

Revised - July, 2001

**LOCAL LICENSING AUTHORITY
CITY OF LONGMONT, COLORADO
LIQUOR LICENSING
RULES OF PROCEDURE**

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RULE 1. APPLICABILITY OF RULES

In addition to any other rules or laws, which may be applicable, these rules shall govern all proceedings before the Local Licensing Authority of the City of Longmont.

RULE 2. EFFECTIVE DATE

These rules are adopted pursuant to Longmont Municipal Code section 2.68.070 shall be effective July 20, 2001.

RULE 3. APPLICATIONS, FEES AND HEARINGS

(a) All applications for liquor licenses shall be filed with the City Clerk of the City of Longmont. Except for plans and specifications, all information to be supplied shall be typewritten or printed in black ink.

(b) Any person applying for a liquor license shall file with the City Clerk of the City of Longmont, as Secretary to the Longmont Local Licensing Authority:

- (1) A state license application form, which shall be filled out in duplicate and completed in all material details. Incomplete application forms shall be rejected.
- (2) Certified Funds in the amount as determined by the Authority for application fees, payable to the City of Longmont; and a check in the amount determined by the Authority, payable to Colorado Bureau of Investigation. The application fee shall be submitted to cover costs of the preliminary investigation made by the Authority, all administrative checks which need to be performed, publication and posting costs.
- (3) For all new licenses, the full application fee, as determined by the Authority, shall be submitted, the full application form shall be submitted, and a public hearing shall be scheduled.
- (4) For renewal of existing licenses, the application fee, as determined by the Authority, shall be required, the full application form shall be submitted unless no changes in any information formerly on file with the City of Longmont have occurred, and no public hearing shall be scheduled unless the Authority so orders.
- (5) For transfer of location of a license, the application fee, as determined by the Authority, shall be submitted, the full application form shall be submitted, and a public hearing shall be scheduled.
- (6) For transfer of ownership of a license, the application fee, as determined by the Authority, shall be submitted, the personal qualifications section of the form shall be completed and a public hearing may be scheduled.
- (7) For modification or alteration of the licensed premises, the completed application, on forms provided by the State Licensing Authority, shall be submitted with the application fee, as determined by the Authority. Adequate plans and specifications sufficient to advise the Authority of the scope and nature of the proposed request shall be submitted, and a public hearing may be scheduled.
- (8) Upon the withdrawal of any application for which fees have been paid under these

rules, prior to final action by the Local Licensing Authority, the City Clerk of the City of Longmont, as Secretary to the Local Licensing Authority, shall refund all fees paid, less any application fee paid.

RULE 4. APPLICATION FORM

All applications for licenses to sell malt, vinous or spirituous liquors shall be made under oath to the City Clerk of the City of Longmont, as secretary to the Local Licensing Authority, on forms provided. All applications submitted shall be open for inspection during normal business hours. All applications shall provide the following information:

- (a) Name, age and residence of the applicant;
- (b) Length of residence of the applicant in the State of Colorado;
- (c) If incorporated, pursuant to what laws, and a copy of the Articles of Incorporation. If a partnership is involved, a copy of the Partnership Agreement shall be filed;
- (d) If an LLC, a copy of the membership agreement;
- (e) Whether qualified to do business in the State of Colorado;
- (f) Address and description of the premises for which the license is to be desired. The applicant shall file, at the time of application, plans and specifications for the interior of the building, if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plat plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. If a hotel license, a restaurant license or beer and wine license is applied for, the plans and specifications shall show in addition, the following:
 - (1) The total floor area where alcohol will be served.
 - (2) The overall seating capacity.
 - (3) Location of the bar counter.
 - (4) Size and dimension of the kitchen and other food preparation areas.
 - (5) Location and number and kinds of ranges, stoves or ovens, refrigerators, food lockers, dishwashers, sinks and restrooms, together with an estimated total cost.
 - (6) Location and dimension of food preparation areas and food storage areas.
 - (7) Location and dimension of any other fixtures or equipment to be installed or used on the licensed premises, together with an estimated total cost.
 - (8) The location and type of furniture to be used on the licensed premises, together with

an estimated "total cost."

