

ORDINANCE NO. 1

Series 2016

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 5 OF TITLE 2 OF THE BRECKENRIDGE TOWN CODE; ESTABLISHING THE TOWN OF BRECKENRIDGE LIQUOR AND MARIJUANA LICENSING AUTHORITY; DEFINING THE POWERS AND DUTIES OF SUCH AUTHORITY; PROVIDING OTHER RULES CONCERNING THE OPERATION OF SUCH AUTHORITY; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Chapter 5 of Title 2 of the Breckenridge Town Code is repealed and readopted with changes to read as follows:

CHAPTER 5

LIQUOR AND MARIJUANA LICENSING AUTHORITY

SECTION:

- 2-5-1: Findings
- 2-5-2: Creation
- 2-5-3: Appointment; Qualification
- 2-5-4: Term Of Office; Vacancies
- 2-5-5: Compensation
- 2-5-6: Powers, Duties And Responsibilities
- 2-5-7: Elimination Of Distance Requirement For Junior College Districts
- 2-5-8: Operation
- 2-5-9: Meetings
- 2-5-10: Rules And Regulations
- 2-5-11: Applicability Of Code Of Ethics
- 2-5-12: Legal Advisor
- 2-5-13: Appeals
- 2-5-14: Town Clerk's Duties
- 2-5-15: Annual Report
- 2-5-16: Oaths; Subpoenas
- 2-5-17: Terms And Conditions Of License
- 2-5-18: False Application Basis For Revocation
- 2-5-19: Buildings To Meet Code Standards
- 2-5-20: Specific Provisions Control Over General
- 2-5-21: Actions of Liquor Licensing Authority Ratified and Confirmed

2-5-1: FINDINGS: The Town Council finds and determines as follows:

- A. The Town Council is authorized by Section 12-47-103(17), C.R.S., to create by ordinance a local licensing authority to handle all liquor licensing matters for the Town.
- B. The Town has authorized the issuance of certain local licenses under the Colorado Medical Marijuana Code (Article 43.3 of Title 12, C.R.S.), the Colorado Retail Marijuana Code (Article 43.4 of Title 12, C.R.S.), and the applicable administrative regulations promulgated with respect to such statutes, all as more fully set forth in Chapter 14 of Title 4 of this Code.
- C. The Town Council is authorized by Section 12-43.3-104(5), C.R.S. (which is part of the Colorado Medical Marijuana Code), and Section 12-43.4-103(7), C.R.S. (which is part of the Colorado Retail Marijuana Code) to create by ordinance a local licensing authority to handle all marijuana licensing matters for the Town.
- D. The Town Council desires to establish a single local licensing authority to act for the Town in all local licensing matters arising under the Colorado Beer Code (Article 46 of Title 12, C.R.S.), the Colorado Liquor Code (Article 47 of Title 12, C.R.S.), the Colorado Special Liquor Events Code (Article 48 of Title 12, C.R.S.), the Colorado Medical Marijuana Code (Article 43.3 of Title 12, C.R.S.), the Colorado Retail Marijuana Code (Article 43.4 of Title 12, C.R.S.), the applicable administrative regulations promulgated with respect to such statutes, the Town's Marijuana Licensing Ordinance (Chapter 14 of

Title 4 of this Code); and other applicable law.

- E. Section 9.5 of the Town Charter authorizes the Town Council to create by ordinance permanent boards and commissions for the Town, and sets forth certain requirements which must be met with respect to the creation of a permanent Town board or commission.
- F. Section 9.2(a) of the Town Charter provides that neither the mayor nor any Town employee shall serve on any Town board or commission.
- G. The Town of Breckenridge Liquor and Marijuana Licensing Authority should be created to replace the Town of Breckenridge Liquor Licensing Authority (established by Ordinance No, 20, Series 2003), and given the authority to handle all liquor and marijuana licensing matters for the Town, all as more fully set forth in this Chapter.

