applicant, meets with the Authority. The Secretary shall advise an applicant for a transfer of ownership of an alcohol beverage or marijuana license of the requirement of this Rule.

Rule 26. Hearings on License Renewal Applications (Applicable to Both Alcohol Beverage and Marijuana Licenses)

26.1 No Refusal to Renew Without Public Hearing

The Authority shall not refuse to renew a license issued by the Authority under the without holding a public hearing.

26.2 Setting of Public Hearing on Renewal Application

A public hearing on a renewal application shall be set by motion duly adopted by the Authority at any regular or special meeting; no formal resolution or written order setting a hearing on a license renewal application shall be required.

26.3 Date of Public Hearing on Renewal

The public hearing on the renewal application shall be scheduled for the Authority's next regular meeting after the adoption of the motion setting the hearing provided that the required notice can be given and the licensed premises posted as required by applicable law. If there is insufficient time for the giving of the required notice and the posting of the licensed premises, the public hearing shall be scheduled for the Authority's first regular meeting (or a duly called special meeting) following the time that is needed to give the required notice and to post the licensed premises. The hearing may be continued as otherwise provided in these Rules.

26.4 Special Content of Public Hearing Notice

The hearing notice that is provided to the licensee shall contain sufficient information to advise the licensee of the reason the hearing has been scheduled, and to provide the licensee with a reasonable opportunity to address the reason the hearing has been scheduled.

26.5 Licensee To Attend Renewal Hearing

At a hearing on a renewal application the licensee shall be ordered to appear before the Authority on such date and time to show cause, if any the licensee may have, why the renewal of the licensee's license for the licensed premises should not be denied. Because the application for renewal is filed by the licensee, it is the licensee's burden of proof to demonstrate that the license should be

renewed.

26.6 Failure of License to Attend Renewal Hearing Is Grounds for Nonrenewal

The failure of a licensee to appear at a properly noticed renewal hearing shall be grounds for the non-renewal of the license without further notice.

Rule 27. Public Hearings

The Authority shall establish by resolution the rules, regulations, and procedures that shall apply in connection with public hearings conducted by the Authority.

Rule 28. Petitions

Neighborhood petitions signed by inhabitants and submitted to the Authority in accordance with these Rules and applicable law shall be considered by the Authority when determining the “requirements” and “desires” of the neighborhood under the Colorado Beer Code or the Colorado Liquor Code.

Rule 29. Who May Sign Petitions

Petitions shall be circulated within the designated relevant neighborhood and signed by residents, business owners, or managers within the designated area.

29.1 Signature Requirements

All signatures shall be identifiable with a residence or business address listed on the petition, together with the date signed.

29.2 Form of Petition

All petitions shall be in substantial conformity to the format furnished or approved by the Secretary to the Authority. Petitions will not be accepted unless a signed Affidavit is submitted for each circulator and the applicant is clearly identified on the face of each petition.

29.3 Age To Sign Petitions

All petition signers must be twenty one (21) years of age or older.

Rule 30. Decisions By Authority

30.1 Time For Decision

It is within the discretion of the Authority whether to make an immediate decision upon the conclusion of a public hearing, or to require the Town Attorney to prepare written findings within a reasonable time after the hearing, not to exceed thirty (30) days.

30.2 Written Decision

The findings or decision of the Authority shall be in writing.¹¹ A copy of the written decision of the Authority shall be mailed to the applicant within thirty (30) days after the decision is adopted.

Rule 31. Execution of Documents

Any document that requires the written approval of the Authority may be executed by the Chair, or in absence or incapacity of the Chair, by the Vice-Chair. If both the Chair and the Vice-Chair are absent or are incapacitated at the same time, any member of the Authority may lawfully sign a document in the capacity of Assistant Vice-Chair.

