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CITY OF LOVELAND, COLORADO
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RULE 1. RULES – Authority and Applicability

These Rules of Procedure (“Rules”) are adopted by the Authority pursuant to Loveland Municipal Code Section 8.04.030. In addition to any other rules or laws that may be applicable, these Rules shall govern all proceedings before the Authority. If any Rule herein is in conflict with the Colorado Beer and Liquor Code or the regulations promulgated thereunder, the State law or regulation shall control.

RULE 2. DEFINITIONS

Applicant shall mean “person(s)” who submit an application for a license or permit under these rules.

Authority shall mean the Local Licensing Authority of the City of Loveland.

Colorado Beer and Liquor Code shall refer collectively to Title 12 Articles 46-48 of the Colorado Revised Statutes, as amended.

C.C.R. shall mean the Colorado Code of Regulations, as amended.

C.R.S. shall mean the Colorado Revised Statutes, as amended.

License shall mean the Authority’s grant to a Licensee to sell, dispense, or serve malt, vinous, or spirituous liquors or fermented malt beverages as evidenced by a city issued license. When used herein, the term “License” shall mean and include permits, unless the specific context requires otherwise.

Licensee shall mean person(s) licensed by the Authority to sell, dispense, or serve malt, vinous, or spirituous liquors of fermented malt beverages.

Licensed Premises shall mean the premises specified in an application for a license approved by the Authority that is owned or is in possession of the Licensee within which such Licensee is authorized to sell, dispense, or serve malt, vinous, or spirituous liquors or fermented malt beverages.

Parties in Interest shall mean those persons defined as such pursuant to C.R.S. Section 12-47-311(5) (b).

Regulations shall refer to 1 C.C.R. 203-2 as adopted by the State of Colorado.

Secretary shall mean the City Clerk of the City of Loveland or designee.

State shall mean the State of Colorado.

All other words and phrases used in these Rules shall have the meanings ascribed to them in the Colorado Beer Code, the Colorado Liquor Code, Article 48 of Title 12, C.R.S. or other rules and regulations of the state licensing authority pertaining hereto.

RULE 3. MEETINGS OF THE AUTHORITY

Rule 3.1 In General

The Authority shall meet on the third Thursday of the month at 8:30 a.m. in the City Council Chambers located at 500 East Third Street, Loveland, Colorado, or an alternate site specified by the Authority in the public notice posted for that meeting, for the purpose of performing its duties and functions. The Authority may hold special meetings when necessary, provided that notices for such meetings are posted in accordance with the Colorado Open Meetings Act.

Rule 3.2 Setting of Meeting Date to Consider Application

The Secretary shall notify Applicant in writing of the acceptance of the application and the date of the meeting at which the Authority will consider the application to make a determination whether to grant the license or permit.

Rule 3.3 Who Must Appear

(a) Unless exempted pursuant to subsection (b) or (c) below, the following person shall be in attendance at the meeting:

- (1) If the Applicant is an individual, that individual;
- (2) If the Applicant is a partnership, any partner;
- (3) If the Applicant is a corporation, an officer of the corporation;

(4) If the Applicant is an LLC, a member of the LLC;

(5) If the class of license requires a manager, or if the business will be managed by someone other than the owner, the manager may appear in place of the owner or the owner's representative who is required to appear in subsections (1)-(4) above; or

(6) Any other person the Authority may require as it deems necessary.

If the person listed above fails to attend as required, the Authority may decline to consider the matter and continue the matter to the next regularly-scheduled meeting.

(b) The Authority may waive attendance by any one or more of the designated persons.

(c) A Licensees applying to renew their license is not required to attend the meeting unless otherwise directed by the Authority.

RULE 4. PUBLIC HEARINGS

(a) Public Hearings before the Authority shall be conducted pursuant to the laws and regulations of the State, including C.R.S. Section 12-47-311, and these Rules.

(b) Subject to the Authority's right to limit the presentation of certain evidence, Applicant shall introduce evidence with regard to the requirements as provided in State statutes, regulations, and rules related to the type of license or permit or change in license or permit status, as applicable. These may include, by way of illustration and not limitation, C.R.S. Sections 12-47-307, 308, 310-313, and 1 C.C.R. 203-2 Regulations 47-300-304, 310, and 312.

(c) Parties in Interest may introduce evidence subject to paragraph (b) above.

(d) Questions concerning the competency of witnesses to testify on behalf of or in opposition to the issuance of a license or permit, and the materiality, relevancy, or competency of their testimony will be determined by the Authority.

