



## **MINUTES**

### **LOCAL LICENSING AUTHORITY**

**Monday May 31<sup>st</sup>, 2024 – 10:00 A.M.**

**City Council Chambers – 500 E. Third Street  
Loveland, Colorado**

#### **IN ATTENDANCE:**

**Brandi Nieto, Local Licensing Authority, Attorney Reg. #35517**

**Michael Bailey, Assistant City Attorney**

**Sterling Wilson, Local Licensing Authority Secretary**

**Adriana Hernandez (attending remotely), Local Licensing Authority Secretary**

#### **CONSENT AGENDA**

The Minutes were accepted and approved in their current form:

- A. Minutes from LLA Meeting on April 22<sup>nd</sup>, 2024.**
- B. Loveland High Plains Arts Council – Art in the Park – Special Event Permit**
- C. Thompson Valley Art League – Sculpture in the Park - Special Event Permit**
- D. Meals on Wheels of Loveland and Berthoud Inc. – Meals on 4<sup>th</sup> Street - Special Event Permit**
- E. Verboten Brewing Ltd. – Verboten 5<sup>th</sup> Street Block Party – Festival Permit**

**The consent agenda was approved with no protests filed.**

#### **2. PUBLIC HEARING**

**Items I. and II. Were reviewed prior to liquor license applications**

##### **I. Mellow Yellow Loveland, LLC dba Mellow Yellow Loveland.**

The applicant has been denied a tobacco license by the licensing administrator pursuant to Title 5.45.070 of the Loveland Municipal Code. This denial was transmitted to the applicant on Monday May 27<sup>th</sup> at 5pm. Pursuant to the Loveland municipal code, an applicant has the right to appeal.

In Appearance: Yash Kapoor, owner Mellow Yellow Loveland

Mr. Kapoor identified himself and stated that he has consulted with his attorney and expressed sentiments that he has been treated unfairly, and that his business has been denied a license on unusual grounds. Mr. Andrew Bertrand was unable to attend this hearing due to a scheduling change. Mr. Kapoor stated that his business was, "losing its license due to having an expired license," however this statement was immediately corrected by the Authority as Mellow Yellow Loveland LLC has never been granted any form of tobacco license by the City of Loveland. Per Loveland Municipal Code Title 5.45.070, an applicant has the right to appeal a denial of a licensing application within 20

days of a written denial by the licensing administrator. This appeal must be submitted in writing to the licensing administrator, being the City Clerk's Office.

Mr. Kapoor stated that he has received a copy of the written denial, and the Authority motioned for Mr. Kapoor to consult with his attorney regarding an appeal; Mr. Kapoor stated that he has consulted with Mr. Bertrand, and they have determined that, "there is no point," and that all his options have been exhausted, no appeal will be filed.

**Action Taken:**

The Authority stated that Mellow Yellow Loveland LLC will be permitted to reapply for a tobacco license at the beginning of next year (2025) as the business will not appeal the denial of this application.

**II. Super Smoke Shop, LLC dba Super Smoke Shop**

An application for a new tobacco license was filed on January 31<sup>st</sup>, 2024, for Super Smoke Shop LLC dba Super Smoke Shop by Matthew Rimmer, located at 410 E Eisenhower Blvd. This location has been previously denied a tobacco license by the City of Loveland.

This applicant has been denied a tobacco license by the licensing administrator pursuant to Title 5.45.070 of the Loveland Municipal Code. This denial was transmitted to the applicant on Monday May 27<sup>th</sup> at 5pm. Pursuant to the Loveland municipal code, an applicant has the right to appeal.

