

**RESOLUTION NO. 17- 248**

**THE BOARD OF COUNTY COMMISSIONERS  
OF PUEBLO COUNTY, COLORADO**

**APPROVING THE RULES OF PROCEDURE FOR THE PUEBLO COUNTY LIQUOR AND  
MARIJUANA LICENSING BOARD**

**WHEREAS**, the Pueblo County Liquor and Marijuana Licensing Board ("LMLB") was established by this Board in 2015 to serve as the local licensing authority for liquor, medical marijuana and retail marijuana licenses for unincorporated Pueblo County; and

**WHEREAS**, Section 5.16.040.A of the Pueblo County Code permits the LMLB to adopt rules for internal governance subject to approval by the Pueblo County Board of County Commissioners; and

**WHEREAS**, up to this point, the LMLB has not adopted rules of procedure, bylaws or any other standards for internal governance or the conduct of meetings; and

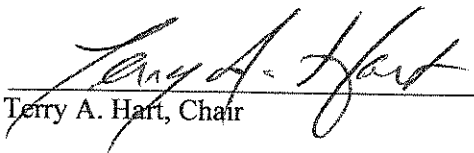
**WHEREAS**, the LMLB has reviewed and approved the proposed rules through work sessions and discussions with staff and intends to adopt a resolution memorializing its approval of the same; and

**WHEREAS**, this Board believes the proposed rules of procedure will allow for the efficient conduct of hearings and meetings and to establish standards of conduct for the LMLB's members


**NOW, THEREFORE, BE IT RESOLVED** by the Liquor and Marijuana Licensing Board of Pueblo County, Colorado, that the Rules of Procedure for the Pueblo County Liquor and Marijuana Licensing Board, attached as Exhibit A and incorporated into this Resolution by this reference, are adopted.

**PASSED AND ADOPTED** this 16<sup>th</sup> day of October 2017, in Pueblo County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS  
OF PUEBLO COUNTY, COLORADO**

By:   
Terry A. Hart, Chair

**ATTEST:**

By:   
Gilbert Ortiz, County Clerk

**RULES OF PROCEDURE FOR THE PUEBLO COUNTY  
LIQUOR AND MARIJUANA LICENSING BOARD  
(Adopted -----)**

**Part 1. General Provisions**

**1.1. Authorization - Scope.** These Rules are authorized pursuant to Section 5.16.040(A) of the Pueblo County Code. They apply to all meetings of the Board and to the conduct of its Members.

**1.2. Purpose.** These Rules are designed to supplement the provisions of Title 5 and seek to effectuate the principles of fairness, certainty and efficiency. They are intended to provide predictability and order to proceedings of the Board and to clarify the rights and duties of its Members.

**1.3. Definitions.** As used in these Rules, the following terms shall have the following meanings:

- a. "Board" means the Pueblo County Liquor and Marijuana Licensing Board.
- b. "BOCC" means the Pueblo County Board of County Commissioners.
- c. "County Attorney" means the Pueblo County Attorney or his or her designee.
- d. "Department" means the Pueblo County Department of Planning and Development.
- e. "Director" means the Director of the Pueblo County Department of Planning and Development or her or his designee.
- f. "Enforcement Division" means Pueblo County acting in an enforcement capacity and represented by conflicts counsel in the County Attorney's Office.
- g. "Member" means a member of the Pueblo County Liquor and Marijuana Licensing Board.
- h. "Rules" means the Rules of Procedure for the Pueblo County Liquor and Marijuana Licensing Board.
- i. "Title 5" means Title 5 of the Pueblo County Code.

**1.4. Construction.** These Rules shall be construed in a manner consistent with Rule 1.2 and that best accomplishes the goals of Title 5, the Medical Marijuana Code, the Retail Marijuana Code or the Liquor Code, as applicable. In the event of a conflict between those sources of law and these Rules, those sources shall control. These Rules are not intended to limit the Board's power.

**1.5. Robert's Rules Adopted as Default.** Where these Rules or Title 5 are silent as to procedures at meetings, Robert's Rules of Order shall apply.

