



## MINUTES

### LOCAL LICENSING AUTHORITY

Thursday September 19, 2024 – 8:30 A.M.

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

#### 1. ATTENDEES

Judge Brandi Nieto - Local Licensing Authority  
Michael Bailey - Assistant City Attorney  
Sterling Wilson - LLA Secretary  
Adriana Mazur - Assistant City Clerk  
Chief Carrie Dann - Fire Marshal  
Sarah Winter, LFRA Inspector  
Sgt. Jeff Mayers – Alcohol and Tobacco Enforcement Sergeant  
Officer Dominic Martinez – Alcohol and Tobacco Enforcement Officer  
Dusty Durston – City Tax Auditor

#### CONSENT AGENDA

- A. Approval of Minutes from LLA Meeting on August 15<sup>th</sup>, 2024.
- B. Application for Colorado Liquor Sales Room – Colo Distillery LLC dba Conestoga Distillery

**ACTION TAKEN:** The minutes were approved as submitted. The Authority issued consent for item B and the application will be forwarded to the Colorado Department of Revenue.

#### 2. PUBLIC HEARING

- A. **Special Event Permit – Road Runners Club of America dba Sweetheart City Racing – Longview Marathon 2024**

The Longview Marathon is a fund-raising event for all ages that will feature catered meals from Crazy Karl's Pizza and a beer garden at Fairgrounds Park, located at 700 S. Railroad Ave. in Loveland on October 12<sup>th</sup>, 2024, from 8:00 a.m. to 2:00 pm. Half and Full distance marathons will begin in Fort Collins and end in Loveland at Fairgrounds Park and will follow the newly completed Long View and Front Range Bike/Pedestrian paths.

##### **Findings:**

Sara McWatters, Race Director, appeared before the Authority.

The marathon will feature a beer garden at the end of the racecourse for participants who wish to imbibe. All beer will be dispensed by New Belgium Brewing Company TIPS trained personnel. New Belgium will provide evidence of all alcohol sold once the event

has been completed in the form of itemized totals. Proceeds will be donated to the list of organizations posted on RR Club of America Website.

New Belgium Brewery Staff will provide alcohol service and check the ID of every patron, and beer will only be served to participants within the designated boundaries. The Beer Garden will be entirely separated from food served under the park pavilion. Volunteers will staff the only entrance/exit to the beer garden, with 100 total volunteers staffing the event. 6 volunteers will assist New Belgium Staff.

Security personnel have not been contracted; however, Loveland Police Department will be patrolling the course.

**ACTION TAKEN: The Authority approved this application for a special event permit; the applicant may arrange to pick up the permit document from the City Clerk's Office.**

#### **B. Permanent Modification of Premises – TeeShots LLC**

An application for a permanent modification of premises was filed on June 13, 2024, by TeeShots LLC., d/b/a TeeShots, located at 209 N. Cleveland Avenue in Loveland. The modification will consist of the addition of the east patio area and the backyard on the west side of the property, to the liquor-licensed area under the Entertainment Facility License issued to TeeShots, LLC. The premises was posted with a sign advertising the Public hearing and a notice published in the Reporter Herald as the law requires.

#### **FINDINGS:**

Jeremy Bitner, Manager/Owner, Mike & Eileen Bitner, Owners, all appeared before the Authority. Mike & Eileen Bitner appeared virtually.

Jeremy described the modification as presented in addition to the patio areas that have been proposed. This matter was continued from the previous month's hearing due to insufficient materials demonstrating the change. Jeremy provided a detailed description of the updated "Exhibit D" that incorporates the new areas, however a redline was not included.

Mr. Bailey asked for a description of the liquor boundaries that the applicants wish to establish. The owners intend to monitor the area directly and plan to prevent patrons from leaving the outside area using a combination of fences and gates.

There was some difficulty achieving clarity as to how the owners intend to arrange the area with gates and some questions were necessary to determine where access gates will be located initially – the applicants determined at the meeting that it would be best to install the gates and fencing outright rather than waiting to install them in the future.

Clarification was provided using the applicants' diagram during the meeting in full view of the gallery on the Council Chambers presentation screen.

**MINUTES**  
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Mr. Bailey requested that any approval of this modification application be conditional on the terms that the applicants provide an adequate redline and clarify the construction of gates/entrances and exits.