Rule 32. Computation of Time

32.1 Meaning of “Day.” The word “day” as used in these Rules means a calendar (not a business) day.

32.2 How to Compute Time. Unless otherwise expressly provided by applicable law, in computing any period of time prescribed or allowed by the Rules, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded. As used in this section the term “legal holiday” includes January 1, observed as New Year’s Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Presidents Day; the last Monday in May, observed as Memorial Day; July 4, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; November 11, observed as Veterans Day; the fourth Thursday in November, observed as Thanksgiving Day; December 25, observed as Christmas Day, and any other day designated as a legal holiday by the state or federal government.

Rule 33. Suspension of the Rules

Any provision of these Rules not governed by the Charter or the ordinance that created the Authority may be temporarily suspended at any meeting of the Authority by a majority vote of the Authority. Any rule may be suspended by general consent if the presented by the Chair and there is no objection by any member.

Rule 34. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting. Adoption of an amendment shall require an affirmative vote of a majority of the quorum present at such meeting.

¹¹ Pursuant to Section 2-5-13 of the Breckenridge Town Code

Rule 35. Conflict Between Rules and Applicable Law

In the event of any conflict between these Rules and the provisions of any applicable law, the provisions of the applicable law shall govern.

APPROVED AND ADOPTED THIS 17TH DAY OF OCTOBER, 2017

TOWN OF BRECKENRIDGE LIQUOR AND
MARIJUANA LICENSING AUTHORITY

By: _____
Chair

ATTEST:

Secretary

FOR ADOPTION – OCTOBER 17

BEFORE THE LIQUOR AND MARIJUANA LICENSING AUTHORITY

OF THE TOWN OF BRECKENRIDGE

RESOLUTION NO. 1

SERIES 2017

A RESOLUTION ADOPTING REVISED RULES OF PROCEDURE FOR THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY

WHEREAS, Section 2-5-10 of the Breckenridge Town Code authorizes the Town of Breckenridge Liquor and Marijuana Licensing Authority to adopt rules and regulations governing its operation.

NOW, THEREFORE, BE IT RESOLVED BY THE LIQUOR AND MARIJUANA LICENSING AUTHORITY OF THE TOWN OF BRECKENRIDGE, COLORADO, as follows:

Section 1. The attached “Town of Breckenridge Liquor and Marijuana Licensing Authority Rules of Procedure (October 2017)” are adopted as the rules and regulations governing the operation of the Town of Breckenridge Liquor and Marijuana Licensing Authority.

Section 2. All resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such resolution, or part thereof, heretofore repealed.

Section 3. This resolution is effective upon adoption.

RESOLUTION APPROVED AND ADOPTED THIS 17TH DAY OF OCTOBER, 2017

TOWN OF BRECKENRIDGE LIQUOR AND
MARIJUANA LICENSING AUTHORITY

By: _____
Chair

ATTEST:

Secretary

RULES AND REGULATIONS FOR PUBLIC HEARINGS CONDUCTED BY THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY

PART 1 – GENERAL RULES FOR PUBLIC HEARINGS

Rule 1. Applicability. This Part 1 applies to all public hearings held by the Authority. Disciplinary hearings held by the Authority are subject to both Part 1 and Part 2 of these rules and regulations.

Rule 2. Definitions. In these Rules the term “Authority” means the Town of Breckenridge Liquor and Marijuana Licensing Authority. Terms defined in the Authority’s “Rules of Procedures,” as well as any applicable state or local law, rule, or regulations are incorporated into these Rules by reference.

Rule 3. Part of Meeting. A public hearing is considered to be part of a regular or special meeting of the Authority.

Rule 4. Hearing Location. Hearings conducted by the Authority shall be held at the Breckenridge Town Hall, 150 Ski Hill Road, Breckenridge, Colorado, unless otherwise ordered by the Authority.

Rule 5. Scope of Hearing Rules. These Rules shall be construed to promote the just and efficient determination of all matters presented at a hearing.

Rule 6. Representation. At any hearing, any person may appear or be represented by authorized agents or attorneys at their own expense. An attorney who appears before the Authority at any hearing shall be required to state the name(s) and address(es) of all persons whom he or she has been authorized to represent at the hearing.