**Part 2. Meetings.**

**2.1. Meeting Required.** All actions of the Board must take place at a meeting held pursuant to C.R.S. § 24-6-401, et seq., except nothing shall prevent the Chairperson, Vice Chair, Director or other agent of

the Board from taking specific actions on behalf of the Board where authorized to do so either by the Board or by these Rules, Title 5, or any other law.

**2.2. Venue.** Unless otherwise required, all meetings of the Board shall be held at the Commissioners' Chambers, Pueblo County Courthouse, 215 West Tenth Street, Pueblo, Colorado 81003. The Director may change the venue of any meeting if: (1) the Chambers are unavailable due to maintenance or the meeting of another body or (2) the anticipated attendance at a meeting might exceed the capacity of the Chambers. Before changing venue, the Director shall attempt to consult with the Board at its prior meeting and in all cases shall provide the Members at least twenty-four (24) hours' advance notice.

**2.3. Cancellation - Rescheduling.** The Board may cancel and reschedule future meetings, but it shall not move a meeting to an earlier date without giving at least forty (40) days' notice in advance of the meeting's original date; except that a work session or, with the written consent of the licensee, a violation hearing may be moved to an earlier date if otherwise permitted. The Director may cancel any meeting where no items are scheduled.

**2.4. Quorum in General.** No meeting of the Board may take place unless a quorum of the Members is present. In the event a quorum is not present, the Director shall so inform the public gathered at the time and place of the meeting and all applications, hearings, and other matters scheduled for that meeting shall be automatically continued to the next scheduled meeting of the Board without the need to post and publish notice of hearings a second time.

**2.5. Quorum and Recusals.** A recusal from a particular hearing or other item alters the composition of the quorum for that item, but an abstention from voting does not. In the event a recusal would destroy the quorum for a single item, the Board should continue the item to another meeting to ensure a quorum.

**2.6. Order of Business.** All meetings of the Board, other than special meetings shall proceed as follows:

- a. Roll call and declaration of quorum
- b. Approval of minutes of any prior meeting
- c. Approval of agenda
- d. Chairperson's report
- e. Director's report
- f. Requests for continuances
- g. Call of non-hearing items on consent agenda
- h. Call of hearing items on consent agenda
- i. Regular liquor items, including hearings
- j. Regular marijuana items, including hearings

k. Unfinished business

l. New business

m. Other reports

n. Adjournment

**2.7. Speaking.** During hearings and other formal discussions, no Member or speaker from staff or the public shall speak until the Chairperson calls on him or her to do so. The Chairperson shall not unreasonably prevent a Member from speaking, and this restriction may be relaxed for informal discussion items or work sessions. In the event a person addressing or testifying before the Board fails to adhere to this Rule, the Chairperson may, after providing a warning, eject the person from the meeting. The following statement shall be read by the Chairperson at meetings:

In order for the business of the Board to be conducted in the most effective and expeditious manner, it is necessary that all persons present maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of your right to remain in attendance and may result in your being asked to leave the meeting by the chairperson or, upon your refusal, being escorted out of the meeting by the proper authority.

### **Part 3. Decisions.**

**3.1. Motions.** All formal actions and decisions shall be made by voting on a motion in the affirmative. A motion may be made by any member of the Board and must be seconded to be voted on by the Board. A motion described in Rule 4.6 must be made and seconded. A motion is adopted by a majority of the Members present voting in favor, with recused and abstaining members excluded from the tally.

**3.2. Effect of Failed Motions.** Except where otherwise provided, if a motion to approve a licensing application or other such item fails, the application or other item shall be deemed denied by the Board.

**3.3. Written Decisions.** Decisions need not be in writing unless required by law. Where no written decision is otherwise required, it shall be presumed that no written decision will issue unless the Board so chooses and states on the record that its vote will be followed by a written decision. Proposed written decisions must be adopted by vote of the Board, except that the Board may authorize the Chairperson to execute a written decision on behalf of the Board consistent with the Board's vote on a particular matter. All written decisions shall be signed by the Chairperson or Vice Chair at any time or place or, if presented at a meeting of the Board, by the acting chair.

**3.4. Finality of Decisions.** If a written decision is not required or elected, the decision is final upon the Board's vote on the motion. Where a written decision is required or elected, the decision shall be final either upon the Board's adoption of the decision or, if the Chairperson has been authorized to execute a decision to be prepared by staff, upon the signing by the Chairperson.