(e) All testimony shall be given under oath. Exhibits shall be marked for identification and identified before being offered for admission into the record of the proceedings. The Authority will rule on the admissibility of the exhibits. When necessary to ascertain facts affecting the substantial right of the public or Applicant, the Authority may receive and consider evidence not admissible under the Rules of Evidence and requirements of proof if such evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The rules of privilege required by law will be respected during the proceedings. The Authority may exclude irrelevant, incompetent or unduly cumulative evidence.

(f) At the conclusion of the evidence and statements, the Authority will close the Public Hearing and make its decision or will continue the matter for a written decision within thirty (30) days.

RULE 5. CLASSES OF LICENSES

Rule 5.1 Art Gallery Permit

Art Gallery Permits are authorized and granted pursuant to C.R.S. Section 12-47-422.

Rule 5.2 Arts License

Arts Licenses are authorized and granted pursuant to C.R.S. Section 12-47-417 and 1 C.C.R. 203-2 Regulation 47-422.

Rule 5.3 Bed and Breakfast Permit

Bed and Breakfast Permits are authorized and granted pursuant to C.R.S. Section 12-47-410.

Rule 5.4 Beer and Wine License

Beer and Wine Licenses are authorized and granted pursuant to C.R.S. Section 12-47-409.

Rule 5.5 Brew Pub License

Brew Pub Licenses are authorized and granted pursuant to C.R.S. Section 12-47-415.

Rule 5.6 Club License

Club Licenses are authorized and granted pursuant to C.R.S. Section 12-47-416.

Rule 5.7 Fermented Malt Beverage License (3.2 Beer License)

Fermented Malt Beverage Licenses are authorized and granted pursuant to C.R.S. Section 12-46-101 *et seq.*

Rule 5.8 Hotel and Restaurant License

Hotel and Restaurant Licenses are authorized and granted pursuant to C.R.S. Section 12-47-411 and 1 C.C.R. 203-2 Regulation 47-418 (restaurants only).

Rule 5.9 Liquor-licensed Drug Store License

Liquor-licensed Drug Store Licenses are authorized and granted pursuant to C.R.S. Section 12-47-408 and 1 C.C.R. 203-2 Regulation 47-407.

Rule 5.10 Optional Premises License

Optional Premises Licenses are authorized and granted pursuant to C.R.S. Section 12-47-310, 413, and Loveland Municipal Code Chapter 8.06.

Rule 5.11 Racetrack License

Racetrack Licenses are authorized and granted pursuant to C.R.S. Section 12-47-418.

Rule 5.12 Retail Liquor Store License

Retail Liquor Store Licenses are authorized and granted pursuant to C.R.S. Section 12-47-407.

Rule 5.13 Special Event Permit

(a) Special Event Permits (“SEP”) are authorized and granted pursuant to C.R.S. Section 12-48-101 *et seq.* and 1 C.C.R. 203-2 Regulation 47-1000 through -1020. Rules 7 and 10, below, do not apply to SEP.

(b) SEP applications must be submitted at least thirty (30) days prior to the event. The Authority may waive the deadline for good cause. Incomplete applications will not be considered. All applications shall be open for inspection during normal business hours, except as prohibited under the Colorado Open Records Act or other applicable law.

(c) The Authority requires all first-time Applicants to appear before the Authority for SEP applications. The purpose of the appearance is for the Authority to consider the requirements of C.R.S. Sections 12-48-102, 103, and 105-107. Applicants who have previously been approved for a SEP may not need to appear before the Authority if no concerns have been raised regarding Applicant and/or event, and when there does not appear to be sufficient grounds to deny the SEP.

Rule 5.14 Tastings Permit

Tastings Permits are authorized and granted pursuant to C.R.S. Section 12-47-301(10) and Loveland Municipal Code Chapter 8.08. Rules 7 and 10, below, do not apply to Tastings Permits.

Rule 5.15 Tavern License

Tavern Licenses are authorized and granted pursuant to C.R.S. Section 12-47-412.

Rule 5.16 Vintner's Restaurant License

Vintner's Restaurant Licenses are authorized and granted pursuant to C.R.S. Section 12-47-420.