Rule 7. Town Legal Representation in Contested Hearings. In all contested hearings before the Authority the Town of Breckenridge Police Department shall be represented by the Town’s Municipal Court Prosecutor, or other special counsel designated by the Town Council. The Authority shall be advised by the Town Attorney.

Rule 8. Right To Present Evidence And Cross-Examine Witnesses. At a hearing held before the Authority each party shall have the right to present such evidence as may be relevant, and to cross-examine all witnesses. The Presiding Officer may reasonably limit the duration of a Party’s cross examination of a witness. A party’s right to present evidence in a disciplinary hearing is further explained in Rule 26.C.

Rule 9. Documentary Evidence. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available; but, upon request, any party shall be given an opportunity to compare the copy with the original.

Rule 10. Rules Of Evidence. The strict rules of evidence shall not apply to a hearing held before the Authority.

Rule 11. Objections. Objections to proffered evidence shall be stated orally for the record. Any objection not made in a timely and proper fashion shall be waived. Objections shall be ruled upon by the Chair.

Rule 12. Burden Of Proof. The burden of proof shall be determined under the specific statute or ordinance that authorizes the holding of such hearing. In the absence of an statutory or ordinance provision to the contrary, the burden of proof shall be on the proponent of a claim or issue to prove such claim or issue by a preponderance of the evidence, and on the party raising any affirmative defense or matter of mitigation to prove such affirmative defense or matter of mitigation by a preponderance of the evidence. “Preponderance of the evidence” means to prove that something is more probably true than not. The burden of proof in a disciplinary hearing shall be as provided in Rule 26.E

Rule 13. Limitation of Evidence. The Presiding Officer shall have the authority to limit the presentation of evidence tending to be unduly repetitious or which is immaterial or irrelevant.

Rule 14. Continuance of Hearing. Continuances may be granted for good cause as described in this Rule. A motion for a continuance must be timely. For purposes of this Rule, “good cause” may include, but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to allow adequate preparation for the hearing; or agreement of the parties to a settlement of the case which has been or shall likely be approved by the Authority. “Good cause” normally shall not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness’ testimony can be taken by telephone; or failure of an attorney or a party timely to prepare for the hearing.

Before a hearing is convened the Chair or Vice-Chair may continue a hearing. Once a hearing is convened, the Authority may continue any hearing. The Secretary shall notify interested parties of a continuance granted outside of a meeting of the Authority.

Rule 15. Audio Record Of Public Hearing. An audio record shall be made of each hearing which is held by the Authority. The Town shall retain the original audio record as required by Town’s record retention policy. A copy of an audio record of a hearing shall be made to any Party upon written request and payment of a fee determined by the Town Clerk. The Town shall not be obligated to provide a free transcript of a hearing which is held before the Authority, and any party desiring such transcript shall obtain and pay the cost thereof.

Rule 16. Record of the Public Hearing. The record of a public hearing that is held before the Authority shall consist of: (i) all staff reports and similar information which is provided to the Authority in connection with the public hearing, excluding confidential attorney-client communications from the Town Attorney; (ii) all documents admitted into evidence by the Authority; (iii) all documents offered into evidence at the hearing, but not admitted; (iv) the

written decision of the Authority; (v) copies of any applicable statutes, ordinances, rules, or regulations; (vi) a transcript of the public hearing; and (vii) such other documents as may properly be included in the record.

Rule 17. Reopening of a Public Hearing. Whenever a public hearing has been opened and continued to another date or where it has been closed and the Authority wishes to take additional evidence prior to a vote or a reconsideration of a vote, the Chair may reopen the public hearing for purposes of taking such additional evidence. The Chair may limit the scope of such evidence to be taken. Whenever a public hearing is reopened and additional evidence is taken, all such additional evidence shall be incorporated into the original public hearing.

PART 2 –SPECIAL RULES FOR DISCIPLINARY HEARINGS

Rule 18. Applicability. The following Supplemental Rules apply to all disciplinary hearings conducted by the Authority under the Colorado Liquor Code, the Colorado Beer Code, or Town of Breckenridge “2013 Marijuana Licensing Ordinance.” To the extent there is a conflict between these Supplemental Rules and the General Rules in Part 1, these Supplemental Rules shall control. Disciplinary hearings shall be conducted in accordance with these Supplemental Rules, as well as any applicable law. Some or all of these Supplemental Rules may be made applicable to hearings other than disciplinary hearings if so ordered by the Authority.