- (g) Explanation of basis for applicant's right to occupy the premises and supporting evidence;
- (h) Description of the kind of business and the nature of the proposed establishment;
- (i) Type of license applied for;
- (j) Name, address and individual history of person managing or in charge of the establishment for each type of license after the license has been issued. Any change in managers must be reported to the local and state licensing authorities within thirty (30) days.
- (k) Date of issuance of any other liquor license or fermented malt beverage license;
- (l) Date of application;
- (m) Date of when any other previous fermented malt beverage licenses or liquor licenses were either suspended, revoked or previously denied;
- (n) Three letters of reference for each individual, or partner, and all officers, plus any directors, or stockholders or members holding over ten (10) percent of the proposed license. Such letters shall contain specific reference to the financial responsibility of the applicant;
- (o) Evidence showing the proposed location will not violate any City of Longmont zoning laws;
- (p) Evidence establishing the fact that applicants are not or will not be in violation of the unlawful financial assistance section of the State Statutes on the subject;
- (q) Evidence satisfactory to the Authority setting forth details of the nature, source and mechanics of proposed financing for construction of the premises, if new premises are to be built, or for purchase of an existing premises;
- (r) Evidence satisfactory to the Authority setting forth details of the nature, source and mechanics of proposed financing for the proposed establishment;
- (s) At the time of submitting the application, the applicant, all partners, and officers, directors and stockholders or members with more than a ten (10) percent interest shall make arrangements with the Longmont Police Chief and/or his designee for a fingerprint check.
- (t) The Longmont Police Chief and/or his designee shall make background investigations of all applicants, and for this purpose, such individuals shall provide all information necessary for the investigation, and shall agree to an FBI criminal history records check through fingerprint identification. Where an individual, partner, or a corporate officer, director or stockholder, or member lives at such a distance from the City of Longmont that travel would impose expense or inconvenience, the Longmont Police Chief and/or his designee shall have the discretion to make other suitable arrangements to obtain the necessary fingerprints and information. Where background investigation has been previously made of any applicant either by the Longmont Police Chief and/or his designee or another

law enforcement agency, the Longmont Police Chief and/or his designee shall have the discretion to employ such investigation and may waive the necessary fingerprinting.

- (u) A written authorization for applicant's financial institutions to release information to the City of Longmont.

RULE 5. ISSUANCE OF LICENSES

All licenses applied for shall be issued in accordance with the laws of the State of Colorado and the City of Longmont and after the requirements for posting and publication of notice, the preliminary investigation, and public hearing before the Local Licensing Authority have been met. In no event shall any license be issued until it is satisfactorily established that:

(a) The applicant, or any stockholder, partner or member, if applicable, meets the personal qualifications for holding a liquor license;

(b) The applicant is or will be entitled to possession of the premises for which the application is made under the lease or by virtue of ownership thereof 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 Longmont and the State of Colorado;

(c) After approval of an application by the Authority, the building in which the license is sought to be exercised is ready for occupancy with such furniture, fixtures and equipment as is necessary to comply with the provisions of these rules and the laws of the State of Colorado, and then only after inspection of the premises has been made by the Longmont Police Chief and/or his designee, the Building Inspector and/or his designee, and the Fire Marshall and/or his designee, to determine that the applicant has complied in every material detail with the plans and specifications submitted at the time of filing of the application.

RULE 6. HEARING DATE

Upon filing of a completed application for a new license, the City Clerk for the City of Longmont, as Secretary to the Local Licensing Authority, shall notify the Authority of the filing of the application and set a public hearing date for establishment of the neighborhood and formal acceptance of the application by the Authority. At the public meeting when the Authority accepts the application, the Authority shall establish relevant neighborhood boundaries and schedule a public hearing, for determination whether to grant the license, not less than thirty (30) days after receipt of the application.

RULE 7. NOTICE OF HEARING

When the date has been set for the hearing, the City Clerk of the City of Longmont, as Secretary to the Local Licensing Authority, shall cause notice to be given of the relevant neighborhood as established by the Authority, the fact that all documents, petitions and other exhibits which the Authority will be asked to consider at the public hearing must be submitted to the City Clerk by 5:00 p.m. on the fifth calendar day preceding the public hearing, and the time and place of the hearing in the following

manner:

- (a) Post and publish the public notice thereof not less than ten (10) days prior to such hearing.
- (b) Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in the Longmont Daily Times-Call, in accordance with state law.
- (c) Notice by posting shall be made in accordance with state law.

RULE 8. PETITIONS

Petitions may be circulated by the applicant or any person opposing the issuance of the license. Each person signing a petition may sign only his name, his address and his age or otherwise indicated that he or she is at least twenty-one years of age. The date when the signature is affixed to the petition shall be put on the petition by the party signing the same. No person may sign more than one petition. Petitions must be filed no later than 5 p.m. on the fifth day prior to the public hearing.