**ACTION TAKEN:**

**The Authority approved this application on the following conditions:**

- a. The applicants provide a redlined version of their licensed premises, Exhibit D in the application file.**
- b. The applicants provide a clear depiction of the gates and food truck docking area**
- c. The applicants complete all necessary permitting inspections with the City Building Division and Fire Department.**

**C. Renewal Application– Blazin Wings Inc. dba Buffalo Wild Wings**

An application was for the renewal of the Hotel & Restaurant Liquor License issued to Blazin Wings Inc. dba Buffalo Wild Wings, located at 1505 Rocky Mountain Ave in Loveland, was filed on May 15, 2024. The licensee was required to appear regarding compliance with the Fire Marshal.

**FINDINGS:**

Brian Proffitt, Esq., Runco & Proffitt, P.C. Kiera Shahan, Andrea Christiansen, Managers, appeared before the Authority.

Documentation of the situation was described by the Authority. The City Clerk's Office has granted this renewal as a result of the licensees reaching compliance with the Fire Marshal on August 26<sup>th</sup>, 2024. This is documented as a multi-year issue with this licensed premises. Despite regular inspections, the only remedy to compliance with the fire marshal seems to correspond with liquor licensing.

While renewals have been granted, public health and welfare concerns have been present for multiple years, and these have gone unresolved. The Authority highlighted the fact that these violations can result in a summary suspension of a liquor license due to life/safety code violations under CO Liquor Rule 47-602.

**ACTION TAKEN:**

**The Authority granted this renewal provided that the licensees heed the warning that 47-602 could result in summary suspension of a liquor license.**

#### **D. Renewal Application– Brinker Restaurant Corporation dba Chili's Bar & Grill**

An application was for the renewal of the Hotel & Restaurant Liquor License issued to Brinker Restaurant Corporation dba Chili's Bar & Grill, located at 1425 Rocky Mountain Ave in Loveland, was filed on June 20, 2024. The licensee was required to appear regarding compliance with the Fire Marshal.

#### **FINDINGS:**

Brian Proffitt, Esq. Britni Rice, General Manager, appeared before the Authority.

The applicants were asked to appear due to multiple deficiencies in their fire suppression system. These deficiencies were present in October 2023 and have not been fully resolved. Chief Carrie Dann provided information: the licensees have been working with an unlicensed fire suppression technician/company and have failed to upgrade an outdated sprinkler system as well as problems with the sprinkler backflow system.

Work orders were placed, however they were inadvertently cancelled through a corporate miscommunication. Additionally, the fire alarm was triggered during LFRA's inspection resulting in the building being placed on a 30-minute fire watch as errors in installation of an HVAC unit rendered the fire suppression system completely inoperable.

Within a few days of the inspection this year, a flurry of emails between contractors, corporate managers, area managers, and LFRA created significant clerical errors – as of 8 pm September 18, the fire suppression system has been repaired and is fully operational. The fire alarm itself is inoperable due to the damage from the unpermitted/unlicensed HVAC installation on the roof. A repair order has been placed for the fire alarm, but the building remains on fire-watch. They are operating normally otherwise. The building is habitable; however it does not fully meet the requirements for life safety if these problems are not resolved.

Chief Dann noted that this licensee has been increasingly taxing on LFRA's resources; recurrent issues with both this establishment and Buffalo Wild Wings have put a strain on their resources. The Authority referred to rule 47-602 of the Colorado Liquor Rules as in the case of item C. The licensees were informed that failure to resolve life safety issues could result in a summary suspension of a liquor license.

#### **ACTION TAKEN:**

**The Authority granted this renewal provided that the licensees heed the warning that 47-602 could result in summary suspension of a liquor license. The applicants are reminded that liquor licensing should not be the sole driving factor in scheduling prompt inspections for compliance with fire code.**

## **MINUTES**

### **LOCAL LICENSING AUTHORITY**

**Thursday September 19, 2024 – 8:30 A.M.**

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

#### **E. Renewal Application– Oceans Bistro Inc. dba Durbar Nepalese & Indian Bistro**

An application was for the renewal of the Hotel & Restaurant Liquor License issued to Oceans Bistro Inc. dba Durbar Nepalese & Indian Bistro, located at 1525 W Eisenhower Blvd. in Loveland, was filed on June 14, 2024. The licensee has been required to appear regarding compliance with Regulation 47-302(A) of the Colorado Liquor Rules: modification of premises.

#### **FINDINGS:**

Mahautama “M.G.” Gautaum, Owner/Registered Manager, appeared before the Authority.

Under Regulation 47-302(A) of the Colorado Liquor Rules, changing/modifying/altering licensed premises, all substantial modifications must be applied for with and approved by the local authority. Mr. Gautaum provided a description of his restaurant and stated that Oceans Bistro Inc. leased the building in 2022. All maintenance and construction had been provided by a licensed contractor with whom Mr. Gautam had limited contact.