Rule 19. Authority. These Supplemental Rules are promulgated by the Authority of the Town of Breckenridge pursuant to the authority granted by: (i) Section 2-5-10 of the Breckenridge Town Code; and (ii) Section 4-14-32 of the Town’s 2013 Marijuana Licensing Ordinance, codified as Chapter 14 of Title 4 of the Breckenridge Town Code.

Rule 20. Intent of Rules. The intent of these Supplemental Rules is to establish a fair and streamlined legal framework for disciplinary hearings held by the Authority. With respect to disciplinary hearings conducted for marijuana licensees, these Supplemental Rules have been promulgated by the Authority because the State of Colorado administrative rules described in Rule 21 are found to be too cumbersome or inadequate for use by the Authority.

Rule 21. Applicability of State Liquor Rules. Because the sale of alcohol beverages is a matter of statewide concern, the following state laws, rules, and regulations are binding upon the Authority: (i) the Colorado Liquor Code¹; (ii) the Colorado Beer Code²; (iii) the laws governing special event permits³; and the administrative rules and regulations promulgated by the Colorado Department of Revenue, Liquor Enforcement Division.

Rule 22. Supplemental Rules Supersede Conflicting State Marijuana Rules. Except where a specific rule promulgated by the Colorado Department of Revenue, Marijuana Enforcement Division is made applicable to the Authority by this Part 2, these Supplemental Rules supersede: (i) the “M1300 Series – Discipline” contained within the Administrative Rules and Rules under the Colorado Medical Marijuana Code promulgated by the Colorado Department of Revenue, Marijuana Enforcement Division; and (ii) the “R1300 Series -

¹ Article 47 of Title 12, C.R.S.

² Article 46 of Title 12, C.R.S.

³ Article 48 of Title 12, C.R.S.

Discipline” contained within the Administrative Rules and Regulations under the Colorado Retail Marijuana Code promulgated by the Colorado Department of Revenue, Marijuana Enforcement Division. As a result, unless otherwise expressly provided, the rules and procedures contained within the “M1300 Series – Discipline” and the “R1300 Series – Discipline” do not apply to disciplinary hearings held by the Authority pursuant to the Licensing Ordinance.

Rule 23. Definitions.

A. As used in this Part 2, the following words have the following meanings:

APPLICABLE CODE:	For an alcohol beverage license, the Colorado Liquor Code, the Colorado Beer Code, or the laws governing special event permits, whichever is applicable to the particular license.
	For a marijuana license, the Colorado Medical Marijuana Code ⁴ or the Colorado Retail Marijuana Code ⁵ , whichever is applicable to the particular license.
APPLICABLE ADMINISTRATIVE REGULATION:	Whichever of the state administrative regulations apply to the particular license, as well as any administrative regulations promulgated by the Authority.
PARTY:	Either the Respondent, or the Police Department.
POLICE DEPARTMENT:	The Town of Breckenridge Police Department.
LICENSING ORDINANCE:	Chapter 14 of Title 4 of the <u>Breckenridge Town Code</u> , as amended from time to time.
RESPONDENT:	The person to whom an Order to Shown Cause or Summary Suspension Order is directed.

B. All terms defined in the Licensing Ordinance, the Applicable Codes, and the Administrative Regulations, are adopted and incorporated into these Supplemental Rules by reference.

⁴ Article 43.3 of Title 12, C.R.S.

⁵ Article 43.4 of Title 12, C.R.S.

Rule 24. Disciplinary Process: Summary Suspensions. Any summary suspension imposed by the Authority shall be done in accordance with the applicable provisions of the Colorado Liquor Code (if the license is an alcohol beverage license) or the administrative rules and regulations promulgated by the Colorado Department of Revenue, Marijuana Enforcement Division (if the license is a marijuana license).