2-5-2: CREATION: There is hereby created and established the Town of Breckenridge Liquor and Marijuana Licensing Authority. The Town of Breckenridge Liquor and Marijuana Licensing Authority is referred to in this Chapter as the "Authority." The Authority shall be a permanent board of the Town, and shall operate in accordance with and subject to the provisions, duties, and limitations of this Chapter and other applicable law.

2-5-3: APPOINTMENT; QUALIFICATION:

- A. The Authority shall consist of five (5) members who shall be appointed by the Town Council.
- B. Members of the Authority shall be residents and electors of the Town.
- C. Neither the Mayor nor any Town employee shall serve on the Authority.
- D. No person shall serve as a member of the Authority if such person or a member of such person's immediate family has any interest in a business for which a license or permit has been applied for or issued by the Town pursuant to this Chapter.
- E. All members of the Authority shall serve at the pleasure of the Town Council, and may be removed by the Town Council at any time without cause.

2-5-4: TERMS OF OFFICE; VACANCIES:

- A. The terms of the members of the Authority shall be four (4) years. The terms shall be staggered.
- B. In the event that a vacancy shall occur during the term of any member of the Authority, a successor shall be appointed by the Town Council to serve the unexpired portion of the term.

2-5-5: COMPENSATION: Members of the Authority shall serve without compensation.

2-5-6: POWERS, DUTIES AND RESPONSIBILITIES:

The Authority shall have all of the powers of a local licensing authority as are set forth in following laws, all as amended from time to time:

- A. The Colorado Beer Code (Article 46 of Title 12, C.R.S.);
- B. The Colorado Liquor Code (Article 47 of Title 12, C.R.S.);
- C. The Colorado Special Liquor Events Code (Article 48 of Title 12, C.R.S.);
- D. The Town's Marijuana Licensing Ordinance (Chapter 14 of Title 4 of this Code);
- E. The Colorado Medical Marijuana Code (Article 43.3 of Title 12, C.R.S.);
- F. The Colorado Retail Marijuana Code (Article 43.4 of Title 12, C.R.S.);

- G. The administrative regulations promulgated by the Liquor Enforcement Division of the Colorado Department of Revenue under the statutes set forth above;
- H. The administrative regulations promulgated by the Authority as authorized by Section 2-5-10 of this Chapter; and
- I. Other applicable law.

2-5-7: ELIMINATION OF DISTANCE REQUIREMENT FOR JUNIOR COLLEGE DISTRICTS: The distance limitation imposed by Section 12-47-313(1)(d)(I), C.R.S., shall not apply within the Town to a hotel and restaurant license issued for premises that are part of the campus of any junior college district organized pursuant to Colorado law. Except as specifically altered by this Section, the distance limitations imposed by Section 12-47-313(1)(d)(I), C.R.S., shall continue in full force and effect.

2-5-8: OPERATION: The Authority shall elect a chair and a vice chair from its members, together with such other officers as the Authority shall deem appropriate, and shall fix the terms of such offices. The Authority shall keep an electronic record of its meetings and shall further keep written minutes thereof as required by the Colorado Open Meetings Law, Title 24, Chapter 6, Part 4, C.R.S. Three (3) members of the Authority shall constitute a quorum for the transaction of business, and a decision of the majority of those present constituting a quorum shall control. Any absent member may join in a decision of the Authority only after he or she has considered the evidence adduced in any hearings conducted during his or her absence

2-5-9: MEETINGS: The Authority shall meet at Town Hall, or such other location within the Town as the Authority shall determine. The Authority shall meet on such dates as the Authority may determine. All meetings of the Authority shall be subject to the provisions of the Colorado Open Meetings Law, Title 24, Chapter 6, Part 4, C.R.S.

2-5-10: RULES AND REGULATIONS: The Authority shall have the power to adopt rules and regulations governing its operation. Such rules shall not be inconsistent with applicable law.