#### **Part 4. Hearings Generally.**

**4.1. Opening the Hearing.** The Chairperson shall open the hearing and may make introductory remarks on jurisdiction or the standard to be applied.

**4.2. Disclosures - Recusals.** Any Member who has an interest in the matter or has had ex parte contacts with any party shall disclose his or her interest or contacts. A Member who chooses to recuse himself or herself from the hearing should announce the recusal at this time and remove himself or herself from the table.

**4.3. Preliminary Matters.** If there are preliminary jurisdictional or other threshold questions, the Board shall address them before the staff report. At contentious or complicated hearings, the Chairperson or staff may suggest special procedures and rules designed to accommodate the special nature of the proceedings. Such rules may deviate from or be in addition to the specific order and restrictions under Parts 4 or 5, of these Rules but such special rules shall be approved by vote of the Board. Special rules may include modified time limits, an advance list of permitted speakers, changes to the order of presentation and cross examination, and other changes.

**4.4. Application and Staff Report.** At the beginning of each hearing, the Chairperson will ask staff to make any initial comments. Staff will ask the Chairperson to acknowledge that the application at issue, staff report and any other relevant documents provided to the Members in advance of the hearing are made part of the record.

**4.5. Evidence and Closing the Hearing.** Evidence shall be presented as provided in Parts 5 or 6 of these Rules, as applicable. After evidence has been presented, the hearing, or portion of the hearing, shall be closed and the Chairperson shall entertain a motion. After a motion is made and seconded, the Members may discuss the motion before voting. For hearings under Part 6 of these Rules, the violations portion of the hearing shall be closed first, and, if a violation is found, the sanctions portion of the hearing shall be held as provided in Rule 6.6.

**4.6. Required Motions.** A motion to decide the matter of a hearing must be made, seconded and voted on. At violation hearings, the matter includes both the alleged violation and, if applicable, the sanction.

**4.7. Continuances.** Any Member may move at any stage of the hearing to stop and continue the hearing to a later date.

**4.8. Other Hearings.** For hearings not described in Parts 5 or 6 of these Rules, the hearing shall follow as closely as possible whichever Part is most akin to the subject of the hearing. If necessary, the Chairperson shall explain special rules or exceptions applicable to such hearing.

#### **Part 5. Hearings on Applications.**

**5.1. Enforcement Division.** The Board shall permit the Enforcement Division or Marijuana Code Compliance Inspector to present an advance report or evidence at the hearing relating to the

application. Such evidence may, but need not, be included as part of the initial staff report under Rule 4.4.

**5.2. Applicant's Case.** After staff makes its initial presentation, the applicant will have an opportunity to make its case. An agent or representative for an applicant for a license is expected to attend and present evidence at the hearing. If possible, Members should allow each witness or presenter for the applicant a chance to finish before asking any follow-up questions.

**5.3. Public Portion of Case.** In hearings where evidence from neighbors or members of the public is contemplated, testimony by persons in support or opposition to an application shall generally be limited to three (3) minutes per speaker unless specific circumstances justify or require more time. Any request or decision to extend a speaker's time shall be made before the speaker begins presenting evidence. The time taken by Members to ask, and speakers to answer, questions shall not be counted toward the three (3) minutes for testimony.

**5.4. Rebuttal.** In the event persons opposed to the application present evidence, the applicant shall be given an opportunity to rebut, but the applicant shall not be permitted to present new evidence going beyond the scope of the opposition case he or she is rebutting. The applicant should rebut any evidence presented by staff in the report or otherwise, during its case made under Rule 5.3.

**5.5. Burden.** Unless otherwise provide, the applicant bears the burden in demonstrating that it is entitled to a license. Where the staff recommends approval, the application and staff report may be considered prima facie evidence that the applicant's burden has been met.