Rule 25. Initiation of Disciplinary Process: Non-Summary Suspensions.

A. Authority to Investigate Complaints. Whenever a written complaint is filed with the Authority charging a licensee with a violation of any applicable rule or regulation set forth in Section B, below, the Authority shall determine by investigation or otherwise the probable truth of such charges.

B. Authority May Issue Order to Show Cause. If the Authority, on its own initiative or based on a complaint, has probable cause to believe that a licensee has violated:

1. any Applicable Code;
2. any Applicable Administrative Regulation;
3. the Licensing Ordinance (if the matter involves a marijuana license);
4. the terms and conditions of a license; or
5. any order issued by the Authority

the Authority may issue and serve upon the Respondent an Order to Show cause as to why its license should not be suspended or revoked.

C. Contents of Order to Show Cause; Mailing of Show Cause Order; Presumption of Delivery. The Order to Show Cause shall identify the Applicable Code, the Applicable Administrative Regulation, the provision of the Licensing Ordinance (if applicable), the term and condition of the license, or the order allegedly violated by the Respondent, and the facts alleged to constitute the violation. The order shall also provide an advisement to the Respondent that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing. The Secretary shall mail a copy of the Order to Show Cause to the Respondent to the last mailing address of record as shown in the records of the Authority. The Order to Show Cause shall be mailed to the Respondent at least thirty (30) days prior to date of such hearing. The Town Clerk's Certificate of Mailing of the Order to Show Cause shall be prima facie evidence of compliance with the requirements of this Rule. A notice mailed in accordance with the requirements of this Rule shall be presumed to have been delivered to and received by the Respondent.

Rule 26. Disciplinary Hearings.

A. Right to Hearing. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

B. Scheduling of Hearing. Hearings shall be scheduled and held as soon as is practicable.

C. Right to Present Evidence and Cross Examine Witnesses. In any disciplinary hearing, a Respondent has the right to present its case or defense; to present such evidence as may be relevant; and to cross examine all witnesses. The Police Department has the same right to present its case; to present such evidence as may be relevant; and to cross examine all witnesses.

D. Waiver of Right to Hearing. A Respondent may waive its right to a hearing by submitting a written statement to the Authority to that effect before the hearing.

E. Burden of Proof. Unless otherwise provided by law, the Police Department shall have the burden of proof with respect to all issues relegated to an Order To Show Cause or a Summary Suspension Order. The Respondent shall have the burden of proof as to any order as to which it is the proponent.

F. Testimony Under Oath. All testimony offered at a hearing before the Authority shall be given under oath or affirmation.

G. Town's Police Department Is A Party. In all disciplinary hearings held before the Authority under the Licensing Ordinance, the Police Department shall be a Party, and shall represent the public interest.

H. No Responsive Pleading Required. No responsive pleading is required to be filed by the Respondent. However, the Respondent may file a responsive pleading if desired any time prior to the hearing. A copy of any responsive pleading shall be provided to the Town's Municipal Court Prosecutor concurrently with it having been filed with the Authority. If the Respondent files a responsive pleading, the Municipal Court Prosecutor shall have the right to file a written response to such pleading within such reasonable period of time as may be ordered by the Chair or Vice Chair of the Authority.

I. Discovery Not Allowed. Discovery is not permitted in connection with any hearing held by the Authority.

Rule 27. Subpoenas.

1. Party May Request Subpoenas. A Party or its counsel may request the Authority to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing.

2. Request For Subpoenas – To Whom Delivered. Requests for subpoenas to be issued by the Authority must be delivered in person or by mail to the office of the Secretary of the Authority, 150 Ski Hill Road, Breckenridge, Colorado 80424. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting Party or its attorney.

3. Content of Request For Subpoena Form. Requests for subpoenas to be issued by the Authority must be made on a "Request for Subpoena" form authorized and provided by the

Secretary. The Authority shall not issue a subpoena unless the request contains the following information:

- (a) Name of the Respondent;
- (b) Town of Breckenridge Marijuana License number;
- (c) Date of hearing;
- (d) Location of hearing, or telephone number for telephone check-in;
- (e) Time of hearing;
- (f) Name of witness to be subpoenaed; and
- (g) Mailing address of witness (home or business).