2-5-11: APPLICABILITY OF CODE OF ETHICS: The provisions of the Breckenridge Town Code of Ethics (Title 1, Chapter 16 of this Code) shall apply to all members of the Authority.

2-5-12: LEGAL ADVISOR: The Town Attorney shall be the legal advisor to the Authority-in the event that it would be a conflict of interest for the Town Attorney to both present evidence to the Authority on any matter and to advise the Authority as to such matter, the Town Attorney shall continue to advise the Authority on the matter and shall engage independent counsel to present the evidence.

2-5-13: APPEALS: The finding or decision of the Authority shall be in writing. The decision of the Authority shall be final, subject to the right of any aggrieved party to contest the matter in an appropriate court action commenced under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. For purposes of determining the time limit for the commencement of an action under Rule 106(a)(4) of the Colorado Rules of Civil Procedure, the decision of the Authority shall be deemed to be final upon the Authority's issuance of a written finding or decision following the conclusion of the hearing. If the appealing party receives a copy of the written decision of the Authority at the time of the hearing, the time for the filing of the appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure shall commence from the date the appealing party receives the written decision. If the written decision of the Authority is transmitted to the appealing party by mail, the time for the filing of the appeal Rule 106(a)(4) of the Colorado Rules of Civil Procedure shall commence from the date of the mailing of the written decision.

2-5-14: TOWN CLERK DUTIES:

- A. The Town Clerk shall receive all applications for licenses and permits that may be issued pursuant to this Chapter, and shall issue all licenses and permits granted by the Authority (or the Town Clerk, whichever is applicable) upon receipt of such fees and taxes as are required by law.
- B. The Town Clerk shall serve as the official secretary of the Authority, and shall designate a person or persons to provide the necessary administrative services for the Authority. The Town Clerk or the Clerk's designee shall attend the meetings of the Authority, and

shall publish and post those notices that are required by law.

- C. Pursuant to Section 12-48-107(4), C.R.S., the Town Clerk is assigned the duty to approve or deny all applications for special liquor events permits that are submitted to the Authority. In exercising the authority hereby delegated, the Town Clerk shall follow the rules and procedures set forth in the Colorado Special Liquor Events Code, and all applicable administrative regulations governing special liquor events promulgated by the Liquor Enforcement Division of the Colorado Department of Revenue.

2-5-15: ANNUAL REPORT: On or before January 31 of each year, the Authority shall file a report with the Town Council setting forth the number of applications for licenses and permits acted upon; the number of licenses and permits granted; the number of licenses and permits denied; and any other actions taken by the Authority during the past year.

2-5-16: OATHS; SUBPOENAS: The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing which the Authority is authorized to conduct. It shall be unlawful and a violation of this Code for any person to fail to comply with any subpoena issued by the Authority in the proper conduct of its hearings, and upon conviction for such violation the offender shall be punished as provided in Title 1, Chapter 4 of this Code. A subpoena shall be served in the same manner as a subpoena issued by the district court of the state.

2-5-17: TERMS AND CONDITIONS OF LICENSE AND PERMIT:

- A. The Authority or the Town Clerk, whichever is applicable, shall have the power to impose such special terms and conditions on a license or permit, or the renewal thereof, as may be reasonably required to protect the public health, safety, and welfare, subject to any limitation imposed by applicable law.
- B. It shall be a condition of each license or permit issued pursuant to the authority granted by this Chapter, whether or not expressly stated in the license or permit, that during the term of the license or permit the licensee or permittee shall not violate, or permit the licensee's or permittee's employees to violate, any ordinance of the Town now existing or hereafter adopted related to the regulation of noise emanating from the premises for which the license or permit was issued.

2-5-18: FALSE APPLICATION BASIS FOR REVOCATION: Any information that is furnished to the Authority with the intent to mislead or misrepresent the true state of facts shall be a basis for denial of the application or suspension or revocation of the license or permit.