Mr. Bailey’s questioning indicated that changes made to the building involve the partitioning and subletting of the entire north third of the premises. These changes were made with no notification to the Local Authority. Testimony was provided by Loveland Fire and Rescue Authority Inspector Sarah Winter, who established the technical front entrance being partitioned off and leased to a Domino’s Pizza, now listed as Suite 101 on the City’s Exhibit B. Ms. Winter explained that the entire building had been remodeled with changes to the exterior façade in addition to suites being partitioned and Durbar’s established liquor boundaries divided. This constitutes a modification of premises under Rule 47-302 of the Colorado Liquor Regulations.

It was clear from Mr. Gautam’s testimony that he had a limited understanding of the terms of a modification of premises and the Colorado Liquor Rules. He stated that he was confused as to whether his modification qualified for such an application. At the time of the hearing, he had stopped alcohol service at his restaurant as his liquor license expiration date is September 3<sup>rd</sup>. Mr. Gautam testified that he work plans were all handled by the restaurant’s contractor.

#### **ACTION TAKEN:**

**The Authority granted this renewal application on the condition that Mr. Gautam submits a modification of premises to license the NOW Existing area of the restaurant, which is now a reduced serving area as opposed to expanded. There has been a clear reduction in risk due to the decrease in size. The City will provide the licensee the opportunity to correct the error and misunderstanding of Rule 47-**

302(A) and will not issue a citation at this time provided the following conditions are met:

- 1) A DR8442 form and fees are filed with the CCO within 15 days from today's date.
- 2) A new premises diagram of the licensed premises must be filed with this application reflecting the current boundaries of the liquor license.

**F. Voluntary Appearance - Sushibox LLC dba Sushirito**

The Licensee has been asked to appear to address matters related to the legal possession of the hotel and restaurant liquor license issued to Sushibox LLC, dba Sushirito. City Sales Tax records indicate that a new business entity, Annie Sushi LLC, has taken possession of the premises without adequate transfer of ownership or LLC Change applications being filed with the City Clerk.

**FINDINGS:**

Patcharin Nilabon, Owner/Manager appeared before the Authority.

Sales Tax Auditor Dusty Durston provided testimony describing Sushibox LLC's Sales Tax standing with the City. Ms. Nilabon had appeared at the May 31<sup>st</sup> Local Licensing Authority Meeting to address missing sales tax returns in relation to the renewal of Sushirito's liquor license. The business had been enrolled in a payment plan but recently defaulted on that plan to cover the balance of two missing returns and total outstanding balance of \$8000. The agreement established that outstanding balances were to be paid in installments beginning with four weekly remittances of \$500, followed by monthly \$500 payments. Ms. Durston was unclear as to when the payment plan was established, it is estimated that this was between late May and early June of this year.

The Authority questioned Ms. Nilabon on her understanding of the previous discussion of the City's municipal code regarding the revocation of a sales tax license by the City Manager. Ms. Nilabon appeared before the Authority in May of this year on a matter related to sales tax and liquor license renewal.

Ms. Nilabon stated that her cousin was assisting her financially with the sales tax payment plan. She expressed financial difficulties with her business and the inability to make payments and remain in operation. She did not establish a clear timeline of when her cousin had become involved in her business. According to Ms. Nilabon, the outstanding \$8000 sales tax balance was impossible for her business to pay. Annie, her cousin, made payments towards this balance, and even took over operations of Sushirito overall.

There is confusion as to who truly owns and operates the restaurant at 556 N Lincoln Ave. Annie Sushi LLC is currently making payments to the outstanding sales tax balance. This business is registered to her cousin, who Ms. Nilabon stated *will* be taking full responsibility for the lease of the space. Annie Sushi LLC is effectively operating this business now. There is no legal agreement or lease involving Annie Sushi LLC.

## **MINUTES**

### **LOCAL LICENSING AUTHORITY**

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Ms. Nilabon intends to establish full legal ownership of the business including a transfer of ownership application – she stated that she is waiting for a new assignment of lease to begin this application with the Clerk's Office.

Ms. Nilabon stated that she believes she is still allowed to sell liquor because the liquor license and lease are still in her name, and that she works at the location daily, there is no problem with selling alcohol. At the hearing, it was still unclear as to who is operating the restaurant and profiting from it. Legal ownership was not clearly defined.

Ms. Nilabon also stated that she was confused as to the connection between ownership rights and the licensing process, in effect.