4. **Subpoena Duces Tecum.** A request for a subpoena duces tecum must identify each document or category of documents to be produced.

5. **Request Form Sign By Party or Counsel.** Requests for subpoenas shall be signed by the requesting Party or its counsel.

6. **Authority to Issue Subpoenas.** The Secretary shall issue subpoenas without discrimination. If the Secretary denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

7. **Service of Subpoenas.**

- (a) Service of any subpoena is the duty of the Party requesting the subpoena.
- (b) All subpoenas must be served at least two (2) business days prior to the hearing.

8. **Subpoena Enforcement.**

(a) Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the Authority.

(b) The Chair or Vice Chair may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Rule 28. Special Rules for Conduct of Disciplinary Hearings.

1. **Court Reporter.** A court reporter may be employed by any Party, at the expense of such Party, to prepare a verbatim written record of the hearing.

2. Telephonic Hearing. The Authority may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a Party is appearing by telephone, the Party must provide actual copies of the exhibits to be offered into evidence at the hearing to the Authority before the hearing.

Rule 29. Order of Proceeding. A disciplinary hearing shall proceed as follows:

(a) First, counsel for the Police Department shall be given the opportunity to present any opening statement to the Authority that he or she desires to make.

(b) Next, the Respondent or its counsel shall be given the opportunity to present any opening statement to the Authority that it desires to make.

(c) Next, the Police Department shall present its evidence with respect to the charge against the Respondent. This may involve the calling of witnesses or the introduction of documentary evidence. The Respondent or its counsel shall be given an opportunity to cross-examine the Police Department's witnesses about their testimony or records.

(d) Next, the Respondent or its counsel shall be given an opportunity to present any evidence that it may wish to offer with respect to the charge. This may involve the calling of witnesses or the introduction of documentary evidence. Counsel for the Police Department shall be given an opportunity to cross-examine the Respondent's witnesses about their testimony or records.

(e) Finally, the Parties shall be given an opportunity to present any rebuttal evidence that they desire to offer.

(f) The Authority shall be permitted to ask questions of any person who testifies. This shall occur after the testimony has been offered and any cross-examination has occurred. If there are further questions which either Party has as a result of any of Authority's questions, they shall be permitted to ask such questions.

(g) After all of the testimony and cross-examination has been concluded, the Parties shall be given the opportunity to present a brief summation.

(h) After that, the hearing shall be closed.

2. If Respondent Fails to Appear. The Authority may proceed with the hearing or enter default judgment if any Party fails to appear at hearing after proper notice.

Rule 30. Decision.

A. After considering all the evidence, the Authority shall determine whether the Party with the burden of proof has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact and law, and shall issue its decision.

B. A decision of the Authority shall be final, subject to the right of any aggrieved Party to contest the matter in an appropriate court action commenced under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

C. In a disciplinary hearing involving an alcohol beverage license, if the evidence presented at the hearing does not support the charges stated in the Show Cause Order, but standing alone establishes the guilt of the Respondent of a violation of some other law, rule, or regulation, the Respondent shall be permitted to give evidence and statements in defense, explanation, and mitigation if then prepared to do so. If such evidence is not then available, but can be obtained by the Respondent, the Respondent shall state the substance thereof and up the Respondent's request the hearing may be recessed for not more than ten day, and shall then continue under the same procedure as though no recess had occurred.

Rule 31. Statements in Mitigation and Aggravation. If the Respondent is found to have committed the violation(s) as alleged, evidence and statements in mitigation and aggravation of the charges shall be permitted.

Rule 32. Penalties In Disciplinary Actions Involving Alcohol Beverage Licenses. If the allegations against a Respondent who holds an alcohol beverage license are sustained after a hearing, the range of available penalties that may be imposed by the Authority include those remedies provided for in the Applicable Code, Applicable Administrative Regulation, or applicable ordinance.

Rule 33. Penalties In Disciplinary Actions Involving Marijuana Licenses.