**The applicant was not present at this hearing.**

No written requests for appeal have been received by the City. Matthew Rimmer has made two prior appearances at hearings to provide proof of ownership constituting legal possession of the intended premises. The Authority could not find that the application was right for review. The original lease between ML2 LLC Luke Fedderich and Lit Investments LLC/Yash Kapoor, and Robert Hemchemsky, was signed December 8<sup>th</sup> 2020 and effective December 16<sup>th</sup> 2020 and effective through December 31, 2027. It required under Part 26 assignments and subletting, "the tenant may not assign this lease or sublet this lease without the written consent of the landlord." Mr Rimmer has submitted an "Addendum A" which was signed solely by him, in addition to a sublease agreement signed Yash Kapoor/Lit Investments LLC on January 23<sup>rd</sup> of this year and signed by Mr. Rimmer on April 17<sup>th</sup>. There is no evidence in the file that Mr. Rimmer holds legal possession of the premises to sell tobacco products. The Authority believes that the Licensing Administrator could have denied this application pursuant to 5.45.070 but likely out of an abundance of caution forwarded the application to the authority for further review. There have been no additional documents submitted since the applicant was notified of the denial of the application and notice of right to appeal.

The previous authority did allow Mr. Rimmer to amend his application after two hearings.

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#### **Action Taken:**

The Authority will direct the Licensing Administrator to deny this application pursuant to 05-45-050 and Loveland rules of procedure ... he also has the right to appeal as governed by the municipal code and Colorado Rules of Procedure.

#### **A. Transfer of Ownership – Rai Bros Inc., dba Dragonfly Liquors**

An application was filed on February 2<sup>nd</sup>, 2024, for the transfer of the Retail Liquor Store License currently issued to Dragonfly Liquors, Inc., dba Dragonfly Liquors to Rai Bros Inc., dba Dragonfly Liquors, for the license located at 251 W 64<sup>th</sup> Street in Loveland. A temporary transfer permit was issued on February 8<sup>th</sup>, 2024, and is valid for 120 days thereafter.

#### **In Appearance:**

Kris Hoeltgen, registration #8321

Narinder K. Rai, Owner

Sanampreet Multani, Manager

#### **Findings:**

Ms. Hoeltgen made a brief presentation on the application. Mr. Multani was asked about his experience managing liquor stores; he has worked for a Longmont liquor store (Sportsman's Liquor) for two years. He has additional experience from his time at a gas station selling cigarettes. He has never had a liquor violation.

Three total employees staff Dragonfly Liquors, Mrs. Rai, Mr. Multani, and one additional employee. The intent is to hire additional staff. Mr. Multani directly supervises the current employee as does Mrs. Rai, and a written policy has been included in the application, which employees are required to sign. There was one additional employee present who worked for the store's previous owners, but this individual was dismissed due to a repeated shortage in the register. Their only employee just turned 21 prior to being hired.

The store is equipped with an age-check ID scanner and point of sale system. All customers are asked to present ID at the point of sale. All Employees adhere to this policy. Electronic IDs are accepted *only* from the MyColorado App. The store's business hours are 8am to 10pm T-TH, F-S 8a-11pm – Sun 10am – 9pm. If customers are difficult, the store policy is to call the store manager who will then contact the police.

Mrs. Rai made a brief presentation after being called as a witness by her attorney. She has worked in a Longmont Discount Liquor Store from July of 2023, prior to this she managed Capital Vantage LLC in California, as well as an event planning business and

extensive employment experience. She has never had a liquor violation in any of her liquor licensed involvements. She also worked for the US Postal Service for 11 years.

Mr. Bailey had no further questions after posting an initial inquiry. The Authority reviewed the applicants' file and expressed no concerns. Ms. Hoeltgen had no additional statements.

The applicants were found to be of good moral character, their background check reflecting no criminal history. The Authority had no additional concerns, however reviewed the "Dragonfly Liquors Sales Policy" included with the application materials. Judge Nieto paused to review this document, and then requested an amendment to the document after seeking inputs from Mr. Bailey, who had no evidence to present on behalf of the City.

#### **Action Taken:**

The City suggests an alteration to the employee policy – employees should call the police directly in the event of an incident as 911 should be reserved for life-safety emergencies.

The Authority will approve this application for a transfer of ownership; the applicants are encouraged to coordinate all remaining processes for the issuance of this license through the City Clerk's Office.