#### **Part 6. Violation Hearings.**

**6.1. Jurisdiction.** The Board shall have jurisdiction to consider any alleged violation that occurred while a person or business was licensed or conditionally approved by the Board, regardless of whether the person or business holds a license or conditional approval order at the time of the violation hearing. Nothing in this Rule 6.1 shall be construed as limiting the scope of evidence the Enforcement Division is permitted to present under Rule 5.1

**6.2. Setting Violation Hearing.** To set a violation hearing, the Board must, at a prior meeting, decide to issue an order to show cause and notice of hearing. To issue such order and notice, the Board must determine that there is reasonable cause to believe the violations alleged by the Enforcement Division in its report. Such order and report shall be automatically made part of the record staff asks to admit at the beginning of the enforcement hearing.

**6.3. Enforcement Hearing.** After any staff report has been made part of the Board's record, the Enforcement Division shall present its case against a licensee or conditionally approved applicant. The Enforcement Division shall be permitted to admit reports and findings generated by law enforcement agencies or the Colorado Marijuana Enforcement Division.

**6.4. Defense.** The licensee or conditionally approved applicant who is subject to the enforcement action may present evidence in its defense.

**6.5. Rebuttal.** The Enforcement Officer shall then have an opportunity to rebut any evidence presented during the defense portion of the hearing.

**6.6. Sanctions.** If the Board finds a violation, it may then consider imposing appropriate sanctions. The Board shall allow the parties to make arguments or present evidence on sanctions. Where sanctions are not or cannot be imposed, the Board may still issue an order finding the violation or violations. Such order shall be kept as part of the Board's records and may be considered by the Board if any individual associated with the business makes a future application to the Board.

**6.7. Burden.** The Enforcement Division bears the burden in proving a violation and in justifying the sanction.

#### **Part 7. Evidence.**

**7.1. In General.** Evidence shall be admitted liberally but repetitive, cumulative or irrelevant evidence may be restricted or excluded. The Chair may limit evidence in accordance with this rule, and any Member may request a point of order to discuss the Chair's decision or a question on evidence. Hearsay is disfavored but is not prohibited and may be considered if there are indications of reliability supporting the evidence. The Board may consider, among other things, the directness or reliability of evidence when evaluating its weight.

**7.2. Staff Documents.** The application, staff report, and any other documents provided by staff shall be considered as evidence and shall automatically be made part of the record when the Chairperson so recognizes.

**7.3. Testimony.** Applicants and other witnesses addressing the Board shall testify under oath at hearings and may be asked to testify under oath when addressing the Board for non-hearing agenda items. The Chairperson shall administer the oath.

**7.4. Other Evidence.** Documents, photographs, or other physical evidence shall be admitted freely into the record so long as the person seeking to admit such evidence authenticates the evidence to the satisfaction of the Board.

**7.5. Subpoenas.** Where otherwise permitted in state law, a party to a hearing may file written motion with the Board seeking the issuance of a subpoena. Such motion shall be specific and narrowly tailored. The Board may deny the motion if the applicable standards for issuance of the subpoena are not met or if the motion is overbroad.

#### **Part 8. Members.**

**8.1. Attendance.** Each Member is expected to attend every meeting of the Board.

**8.2. Absences Generally.** Subject to Rule 8.3, if any Member is absent from three (3) consecutive meetings or any five (5) meetings in any twelve (12) month period, the Chairperson shall declare the

Member's position vacant and request that the BOCC recognize the vacancy and appoint a new member.

**8.3. Excused Absences.** An excused absence shall be omitted from the absences counted under Rule 8.2. An absence may be excused by the Board at any prior meeting or at the meeting immediately following the absence if the Board finds that the reason for the absence was justifiable. An absence shall be excused if advance notice is given to the Director and the reason for the absence includes one or more of the following:

- a. Death of an immediate family member;
- b. Family commitment;
- c. Personal illness or emergency or the illness or emergency of an immediate family member;
- d. Out-of-town or non-standard business commitment;
- e. Approaching serious deadlines for academic or employment responsibilities; or
- f. Personal travel if the travel was planned before or after the meeting date was set.

**8.4. Recusals.** A Member may recuse himself or herself from consideration of a hearing or the item if necessary under Part 10 of these Rules. A recused Member should leave the table until the hearing or other item has concluded.