A. **Range of Penalties.** If the allegations against a Respondent who holds a marijuana license are sustained after a hearing, the range of available penalties that may be imposed by the Authority include:

1. A verbal or written warning;
2. The revocation of the license;
3. The suspension of the license for a period of time not to exceed six months; and/or
4. The imposition of a fine or fine in lieu of suspension of up to \$100,000.

In determining an appropriate penalty, the Authority shall consider the mitigating and aggravating factors enumerated below.

Sanctions may also include restrictions or conditions on the license.

B. Other Factors

The Authority shall take into consideration any aggravating and mitigating factors surrounding the violation that could impact the type or severity of penalty imposed.

1. The circumstances surrounding any penalty imposed shall be determined on a case-by-case basis.

C. Mitigating and Aggravating Factors. The Authority shall consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Respondent has admitted to or was found to have engaged in.

2. Action taken by the Respondent to prevent the violation (e.g., training provided to employees).

3. The Respondent's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the Respondent related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are not limited to:

(a) Prior notification letter to the Respondent that an underage compliance check would be forthcoming.

(b) The dress or appearance of an underage operative used during an underage compliance check (e.g., the operative was wearing a high school letter jacket).

8. The Owner or manager is the violator or has directed an employee or other individual to violate the law.

9. Participation in State-approved educational programs related to the operation of a Retail Marijuana Establishment.

Rule 34. Suspension of the Rules

Any provision of these Rules not governed by the Charter or the ordinance that created the Authority may be temporarily suspended at any meeting of the Authority by a majority vote of the Authority. Any rule may be suspended by general consent if the presented by the Chair and there is no objection by any member.

Rule 35. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting. Adoption of

an amendment shall require an affirmative vote of a majority of the quorum present at such meeting.

APPROVED AND ADOPTED THIS 17TH DAY OF OCTOBER, 2017

TOWN OF BRECKENRIDGE LIQUOR AND
MARIJUANA LICENSING AUTHORITY

By: _____
Chair

ATTEST:

Secretary

FOR ADOPTION – OCTOBER 17

BEFORE THE LIQUOR AND MARIJUANA LICENSING AUTHORITY

OF THE TOWN OF BRECKENRIDGE

RESOLUTION NO. 2

SERIES 2017

A RESOLUTION ADOPTING RULES AND REGULATIONS FOR PUBLIC HEARINGS
CONDUCTED BY THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA
LICENSING AUTHORITY

WHEREAS, Section 2-5-10 of the Breckenridge Town Code authorizes the Town of Breckenridge Liquor and Marijuana Licensing Authority to adopt rules and regulations governing its operation.

NOW, THEREFORE, BE IT RESOLVED BY THE LIQUOR AND MARIJUANA LICENSING AUTHORITY OF THE TOWN OF BRECKENRIDGE, COLORADO, as follows:

Section 1. The attached “Rules and Regulations For Public Hearings Conducted by the Town of Breckenridge Liquor and Marijuana Licensing Authority (October 2017)” are adopted.

Section 2. All resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such resolution, or part thereof, heretofore repealed. Without limiting the generality of the preceding sentences in this Section 2, Resolution No. 3, Series 2016, is repealed.

Section 3. This resolution is effective upon adoption.

RESOLUTION APPROVED AND ADOPTED THIS 17TH DAY OF OCTOBER, 2017

TOWN OF BRECKENRIDGE LIQUOR AND
MARIJUANA LICENSING AUTHORITY

By: _____
Chair

ATTEST:

Secretary

M E M O R A N D U M

TO: Liquor & Marijuana Licensing Authority
FROM: Town Clerk
DATE: October 17, 2017
SUBJECT: Liquor License Consent Calendar