RULE 6. APPLICATIONS AND FEES

(a) Applications for licenses or permits to sell malt, vinous, or spirituous liquors shall be made under oath and submitted to the Secretary on forms provided, including the State application, local application, and individual history forms, if applicable. Forms are available from the City Clerk's Office and Colorado Department of Revenue. Except for plans and specifications, all information shall be typewritten or printed in blue or black ink. **Applications must be submitted at least forty-five (45) days prior to the meeting at which the application is to be considered, and must be complete in all material details and include all required documentation at least fifteen (15) days prior to the meeting at which the application is to be considered.** The Authority may waive certain deadlines for good cause. Incomplete applications will not be considered. All applications will be available for inspection during normal business hours, except as prohibited under the Colorado Open Records Act or other applicable law.

(b) State application and license or permit fees, payable to the State of Colorado Department of Revenue, and local application and license or permit fees, payable to the City of Loveland, shall be submitted to the Secretary at the time of application.

(c) All persons required to be fingerprinted shall submit, along with their fingerprints, a money order or cashier's check made payable to the Colorado Bureau of Investigation ("CBI").

(d) All persons required to submit individual history forms shall provide fingerprint cards obtained from the Loveland Police Department or another law enforcement agency.

(e) The Loveland Police Department shall complete background investigations of all persons for whom such investigations are required for the license or permit. All such persons shall agree to a CBI/FBI criminal history records check through fingerprint identification. If a person has had a background investigation completed by the Loveland Police Department or other law enforcement agency, the Authority may waive the fingerprinting requirement.

(f) Upon the withdrawal of any application for which fees have been paid under these rules, the Secretary shall refund all license or permit fees paid. Application fees are non-refundable.

RULE 7. NEW LICENSES

Rule 7.1 In General

New licenses are authorized and granted pursuant to C.R.S. Section 12-47-301 and those laws and regulations applicable to the type of license requested. Notwithstanding the forgoing, this Rule 7 does not apply to Special Events Permits, which are governed by C.R.S. Section 12-48-101 *et seq.*, or Tastings Permits, which are governed by C.R.S. Section 12-47-301(10) and Loveland Municipal Code Chapter 8.08.

Rule 7.2 Neighborhood Boundaries

The relevant neighborhood boundaries as established by the Authority will be provided to the applicant within ten (10) days.

Rule 7.3 Petitions

Petitions may be circulated by Applicant or Parties in Interest opposing the issuance of the license. Each person who signs a petition shall sign his or her name, address, age or otherwise indicate that he or she is at least twenty-one (21) years of age and the date. No person may sign more than one petition. Petitions should be filed ten (10) days prior to the Public Hearing.

Rule 7.4 Preliminary Investigation

(a) The Authority, through the Secretary, shall gather evidence for the preliminary investigation as required by State law. The Authority shall, at least five (5) days prior to the date of the Public Hearing, make known in writing its findings to Applicant and upon request, to other Parties in Interest regarding the following matters, by way of illustration and not limitation:

(1) Whether within two (2) years preceding the date of the receipt of the application a licensing authority has denied an application at the same location for the reason that the reasonable requirements of the neighborhood were satisfied by the existing outlets;

(2) Applicant is or will be entitled to possession of the premises for which application is made;

(3) That the sale of liquor as contemplated by the application at the premises sought to be licensed is not in violation of the zoning, fire, building, or other applicable ordinances, regulations, or rules of the City of Loveland, or any other applicable laws, regulations, or rules of Larimer County or the State;

(4) That the building where the license is sought to be exercised is located more than five hundred (500) feet from any public or parochial school or the principal campus of any college, university, or seminary. For the purposes of measuring the distance, the requirements of C.R.S. Section 12-47-313 and 1 C.C.R. 203-2 Regulation 47-326 shall be followed;

(5) The number and type of liquor outlets located in or near the neighborhood under consideration; and

(6) The status of the background investigation concerning the Applicant.

Rule 7.5 Public Hearing

(a) The Authority requires all Applicants for a new license to appear at a Public Hearing. The purpose of the Public Hearing is for the Authority to receive information, data, and testimony by Applicant and any Parties in Interest in order to enable the Authority to make findings and reach the conclusions required to be made by law as to whether the application should be approved or denied. The principal questions the Authority will consider are: 1) the reasonable requirements of the neighborhood for the outlet applied for and the desires of the adult inhabitants of that neighborhood with respect to that outlet; 2) the number, type and availability of alcohol beverage outlets located in or near the neighborhood under consideration; and 3) any other pertinent matters affecting the qualifications of Applicant to conduct the type of business proposed.