#### **B. New License – Common Sense Hospitality Loveland LLC, dba Urban Field Pizza and Market**

An application was filed on March 13<sup>th</sup>, 2024, for a new **Hotel & Restaurant License** by Common Sense Hospitality Loveland LLC, d/b/a Urban Field Pizza and Market, located at 214 E 4<sup>th</sup> Street in Loveland. The neighborhood boundaries were designated as: **(NORTH – E Eisenhower Blvd.; SOUTH – 14<sup>th</sup> St. SW; EAST – S Boise Ave.; and WEST – W Duffield Ave).** The premise was posted with a sign advertising the Public Hearing and a notice was published in the Reporter Herald as the law requires.

#### **In Appearance:**

Paul Nashak, Owner

Erin McCollough, Oedipus Petitioning (owner)

#### **Findings:**

Common Sense Hospitality LLC dba Urban Field Pizza and Market retained Oedipus Petitioning with the understanding that neighborhood needs and desires petition results cannot be guaranteed. Of all businesses surveyed, 133 contacts were made, with 10 unable to sign. No parties surveyed were in opposition to this application. 111 signatures were obtained... (collect from recording).

The criminal histories of the applicants were reviewed, and no concerns were expressed; one of the applicants identified an item on the criminal history and

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background check report included in the application and provided an adequate explanation with documentation.

The restaurant is planned to open in July of this year with the owners holding a combined 91 years of experience. This is a pizza and Italian restaurant with a food driven concept, at minimum 78% of gross sales from that of food. No agreement of alcohol sales (approximately 22%) is directly contributing to the lease payment. Most revenue is derived from carry-out orders of food.

Eight draft beers are offered, four to five varieties of wine, and a full bar with cocktail menu are offered – the company describes their beverage menu as a beer/wine/cocktail “program,” reflecting the locality with specialty cocktail recipes and local beer and wine. Mr. Nashak has experience with a distribution company holding roughly 35 years’ experience in alcohol sales when combined with his restaurant experience. His wife Shauna is the business’ accountant and does not directly participate in alcohol sales; Lindsay Beddard manages personnel and menu selections and has designed the non-alcohol beverage service for the restaurant.

The Diagram provided identifies a main floor and a basement floor. There are four liquor storage areas, with three located on the main floor, and one proposed in the basement. The unfinished basement is incorporated into the diagram. Mr. Nashak noted that they may not utilize this space due to maintenance/cleanliness concerns; the applicants will modify their diagram prior to licensing inspections if they decide not to utilize this space.

All alcohol is to be locked in the storage area, by the manager, at the end of service each night. The walk-in refrigerator will house kegged beer, and although it cannot be locked, two managers will ensure that the premises are locked and secured at closing. Patio areas are identical to the previous occupants of the building. The Point-of-Sale system allows for a dedicated patio server to constantly monitor each patio directly; it is contained on mobile devices (tablets). Signage will be present (no alcohol beyond this point) at each egress and patio railings. Patios are rated for 20 occupants.

Much of the business is driven by pick up orders, therefore 15-18 tables are the maximum number planned for the space. The restaurant will be staffed by one manager and one server during lunch shifts, and three servers, one bartender, and manager during dinner shifts. Front of House employees are required to complete TIPS training within 30 days of hire, and if they do not complete this training during the specified period, they are assigned to back of house prep duties – servers do not serve any liquor, bartenders/managers generally mix cocktails.

All patrons are ID checked and a legal drinking age display calendar is within eyesight of staff. Vertical IDs can be accepted with a second set of eyes to ensure that the dates reflect the holder is of age. The Toast POS System does not have a scanner system, it is not involved with ID check enforcement.

Ongoing renovation and construction require additional permits to change the occupancy class of the building (previously a brewery, not a restaurant) -- the space is expected to be finished and ready for final inspections by June 19<sup>th</sup>.

The City holds no objections to approving this application.

**Action Taken:**

The authority will grant this application for a new Hotel & Restaurant license. Petition results reflect that the neighborhood is 100% in favor of the application, meeting the reasonable requirements of the needs and desires of the designated boundary map. The number of alcohol beverage outlets in the area will not be unreasonably increased as the location previously held a liquor license.