RENEWALS

1. Mom's Baking Co. LLC d/b/a **Mom's Baking Co.**
100 N. Main St., Suite 214
Beer & Wine
2. Breck One LLC d/b/a **Quandary Grille**
500 S. Main St., Unit C-1
Hotel & Restaurant
3. Prodigal Seed Inc. d/b/a **Ember**
106 E. Adams St.
Hotel & Restaurant
4. J-N-R LLC d/b/a **Blue at the Riverwalk Center**
150 W. Adams St.
Hotel & Restaurant
5. Legend's Breckenridge LLC d/b/a **Legend's Italian Steakhouse**
215 S. Ridge St.
Hotel & Restaurant
6. MSIR LLC d/b/a **All Events & Catering**
505 S. Main St.
Hotel & Restaurant
7. DCB Cafe LLC d/b/a **Cool River Coffee House**
325 S. Main St.
Hotel & Restaurant
8. Keystone Food & Beverage Co. d/b/a **Mountain Thunder Lodge**
50 Mountain Thunder Drive
Hotel & Restaurant
9. YHJ LLC d/b/a **Extreme Pizza**
200 N. Main St.
Hotel & Restaurant

10. 505 Main LLC d/b/a BoLD Kitchen and Bar
505 S. Main St., Unit B1
Hotel & Restaurant

11. Palmer Industries LLC d/b/a Liquid Lounge
520 S. Main St.
Hotel & Restaurant

REPORT OF CHANGES/MODIFICATION OF PREMISES

1. Remlap Enterprises d/b/a **Burke and Riley's Irish Pub**
520 S. Main St., Unit #3P
Transfer of Ownership
Transfer from B & R, Inc. to Remlap Enterprises.
2. Salt Hospitality LLP d/b/a **Pho on Main Asian Grill**
100 N. Main St., Unit 204
Transfer of Ownership
Transfer from Jake's Dive Bar, LLC to Salt Hospitality, LLP.
3. Breckenridge BBQ LTD d/b/a **Kenosha Steakhouse**
301 S. Main St.
Modification of Premises
Modification to expand the outdoor patio area.
4. 505 Main LLC d/b/a **BoLD Kitchen and Bar**
505 S. Main St., Unit B1
Modification of Premises
Modification to shorten the length of the bar.
5. Windriver Investments d/b/a **Speakeasy Movie Theatre**
103 S. Harris St.
Modification of Premises
Modification to change liquor licensed premises to only include concessions area (which will remain locked and closed) for November 3. This is being done to allow for Timberline Learning to obtain a special event liquor permit for their event on that day.

M E M O R A N D U M

TO: Liquor & Marijuana Licensing Authority
FROM: Town Clerk
DATE: October 17, 2017
SUBJECT: Marijuana License Consent Calendar

RENEWALS

1. Alpenglow Botanicals, LLC d/b/a **Alpenglow Botanicals**
1805 Airport Rd., Units B-1-B, B-1-C
Retail Marijuana Store

2. Alpenglow Botanicals, LLC d/b/a **Alpenglow Botanicals**
1805 Airport Rd., Units B-1-B, B-1-C & B-2
Retail Marijuana Cultivation Facility

MEMORANDUM

TO: Liquor & Marijuana Licensing Authority
FROM: Town Clerk
DATE: 10.17.17
SUBJECT: Approved Special Events

The following special event was approved during the month of September:

Wounded Heroes Family Adventures

Cornholio
300 S. High Street

Sunday, September 17, 2017; 12:00 pm – 6:00 pm

Posting: Tuesday, August 29, 2017
Hearing/Approval: Tuesday, September 12, 2017

Summit County Youth Hockey

Summit Hockey Classic
189 Boreas Pass Road

Saturday, September 30, 2017; 5:00 pm – 10:00 pm
Friday, October 20, 2017; 7:00 pm – 12:00 am
Saturday, October 21, 2017; 7:00 pm – 12:00 am
Friday, November 3, 2017; 7:00 pm – 12:00 am
Saturday, November 4, 2017; 7:00 pm – 12:00 am
Friday, December 15, 2017; 7:00 pm – 12:00 am
Saturday, December 16, 2017; 7:00 pm – 12:00 am
Sunday, December 17, 2017; 12:30 pm – 4:00 pm

Posting: Friday, September 1, 2017
Hearing/Approval: Wednesday, September 13, 2017