2-5-19: BUILDINGS TO MEET CODE STANDARDS: No license or permit shall be issued, renewed, or transferred pursuant to the authority granted by this Chapter unless the building in which the business is carried on meets all of the requirements of the land use regulations and the building and other technical Codes of the Town.

2-5-20: SPECIFIC PROVISIONS CONTROL OVER GENERAL: Where both general and specific provisions of this Chapter are applicable and such provisions are in conflict, the specific provisions shall control over the general.

2-5-21: ACTIONS OF LIQUOR LICENSING AUTHORITY RATIFIED AND CONFIRMED: All action taken by the Town of Breckenridge Liquor Licensing Authority prior to the readoption of this Chapter in 2016 is hereby ratified and confirmed in all respects. The Authority created by this Chapter is the successor to the Town of Breckenridge Liquor Licensing Authority in all respects. All licenses and permits issued by the Town of Breckenridge Liquor Licensing Authority, and all orders and other action, of whatever kind, taken by the Town of Breckenridge Liquor Licensing Authority pursuant to its lawful authority prior to the readoption of this Chapter shall remain in full force and effect and shall be legally valid and enforceable notwithstanding the readoption of this Chapter. All licenses, permits, orders, and similar matters issued or decided by the Town of Breckenridge Liquor Licensing Authority prior to the readoption of this Chapter shall be binding upon and shall be fully enforceable by the Town of Breckenridge Liquor and Marijuana Licensing Authority created pursuant to this Chapter.

Section 2. The definition of "Local Licensing Authority" in Section 4-14-5 of the

Breckenridge Town Code is amended to read as follows:

LOCAL LICENSING AUTHORITY: The Town of Breckenridge Liquor and Marijuana Licensing Authority created pursuant to Title 2, Chapter 5 of this Code.

Section 3. The Town Council finds and determines that the Town of Breckenridge Liquor Licensing Authority (established by Ordinance No. 20, Series 2003) is not a board or commission required to exist by statute or the Town Charter, and that Section 9.5 of the Town Charter authorizes the Town Council to abolish the Town of Breckenridge Liquor Licensing Authority. Accordingly, effective on the effective date of this ordinance, the Town of Breckenridge Liquor Licensing Authority is abolished, and the duties, powers, and authority of the Town of Breckenridge Liquor Licensing Authority are transferred to the Town of Breckenridge Liquor and Marijuana Licensing Authority established by this ordinance.

Section 4. Except as specifically amended by this ordinance, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 5. The Town Council finds, determines, and declares that it has the power to adopt this ordinance pursuant to: (i) Sections 14 and 16 of Article XVIII to the Colorado Constitution; (ii) the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.; (iii) the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.; (iv) the applicable administrative regulations Colorado Department of Revenue; (v) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers contained in the Breckenridge Town Charter.

Section 6. This ordinance shall be published as provided by Section 5.9 of the Breckenridge Town Charter, and shall become effective on April 1, 2016.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 12th day of January, 2016.

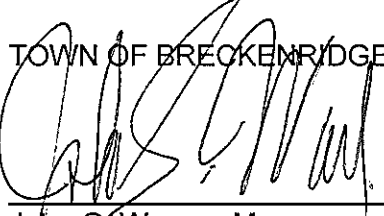
This ordinance was published in full on the Town of Breckenridge website on January 14, January 15, January 16, January 17 and January 18, 2016.

A public hearing on this ordinance was held on January 26, 2016.

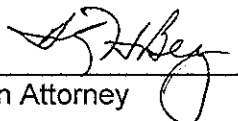
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 26th day of January, 2016. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:


Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE

John G. Warner, Mayor

APPROVED IN FORM


Town Attorney

1/26/16
Date

This Ordinance was published on the Town of Breckenridge website on January 28, January 29, January 30, January 31 and February 1, 2015. This ordinance shall become effective on March 2, 2015.