RULE 9. PRELIMINARY INVESTIGATION, FINDINGS AND HEARINGS

(a) The Longmont Police Chief and/or his designee and the City Clerk along with the assistance of other city departments shall gather the evidence for the preliminary investigation required by state law, and shall make known his findings in writing to the Authority. The Local Licensing Authority shall then, at least five (5) days prior to the date of the public hearing, make known, in writing, its findings to the applicant and, upon request, to other interested parties as they are defined by state law, concerning the investigation by the Local Licensing Authority with regard to the following matters:

- (1) Whether within two years next 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) That it satisfactorily appears that the applicant is or will be entitled to possession of the premises for which application is made under a lease or by virtue of ownership thereof.
- (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 and other applicable laws of the City of Longmont or any laws, rules or regulations of the City-County Health Department or the laws of the State of Colorado.
- (4) That the building wherein the license is sought to be exercised is located more than 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 between the building wherein the license is sought to be exercised and said public or parochial

school or the principal campus of any college, university or seminary, a measurement shall be made from the nearest property line of the land used for the above-mentioned school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.

- (5) The number and type of liquor outlets located in or near the neighborhood under consideration and the check made by the City Clerk's office concerning the applicant.

(b) All hearings before the Local Licensing Authority shall be public and shall be conducted in accordance with these rules.

(c) Interested parties, such as a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration, may appear in person or be represented by counsel.

(d) Subject to the Local Licensing Authority's right to limit the presentation of evidence tending to be repetitious, the applicant shall introduce evidence with regard to the following:

- (1) That the requirements for publication and posting of notice as set out by the laws of the State of Colorado and these rules have been met.
- (2) Qualifications of the applicant regarding his character, reputation, citizenship and other matters relating to the personal qualifications of the applicant or any other person whose personal qualifications are relevant pursuant to state law.
- (3) His sources of finances for the acquisition and outfitting of the establishment sought to be licensed and as shown by the plans and specifications.
- (4) The type of building in which the business is to be conducted and the facilities which will be used by the applicant.
- (5) The reasonable requirements of the neighborhood for the type of license for which application has been made, and the desires of the inhabitants of said neighborhood.
- (6) Any other pertinent matters affecting the qualifications of the applicant and the location for the exercise of the license sought.
- (7) Relevant petitions.

(e) Any interested party, as defined by state law, may introduce evidence with regard to the following matters:

- (1) Reasonable requirements of the neighborhood and the number and type of existing outlets.
- (2) Any other pertinent matters affecting the qualifications of the applicant for the conduct and the type of business proposed.

- (3) Any other evidence which would indicate that the building or location proposed for the operation of the license is not suited for the intended purpose.
- (4) Desires of the inhabitants in opposition to the issuance of the licenses expressed by witnesses or through petitions.

(f) Questions concerning the competency of witnesses to testify in behalf of or in opposition to the issuance of a license, the materiality, relevancy or competency of their testimony will be determined as said questions arise. No testimony shall be offered unless the same is given under oath as in civil cases.

(g) All applications and exhibits submitted to the Authority for its consideration shall be no larger than eight and one-half inches (8 1/2") by eleven inches (11"). Exhibits larger than the above size may be used at the hearing as long as a copy of said exhibit, reduced to the above size, is provided to the Authority for the life of the document.

(h) All documents, petitions, and other exhibits, which any applicant for a proposed license or a party in opposition intends to submit to the Authority for consideration at a public hearing MUST be filed with the City Clerk's Office of the City of Longmont, no later than 5 p.m. on the fifth (5th) calendar day preceding the date scheduled for the public hearing. In addition, any party submitting petitions shall also at the above time submit to the City Clerk two (2) copies of the proposed petitions, for a total of three (3) original plus 2 copies. When any party submits other documents or exhibits, only the original need be submitted. All exhibits submitted to the Authority shall be open for public inspection during regular business hours as soon as they have been received and marked by the City Clerk's Office.

(i) The amount of time during which the Applicant and a party in opposition may present evidence will be limited in the following manner:

- (1) The applicant and the party in opposition will each be permitted one (1) hour to present a case. This includes any opening statements, presentation of evidence and direct examination of the witnesses. During this time, cross-examination of witnesses will not be allowed though the Judge and the City Attorney and/or his designee may ask questions.
- (2) Following the presentation of a party's case-in-chief a total of fifteen (15) minutes will be allowed for cross-examination of the witnesses. During this time no re-direct examination will be allowed though the Judge and the City Attorney or his designee may again ask questions.
- (3) Five minutes for re-direct examination will be allowed.
- (4) Each side will be permitted ten (10) minutes for closing arguments.