#### **ACTION TAKEN:**

**A *complete* transfer of ownership application must be filed with the Clerk's Office, showing some type of documentation for the sublease or new assignment of lease being in progress – the Clerk's Office must receive this within 5 days of this documentation being established to initiate a temporary transfer permit in the new business owners' name.**

**The authority identified the following conditions for a transfer of ownership application and conditional renewal:**

- a) Documentation must be filed with the clerk's office for a transfer of ownership application.**
- b) An assignment of lease, transaction, or other evidence proving that a new lease to Annie Sushi LLC has been obtained as soon as possible – in this situation the City will accept a lease agreement in progress.**
- c) The Licensee must submit a completed application to the Clerk's Office within 5 business days that includes as much information as possible establishing Annie Sushi LLC as the new owners of Sushirito.**
- d) Contact the Sales Tax Division to establish a concrete timeline for the payment plan identified during the meeting.**

**If these conditions are not met, citations will be issued, and a summary suspension of this liquor license could be invoked.**



## **G. Renewal Application – Old World Foods LLC dba Café Athens**

An application was for the renewal of the Hotel & Restaurant Liquor License issued to Old World Foods LLC, dba Café Athens, located at 5865 Sky Pond Drive, SP G-101 in Loveland, was filed on July 1, 2024. The licensee has been required to appear regarding an expired sales tax license.

### **FINDINGS:**

Del Deschene, owner/manager, appeared before the Authority.

Mr. Deschene provided testimony as to his practices around the renewal of his sales tax license with the City. In Fort Collins, where he operates a second location of Café Athens, sales tax licenses renew automatically. In Loveland, licensees are required to send in an application and renew on a schedule and cannot make automatic payments.

While the Clerk's Office maintains adequate contact information for the licensees, as Mr. Deschene confirmed, numerous attempts to contact the licensees regarding their sales tax standing went unanswered. It was found that the licensees experience a significant delay when receiving mail as it is delivered to their home address in Livermore, CO, and Mr. Deschene expressed that he and his brother, who manages the business' accounting, simply misunderstood sales tax deadlines. Mr. Deschene expressed that he will ensure that he has an extremely accurate means of tracking renewal periods as well as contact information updates in the future.

The issue discussed at this meeting relates to the provision in the Municipal Code that, if an applicant loses a City Sales tax license, a liquor license is then summarily revoked/invalidated – Mr. Deschene was cautioned that sales tax licensing can have serious consequences if not addressed promptly, and today's meeting was purposed to inform the licensee that better business practices should be employed.

### **ACTION TAKEN:**

**The Authority approved this renewal application. The licensees are reminded that they must maintain adequate contact information and stay informed of dates and deadlines associated with all City and State licensing authorities. Additionally, any changes to contact information or mailing addresses must be promptly reported. The licensee must meet all associated deadlines for sales tax filings and other regulatory deadlines in accordance with Local and State Liquor Licensing Authorities.**



## MINUTES

### LOCAL LICENSING AUTHORITY

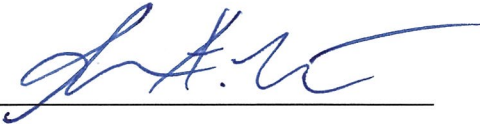
Thursday September 19, 2024 – 8:30 A.M.

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### 3. STAFF REPORT

- A. City Clerk's Office: we will be requesting at the next Local Liquor Rules Review meeting that all SEP applicants come to LLA meetings to avoid confusion created by the 2-year requirement established in our Local Liquor Rules.
- B. Code Changes have been discussed and are in the process of being finalized with inputs from City Departments involved in the licensing process. Items are anticipated to be presented to Council before the end of the calendar year.
- C. A review of local licensing authority rules of procedure will be scheduled toward the end of November, 2024 pending availability. This review has been scheduled for October 30<sup>th</sup>.

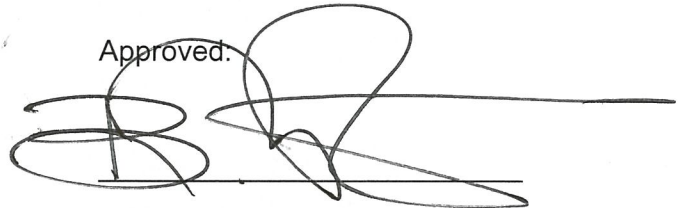
Respectfully Submitted,



Sterling Wilson, Assistant City Clerk

Local Licensing Authority Secretary

Approved.



Brandi Nieto, Judge

Local Licensing Authority