(b) Those persons who will be heard during the Public Hearing are representatives of the City and Parties in Interest, who are defined by State law as being the Applicant, residents of the neighborhood, owners, managers of businesses located in the neighborhood, and the principal or representative of any school located within five hundred (500) feet of the premises for which the license is applied for. An organized neighborhood group encompassing all or part of the neighborhood under consideration may have a representative speak on its behalf. The representative must reside within the neighborhood's geographic boundaries and shall not be entitled to cross-examine witnesses. Parties in Interest may be represented by counsel.

(c) After reading the opening comments, the Authority will review the preliminary investigation report. The City Attorney may also provide a report. Applicant will present any testimony, exhibits, petitions, or other relevant information. Following this, other Parties in Interest may present testimony, exhibits, petitions, or other relevant information in opposition to the application. Applicant will have the opportunity to provide information in rebuttal. The City Attorney may also be heard.

(d) The Authority may, in its discretion, limit the presentation of evidence and cross-examination to prevent repetitive and cumulative evidence or examination. Applicant will have up to one (1) hour for its presentation without cross-examination, including opening statement, rebuttal, and closing statement. Parties in Interest, as a group, will likewise have up to one (1) hour for their presentation, including opening and closing statements. Applicant and Parties in Interest will be given up to fifteen (15) minutes for cross-examination of the witnesses.

(e) The Secretary's official files will be admitted into the record of the hearing.

(f) As witnesses complete their testimony, they are to remain available for cross-examination.

RULE 8. LICENSE RENEWALS

License Renewal Applications shall be considered on the Consent Agenda unless otherwise directed by the Authority. Licensees applying to renew their licenses are not required to attend the meeting unless notified otherwise.

RULE 9. LICENSE CHANGES

Rule 9.1 Change of Location

No license issued by the Authority shall be transferred to another location without the approval of the Authority following a Public Hearing held pursuant to C.R.S. Section 12-47-301(9) and 1 C.C.R. 203-2 Regulation 47-312.

Rule 9.2 Modification of Premises

(a) Physical changes, alterations, or modifications of the licensed premises or in the use of the premises require prior written consent of the Authority pursuant to 1 C.C.R. 203-2 Regulation 47-302. Said requests shall be accompanied by adequate plans and specifications sufficient to advise the Authority of the scope and nature of the proposed request consistent with the requirements of 1 C.C.R. 203-2 Regulation 47-302.

(b) The Authority may require Licensees to appear on an Application for Modification of Premises. The purpose of the appearance will be for the Authority to consider the requirements of 1 C.C.R. 203-2 Regulation 47-302.

Rule 9.3 Optional Premises; Activation or Deactivation

Optional Premises Licensees intending to activate or deactivate part of the licensed optional premises shall provide written notice not less than twenty (20) days prior to the date of change. Notice shall be provided to the Authority, the Loveland Police Department, the Larimer County Sheriff where applicable, and the Colorado Department of Revenue. The notice shall include the specific dates and times of the service of alcohol pursuant to C.R.S. Section 12-47-310 and Loveland Municipal Code Section 8.06.050.E.

Rule 9.4 Transfer of Ownership; Application for Temporary Permit

(a) No license or permit issued by the Authority shall be transferred to another person without the approval of the Authority. Prior to the transfer of ownership of any licensed establishment, the person(s) wanting to acquire said establishment shall submit an application for the issuance of a license of the same type, an "Affidavit of Transfer and Compliance," and a copy of the sale agreement of the existing establishment. Where a license or permit has been issued to a husband and wife or to general or limited partners,

the death of a spouse, partner, or partners shall not require the surviving spouse, partner, or partners to obtain a new license.

(b) The Authority requires all Applicants to appear on an Application to Transfer Ownership. The purpose of the appearance will be for the Authority to consider the requirements of C.R.S. Sections 12-47-303 and 307, and 1 C.C.R. 203-2, Regulation 47-304.

(c) All Applicants requesting a transfer of ownership may request a Temporary Transfer Permit as provided in C.R.S. Section 12-47-303. The Authority shall not consider a request for a Temporary Transfer Permit until Applicants submit a completed application including evidence of the sale.

Rule 9.5 Manager Change

Licensees shall notify the Authority of a change in manager as provided in C.R.S. 12-47-412 (6). Failure to timely notify the Authority shall be grounds for suspension or revocation of the license.

Rule 9.6 Corporate Change

Licensees shall notify the Authority of corporate changes as provided in C.R.S. 12-47-411 (10). Failure to timely notify the Authority shall be grounds for suspension or revocation of the license.