- (5) In the event that more than one party in opposition wishes to participate, then the Judge shall proportion the allotted time among them based on retention of legal counsel and any other relevant factors.

RULE 10. TRANSFER OF OWNERSHIP OR LOCATION OF LICENSED ESTABLISHMENT

(a) No license issued by the Authority shall be transferred to another person without the approval of the Authority. Where a license 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) No license issued by the Authority shall be transferred to another location without the approval of the Authority, and a prior public hearing being held.

(c) Prior to the transfer of ownership of any licensed establishment, the person acquiring said establishment shall notify the City Clerk of the City of Longmont, as Secretary to the Local Licensing Authority, and submit an application for the issuance of a retail liquor license of the same type by submitting to the City Clerk of the City of Longmont, two (2) duly executed state application forms completed as required by the Authority and a copy of the sale agreement for the sale and transfer of the existing establishment.

RULE 11. CHANGE, ALTERATION OR MODIFICATION OF LICENSED PREMISES

(a) After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local and state licensing authorities.

For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent, shall include, but not be limited to, the following:

- (1) Any increase or decrease in the total size or capacity of the licensed premises.
- (2) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage permits access to the licensed premises from or between public streets or thoroughfares, adjacent or abutting buildings, rooms or premises.
- (3) Any substantial or material enlargement of a bar, or relocation of a bar, or addition of a separate bar.
- (4) Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The foregoing shall not apply to painting and redecorating of prem

the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.

(b) Requests for a proposed change, alteration or modification of an existing licensed outlet shall be on such forms as are provided therefore by the State Licensing Authority. Said request shall be accompanied by adequate plans and specifications which shall be sufficient to advise the Local Licensing Authority of the scope and nature of the proposed request.

(c) The request shall be filed with the City Clerk, who shall at the next regular business meeting of the Local Licensing Authority, notify the Authority of the filing of said request.

(d) At the time the request is so presented to the Local Licensing Authority or thereafter, the Police Chief or his authorized agent shall forward to the Authority his report setting forth the nature of the proposed request for change, alteration or modification of the existing outlet.

(e) In making its decision with respect to any proposed changes, alterations or modifications, the Local Licensing Authority must determine if the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Colorado Liquor Code and the Regulations promulgated thereunder. Factors to be considered by the Authority include, by way of illustration but not of limitation, the following:

- (1) The reasonable requirements of the neighborhood and the desires of the inhabitants.
- (2) The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.
- (3) Compliance with the applicable zoning laws of the municipality, city and county, or county.
- (4) Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university or seminary.
- (5) The legislative declaration that the Colorado Liquor Code is an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

(f) If permission to change, alter or modify the licensed premises is denied, the Authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a written request is made to the Authority within fifteen (15) days after the date of notice.

RULE 12. CAUSE FOR SUSPENSION AND REVOCATION: HEARINGS AND PROCEDURE

(a) Any violation of local, state or federal laws concerning the sale of liquor or the operation of an establishment which sells liquor in any fashion may constitute cause for suspension or revocation of the license. The Local Licensing Authority considers all representations made to it concerning the proposed character of the establishment, the method of sale and the personal, financial and substantive qualifications of the applicant to be material and directly affecting the decision by the Local Licensing Authority to issue a license. Any proved misrepresentations or significant deviations from such representations concerning these matters may be cause for suspension or revocation of said license. In addition, any violation of the rules and regulations of the Secretary of State of the State of Colorado may give rise to the suspension or revocation of the license.

(b) It is the intent of the Local Licensing Authority to place full and complete responsibility upon the licensee for the maintenance of orderly conduct of all employees and patrons on the premises of any licensed outlet, and failure of any licensee or his employee to make all reasonable efforts to this effect shall be grounds for the revocation or suspension of a license.

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

(d) If it shall appear therefrom or shall otherwise come to the attention of the Authority that there is probable cause to believe that a licensee has violated any such law, rule or regulation, the Authority shall issue and cause to be served upon such licensee a notice of hearing and order to show cause why his license should not be suspended or revoked not less than ten (10) days prior to such hearing.

(e) Said hearing shall be held at a place and time designated by the Authority on the day stated in the notice, or upon such other day as may be set for good cause shown.

