

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

**RULES OF PROCEDURE
(October 2017)**

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**RULES OF PROCEDURE
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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 January 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 January, 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