All applicants have submitted and consented to criminal history background checks and have satisfied all concerns of the authority. Public notice was adequately supplied. The Authority will grant this application and a license will be issued upon successful completion of an inspection by Loveland Police Department.

**C. Permanent Modification of Premises – Fresh Plate Catering LLC dba Fresh Plate Catering**

An Application for a Permanent Modification of Premises for the Hotel & Restaurant license in-process of being transferred to Fresh Plate LLC, dba Fresh Plate Catering, located at 6401 Union Creek Common Dr. in Loveland, was filed on April 11<sup>th</sup>, 2024. The licensee seeks to permanently expand the premises to incorporate the entirety of the leased space.

The applicant was not present at this hearing.

**Findings:**

This matter is both a modification application and a continuance of the transfer of ownership application from the previous month's LLA Meeting. The application required amendment as the applicant's criminal history and background check were incomplete at that time; this has since been resolved and all reports have been received and reviewed by the City.

Ms. Hartman was required to appear at this meeting to address a modification application so the business could utilize the entirety of its licensed premises for alcohol service. The previous owner of the business had been operating out of an unlicensed portion of the building which was not included in the licensed premises, and Ms. Hartman intends to license the entirety of the space her business has leased.

Pursuant to 44-3-3(i)(3)(ii) and Title 8 of the Loveland Municipal Code, all requirements for this application have been met. Mr. Bailey expressed that the City's concerns have been addressed, although there are some questions regarding the applicant's appearance, the City will take no issue with granting this application.

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#### **Action Taken:**

Although no appearance was made, the Authority will grant this application for a permanent modification as all materials submitted are deemed to be complete and adequate. All concerns expressed at the previous hearing have been satisfied.

A full-term liquor license will be issued to the applicant and the modification will be submitted for approval upon successful completion of a Loveland Police Department Inspection.

#### **D. Temporary Modification of Premises – Metro Foundry LLC dba Metrolux Dine-In Scripted Bar & Kitchen**

An Application for a Temporary Modification of Premises for the Lodging & Entertainment License Issued to Metro Foundry LLC, dba Metrolux Dine-In Scripted Bar & Kitchen, located at. in Loveland, was filed on April 5<sup>th</sup>, 2024. The licensee has proposed a temporary patio space located in front of their building, to be operated during regular business hours, during the months of June through September.

#### **In Appearance:**

Ryan Folse, General Manager - Scripted Bar and Kitchen

#### **Findings:**

Additional materials were provided by the applicants upon request of the Clerk's Office: A Certificate of Insurance and Foundry Metro District Usage Agreement (executed) for the intended space were included in the days prior to the hearing.

All insurance policies have been deemed adequate according to the Foundry Usage Agreement drafted and executed by this Metro District as of May 28<sup>th</sup> of this year.

Mr. Folse described the patio area briefly: the patio consists of four additional tables in front of the café garage door, which is raised to accommodate temporary theater rope (belt track) barriers. This patio has been operated since at least 2020, but temporary sidewalk patios have been used since the movie theater opened in 2019.

There are several public events that take place in the Foundry Metro Plaza. During those events, Mr. Bailey inquired Metrolux Scripted's participation in those events, as they frequently do involve alcohol service and sales. Metrolux typically does not participate in these events and keeps their operations separate. Historically, the theater and café has operated this modification in response to COVID Pandemic precautionary closures. The modification has been found to be a lucrative boost to their business.



The theater has never had a violation or a history of over-service. No safety issues have arisen; however, the patio is located near a small-use road. The patio is located with at least 6 feet of sidewalk width between the belt-track barriers and 3<sup>rd</sup> Street proper.

The patio is in direct sight of the main bar and dining area and is consistently monitored by servers. The patio is typically not occupied by many people, typically theater customers purchasing a meal after their film ends. Foot traffic from special events in the community also contributes to revenue, but operations are separate from these events and guests do not congregate.