(f) Every licensee who has been served by the Local Licensing Authority with a Notice of Hearing and Order to Show Cause why his license should not be suspended or revoked shall post a notice in a conspicuous place, giving notice of the impending hearing. Said notice shall be provided by the licensing authority and posted for a period no longer than fifteen days and shall remain posted until completion of the hearing.

(g) It shall be the responsibility of the licensee to provide an interpreter for any of the licensee's witnesses who are unable to speak English.

(h) Any suspension of less than fifteen (15) days shall be automatically stayed if the Licensee requests paying for a fine in lieu of suspension. If the Licensee is eligible for a fine in lieu of suspension per 12-47-601(3), such stay shall remain in effect for 17 days from the date of the show cause hearing.

(i) Requests for continuance of show cause hearings must state a good cause for continuing the hearing and such requests must be submitted to the City Clerk's Office at least 10 days prior to the scheduled show cause hearing. Requests submitted after that period will not be considered absent a showing of extreme and undue hardship or severe emergency. The Judge shall review all requests for continuance and shall have the authority to grant or deny such requests.

RULE 13. COST OF TRANSCRIPT ON APPEAL

Any person seeking review of the Local Licensing Authority's decision regarding an application or any other matter shall apply to the Boulder County District Court for review within thirty (30) days after the date of the decision and shall pay to the City of Longmont the cost of preparing a transcript of the proceedings before the Local Licensing Authority whenever such transcript is demanded by the person seeking the review or furnished by the City of Longmont pursuant to an order of court. For this purpose, a deposit for the purpose of preparing a transcript shall be the sum of \$300.

RULE 14. TERM OF LICENSES

All liquor licenses granted by the Local Licensing Authority, except special events permits and arts licenses, shall be granted for a period of one year from the date of their issuance unless revoked or suspended.

RULE 15. DUTY TO OFFER PROOF AS TO NATURE AND OPERATION OF ESTABLISHMENT

The owner, licensee or operator of any establishment licensed by the Authority shall, upon request of the Longmont Police Chief and/or his designee, furnish to the City within thirty (30) days satisfactory evidence to demonstrate whether the establishment is operating as a hotel and restaurant license or beer and wine outlet, as said terms are defined by state law. Such evidence shall consist of accounting records for a period of time to be specified by the Longmont Police Chief and/or his designee showing separately the gross receipts from the sales of food items and intoxicating liquors. It shall be unlawful for any owner, licensee or operator of any licensed establishment to refuse to comply with the request of the Longmont Police Chief and/or his designee as herein required and failure or refusal to do so shall be grounds for revocation of the license.

RULE 16. LICENSE FEE

The annual license fee for any liquor license shall be in the amount prescribed by the Local Licensing Authority.

RULE 17. QUALIFICATIONS OF APPLICANT

No license shall be issued by the Local Licensing Authority unless the person applying for the same complies in all respects with the requirements contained in the Statutes of the State of Colorado and the provisions of this article.

RULE 18. APPEARANCE BEFORE LOCAL LICENSING AUTHORITY

- (a) The following persons shall be in attendance at the meeting at which an application is

presented to the Local Licensing Authority:

- (1) If the applicant is an individual, that individual; or
- (2) If the applicant is a partnership, any partner; or
- (3) If the applicant is a corporation, an officer of the corporation; or
- (4) If the applicant is a LLC, a member of the LLC, or
- (5) Counsel for the applicant.

The following persons shall be in attendance at the Public Hearing on the application:

- (1) If the applicant is an individual, that individual; or
- (2) If the applicant is a partnership, any partner; or
- (3) If the applicant is a corporation, an officer of the corporation;
- (4) If the applicant is a LLC, a member of the LLC, or
- (5) If the class of license requires a manager or the business will be managed by someone other than the owner, the manager.

(c) The Authority may require the attendance of such other person, or persons as it deems necessary or desirable, and may in its discretion waive attendance by any one or more of the designated persons.

(d) Applicants or their authorized representatives need not be in attendance at the meeting when their applications for renewal are presented to the Authority unless so directed by the Authority.

(e) If the persons listed above are not in attendance as required, the Authority may, in its discretion, refuse to consider the matter and continue consideration of said license for the next regularly scheduled meeting.

RULE 19. AMENDING RULES OF PROCEDURE

The Rules of Procedure may be amended at any meeting of the Local Licensing Authority.

DATED THIS 20th DAY OF JULY, 2001.

LOCAL LICENSING AUTHORITY
CITY OF LONGMONT, COLORADO

By: _____
Judge

By: /s/ Judge Diana VanDeHey
Judge