RULE 10. ISSUANCE OF LICENSES

(a) All licenses shall be issued in accordance with State law and regulations, local ordinances, and these Rules. Except for SEPs and Tasting Permits, the Authority shall not issue a license until it is satisfied:

(1) Applicant or any stockholder, partner, or member, if applicable, meet the personal qualifications for holding a liquor license;

(2) Applicant will be legally entitled to possession of the licensed premises and that the use of the premises at the proposed location does not violate the zoning laws or any other laws of the City of Loveland, Larimer County, or the State;

(3) The premises is ready for occupancy with such furniture, fixtures, and equipment as is necessary to comply with State law and regulations and local ordinances;

(4) The Building Inspector and Fire Marshal have determined the Applicants have complied in every material detail with the plans and specifications submitted at the time of filing of the application;

(5) The Loveland Police Department has inspected the premises.

The Authority will consider all representations made to it concerning the proposed character of the establishment, the method of sale, and the personal, financial, and substantive qualifications of Applicant to be material and directly affecting the decision by the Authority to issue a license or permit. Any proven misrepresentations or significant deviations from such representations concerning these matters may be cause for suspension or revocation of said license or permit.

RULE 11. TERMS OF LICENSES

Terms of licenses and permits shall be as provided by State law.

RULE 12. SHOW CAUSE HEARINGS

Show Cause Hearings before the Authority regarding alleged violations of the Colorado Liquor and Beer Code, or violations of the regulations related to manufacture and sale and service of alcohol, shall be held in accordance with C.R.S. Section 12-47-601, 1 C.C.R. 203-2 Regulation 47-600, and these Rules.

RULE 13. SUSPENSION AND REVOCATIONS

(a) Any violation of State law or regulations or local ordinances concerning the sale of liquor or the operation of an establishment which sells or serves liquor in any manner may constitute cause for suspension or revocation of the license or permit.

(b) The Licensee shall be responsible for the maintenance of orderly conduct of all employees and patrons on the licensed premises. Failure of Licensee or employee to make all reasonable efforts to comply with said requirement shall be grounds for revocation or suspension of a license.

(c) When matters are brought to the attention of the Authority that, if substantiated, could be grounds for a suspension or revocation of a license, the Authority shall determine, by investigation or otherwise, the probable truth of such matters.

(d) If it comes to the attention of the Authority that there is probable cause to believe that a Licensee has violated any law, regulation, rule, or local ordinance, the Authority shall issue and cause to be served upon such Licensee, not less than thirty (30) days prior to such a Notice of Hearing and Order to Show Cause, why the license should not be suspended or revoked.

(e) The Show Cause Hearing shall be held at the place designated by the Authority and on the date and time stated in the notice, or upon such other date as may be set for good cause shown.

(f) The Licensee shall notify the Secretary within five (5) days of the hearing the need for an interpreter and preferred language of the Licensee and any witness who is unable to speak English.

(g) Requests to continue Show Cause Hearings must be based on good cause and said requests must be submitted to the Secretary at least ten (10) days prior to the scheduled Show Cause Hearing. Untimely requests will not be considered absent a showing of extreme and undue hardship or emergency. The Authority will review all requests to continue and will grant or deny said requests.

(h) When the Authority has ordered a license suspension and Licensee is required to post notice of the suspension pursuant to 1 C.C.R. 203-2 Regulation 47-600, a deposit of \$100.00 with the Secretary may be required as security to assure the timely return of the notices in good condition as provided by the Authority. Said notices shall be returned to the Secretary not more than three (3) days following the completion of the service of the suspension.

RULE 14. TRANSCRIPTS

Any person seeking a transcript of proceedings concerning an application or any other matter before the Authority shall pay the City of Loveland the cost of preparing the transcript of the proceeding. A deposit of \$100.00 may be required to be posted with the Secretary prior to preparation. The Authority will prepare, or have prepared, an original and one copy of the transcript. The original shall remain with the Authority. The copy shall be provided to the party making the request for the transcript. Additional copies may be requested.

RULE 15. AMENDMENTS

These Rules may be amended by the Authority at any meeting.

THESE RULES ARE HEREBY ADOPTED AND EFFECTIVE THIS 1st DAY OF January, 2016.

LOCAL LICENSING AUTHORITY
CITY OF LOVELAND, COLORADO

By: Gerri R. Joneson
Gerri R. Joneson