The occupancy limits of the theater are not high – eight tables comprise the main premise with the additional outdoor seating (four). Security cameras monitor the entire space as well as the entrances and exits to the theaters themselves. Signage indicates alcohol barriers, “no alcohol beyond this point” signage is clearly posted in all areas of the patio. Servers and bartenders are required to hold current TIPS training, and many have attended COL Alcohol Server training.

**Action Taken:**

Based on the adequacy of the documents provided, the Authority will grant this application for a temporary modification of premises pursuant to Loveland Municipal Code Title 8.2.010, Colorado Code of Regulations 47-302, and Title 44-3 of the Colorado Revised Statute for Metro Foundry LLC.

**E. Renewal Application – Sushibox LLC dba Sushirito**

An application for the renewal of the Hotel & Restaurant license issued to Sushibox LLC dba Sushirito was filed on February 2<sup>nd</sup>, 2024. The licensee has been asked to appear regarding sales tax compliance. A payment plan has been established with the City of Loveland Sales Tax Division.

**In Appearance:**

**Patricharn Nilabon, Owner**

**Elayah Suwanmongkol, Manager**

**Findings:**

The applicants were asked to appear to express their understanding of matters related to the business' City Sales tax License. The licensee had entered a payment agreement to settle an outstanding tax balance owed to the City of Loveland in the Amount of \$7500 on April 25<sup>th</sup> of this year. The licensee had violated the terms of this agreement by missing a scheduled payment on May 6<sup>th</sup>. The City agreed to maintain the payment agreement and the licensee's sales tax license and allowed for a grace period for the missed payment. According to Loveland's Municipal Code, the licensee must maintain a current sales tax license in good standing. 3.16.060 A, subsection G of this title provides the City Manager the Authority to revoke their sales tax license, which would then revoke the privilege of the licensee doing business in Loveland. This would subsequently void the licensee's Hotel and Restaurant license.



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The licensees were asked for their understanding of the agreement, the terms of which dictate that upon failure

#### **Action Taken:**

The Authority will approve the renewal of this Hotel and Restaurant license; the applicants were advised to stay aware of all matters related to their liquor license and remain diligent with all deadlines. Both Ms. Nilabon and Ms. Suqanmongkol acknowledged this responsibility as well as the terms of the sales tax agreement discussed at this meeting.

### **3. STAFF REPORT**


#### **A. City Clerk's Office**

- a. Applications for Retail and Art Gallery Permits have been discussed with the Downtown Loveland Business Partnership amongst prospective permit applicants. A brief overview of requirements has been supplied for review.
  - i. The Clerk's Office respectfully requests that the Authority consider applications for these permits on the July 18<sup>th</sup> Meeting Agenda with an application deadline of June 18<sup>th</sup>.
  - ii. The Loveland Downtown Business Partnership has agreed to assist in coordinating service dates with applicants.
  - iii. A requirement for TIPS training, a diagram of all licensed premises, and approval at a local hearing have been agreed upon.
- b. Tobacco Code Changes: The Clerk's Office is working with the City Attorney's Office to propose municipal code changes related to the tobacco licensing process.
  - i. Title 8 and Title 5 are under review with changes slated to be proposed within the next 1-2 months, with items going to City Council in Mid-July.

**The Meeting was Adjourned at 11:15 A.M.**

The next regularly scheduled Local Licensing Authority Meeting will be held on Thursday, June 27<sup>th</sup>, 2024, at 8:30 AM, in the City Council Chambers.

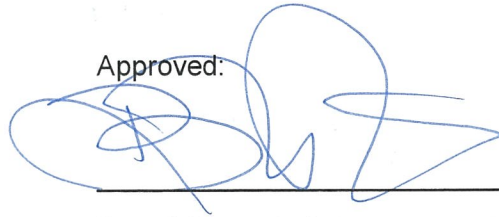
Respectfully submitted,



Sterling Wilson, Assistant City Clerk

Local Licensing Authority, Secretary

Approved:



Brandi Nieto, Judge

Local Licensing Authority