#### **Part 9. Officers.**

**9.1. Officers Recognized.** The officers of the Board shall consist of the Chairperson and Vice Chair.

**9.2. Term and Elections.** The term for each officer is one year. At the expiration of an officer's term, the Board shall vote on the position. Nothing prevents a Member from holding the same officer position for multiple consecutive years.

**9.3. Duties of Chairperson.** The Chairperson shall include:

- a. Supervising the affairs of the Board;
- b. Presiding and regulating conduct at all meetings of the Board;
- c. Recognizing speakers at the meetings of the Board;
- d. Administering oaths;
- e. Making decisions regarding and enforcing the provisions of Part 7 of these Rules; and
- f. Taking specific actions on behalf of the Board where authorized.



**9.4. Duties of Vice Chair.** - The Vice Chair shall perform all the duties and exercise all the powers of the Chairperson if the Chairperson is absent or present but otherwise unable to perform his or her duties.

**9.5. Acting Chair.** In the event the Chairperson and Vice Chair are both absent from a meeting or otherwise unable to preside, the Board shall vote at the beginning of the meeting to appoint an acting chair to preside at the meeting. At such meeting, the acting chair shall perform all the duties and exercise all the powers of the Chairperson.

**9.6. Signing Documents.** The Chairperson and Vice Chair are both authorized to sign all orders, resolutions, letters, licenses and other documents approved by the Board. The Chairperson or Vice Chair are not required to sign such documents at a meeting of the Board but may coordinate individually with the Director to arrange a time and place to sign.

#### **Part 10. Standards of Conduct.**

**10.1. General Expectations.** As members of a formally constituted body exercising decision-making power delegated from the BOCC and Colorado General Assembly, all Members hold a position of authority and respect and are expected to live up to the standards of such a body. All Members shall:

- a. Conduct themselves with decorum and honesty at all times both during and outside of meetings.
- b. Come to each meeting prepared to discuss and consider the items on the agenda.
- c. Refrain from speaking on behalf of the Board as a whole outside of meetings without first obtaining the Board's permission to do so.

**10.2. Personal Interests.** No Member shall participate in a matter when the Member believes he or she will not be able to hear and decide the matter in a fair and impartial manner. In addition, no Member shall participate in a matter where the Member has a family connection or financial interest in the matter or business before the Board. Any interest or bias arising under this Rule shall be disclosed as provided in Rule 4.2. For purposes of this Part 10, "family connection" means a connection by virtue of an immediate family member, including a spouse, sibling, parent or child, who is employed by, managers or holds a financial interest in a business appearing before the Board.

**10.3. Ex Parte Communications.** Members should attempt to refrain from all ex parte communications with an applicant or other party in advance of a hearing, especially when those communications concern the subject of the forthcoming hearing. Any Member who has had ex parte communications with an applicant or other party shall disclose such communications as provided in Rule 4.2 and evaluated the seriousness and effect of the contact.

**10.4. Specific Standards of Conduct Adopted.** This Board is subject to the provisions of C.R.S. § 24-18-104, -105, and -109. To the extent applicable, those provisions are adopted by this reference.

**10.5. Disclosure.** Every Member shall submit a signed disclosure statement to the Director upon that Member's appointment to the Board. The statement shall list any family connections or financial interests in businesses holding liquor or marijuana licenses within unincorporated Pueblo County. In addition, the disclosure shall include any other interest in such businesses that the Member believes could reasonably appear to affect his or her ability to hear impartially a matter involving one or more such businesses.

**10.6. Violations.** Any violation under this Part 10 shall be grounds for removal from the Board. Where a Member or staff believes another Member is in violation of any provision of this Part 10, a discussion may be scheduled by the Board, Chairperson or Director to consider such alleged violation.

#### **Part 11. Miscellaneous.**

**11.1. Office of Board.** The office and mailing address of the Board shall be the office of Department.

**11.2. Records.** Records of the Board are subject to the Colorado Open Records Act ("CORA"). The Director shall serve as the custodian of records for the Board and is authorized to make all decisions contemplated under CORA on the Board's behalf.

**11.3. Amendment.** To amend these Rules, the Board must adopt a motion accepting a written proposed amendment, which, upon approval, shall be forwarded to the BOCC. Such amendment shall only take effect upon its approval by the BOCC.