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**M A Y O R**

**CITY AND COUNTY OF DENVER**  
**DEPARTMENT OF EXCISE AND LICENSES**

**POLICIES AND PROCEDURES**  
**PERTAINING TO LIQUOR AND 3.2 BEER LICENSES**

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Awilda R. Marquez, Director

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**POLICIES AND PROCEDURES  
PERTAINING TO LIQUOR AND 3.2 BEER LICENSES**

**I. GENERAL PROVISIONS**

**A. Legal Requirements**

1. The legal requirements governing liquor licenses are established by the State of Colorado and the City and County of Denver. The State laws regarding liquor licenses are: Fermented Malt Beverages (12-46-101 C.R.S. (2008)); Alcohol Beverages (12-47-101 C.R.S. (2008)); Liquors - Special Event Permits (12-48-101 C.R.S. (2008)); and state regulations promulgated pursuant to those statutory requirements (1 C.C.R. 203-2, Regulation 470). The City and County ordinances regarding liquor licenses (and other business licenses) are in the Municipal Code at Alcohol Beverages, Chapter 6; and, Licenses, Chapter 32, D.R.M.C.
2. The Policies and Procedures Pertaining to Liquor and 3.2 Beer Licenses of the City and County of Denver's Department of Excise and Licenses have been written to implement and interpret the laws referred to above. The Department's Policies and Procedures set forth the standard practices of the Department for informational and guidance purposes only. They may be modified or adapted in the discretion of the Director of the Department, as required to address particular matters, to the extent permitted by law.
3. All prior policies of the Department pertaining to liquor licenses are hereby revoked and replaced in their entirety by this Policy.

**B. Definitions**

As used herein, the term "Department" shall refer to the Department of Excise and Licenses; and, the term "Director" shall refer to the Director of the Department of Excise and Licenses, including his/her designee.

**C. Legal Representation before the Department**

1. Attorney's Entry of Appearance
  - a. A licensed attorney may represent any applicant, protestant, or registered neighborhood organization in a public hearing. A written entry of appearance must be filed with the Department that includes the attorney's full name, attorney registration number, business address, telephone number, fax number, and email address.
  - b. Paralegals may act under the direction and supervision of an attorney who has entered an appearance to prepare applications, pleadings, or other procedural papers requiring legal knowledge and technique for filing before the Department on behalf of the attorney's client.

- c. Once an attorney has entered an appearance on behalf of a client, no action will be taken by request of the client unless the attorney withdraws his/her appearance or the client submits a signed statement that he/she is no longer represented by counsel.
2. Who May Represent Particular Forms of Entity
- a. Individuals. A natural person may appear on his/her own behalf even though not a lawyer.
  - b. Partnerships. A partnership may be represented by an active general partner.
  - c. Corporations. Generally, a corporation may appear before an administrative agency only through an attorney. Subject to certain exceptions, proceedings commenced or advocated and pleadings filed by a corporation without an attorney are a legal nullity, are without legal effect, and will be not be accepted.
    - (1) A closely held corporate entity (3 or fewer owners) may be represented before the Department by an officer of such closely held entity if the officer provides the Department, at or prior to the hearing, with evidence satisfactory to the Department of the authority of the officer to appear on behalf of the closely held entity in all matters before the Department.
    - (2) Per C.R.S. § 13-1-127 (2.3) the following persons shall be presumed to have the authority to appear on behalf of the closely held corporate entity upon providing evidence of the person's holding the specified office or status:
      - (a) An officer of a cooperative, corporation, or nonprofit corporation;
      - (b) A general partner of a partnership or of a limited partnership;
      - (c) A person in whom the management of a limited liability company is vested or reserved; and
      - (d) A member of a limited partnership association.
  - d. Non-Profit Corporations. Where an applicant has established itself as a non-profit entity (see C.R.S. 7-121-101; 501(c)(3) of the I.R.S. Code) for purposes of applying for either a special events liquor permit (Chapter 48, Title 12, C.R.S.), an arts class liquor license (C.R.S. 12-47-303), or any other license, the applicant may be represented by a corporate officer only where the requirements of C.R.S. § 13-1-127(1)(a) and (b) are met.
  - e. Registered Neighborhood Organizations (also sometimes called Registered Neighborhood Associations). Representatives of Registered Neighborhood Organizations whose boundaries encompass part of or the entire neighborhood under consideration are allowed to appear in these hearings, even where they may not individually qualify

as a “party in interest.” The Representative may either be an attorney or any person who:

- (1) has evidence of authority to represent the Registered Neighborhood Organization specifically at the public hearing at issue, such as through a letter signed by the President or the Chairman of the Board of Directors, and
  - (2) Resides within the boundaries of the Registered Neighborhood Organization.
- f. The appearance of Registered Neighborhood Organization representatives who are not licensed to practice law is limited to presenting the position taken by the organization, i.e., the process by which the organization reviewed the application and came to a position on the application.
- g. A Registered Neighborhood Organization representative is not allowed to present his/her individual opinion or to cross-examine witnesses (even if an attorney).
- h. If the Registered Neighborhood Organization representative also qualifies individually as a “party in interest”, a concerted effort should be made to separate his/her testimony into separate sections, based upon the various qualifying roles.
- i. A person authorized by a registered neighborhood organization and/or coalitions of neighborhood organizations to present the position taken by the organization, should begin such testimony with a verbal or written statement that includes:
- (1) The name of the organization and/or the names of the organizations which comprise the coalition;
  - (2) The boundaries of the organization;
  - (3) The number of people, households, institutions and businesses represented by the organization and the basis for determining membership;
  - (4) The time and date of the meeting when the organization decided on its position;
  - (5) The nature of the meeting, whether the same was a meeting of the board, of a membership subcommittee, or the general membership;
  - (6) The number of members present;
  - (7) A description of the process for reaching the decision, including if and how neighborhood citizens were informed and if and how they were invited to participate; and
  - (8) The votes cast for and against the proposed position.
- j. If the person testifying on behalf of an organization does not disclose the information listed above, the person presiding at the public hearing may require the person testifying to provide the information.

### 3. Unlicensed Practice of Law

- a. The Department will not allow an unlicensed person to practice law in matters before it.
- b. The following will be presumed to constitute the practice of law before this administrative agency:
  - (1) Where one instructs and advises another in regard to the applicable law on an agency matter so that they may properly pursue their affairs and be informed as to their rights and obligations;
  - (2) Where one prepares for another documents requiring familiarity with legal principles beyond the knowledge of the ordinary layman;
  - (3) Where one prepares for another, for filing before the Department, applications, pleadings, or other procedural papers requiring legal knowledge and technique;
  - (4) Where one appears for another before a hearing officer in a disciplinary or public proceeding involving the latter's license(s) according to the law of the State of Colorado or the City and County of Denver
  - (5) Where one, on behalf of another, examines and cross-examines witnesses and makes objections or resists objections to the introduction of testimony or exhibits, the exercise of which requires legal training, knowledge, and skill;
- c. The Department does not consider the following common activities to constitute the practice of law:
  - (1) The completion of forms which do not require any knowledge and skill beyond that possessed by the ordinarily experienced and intelligent layman.
  - (2) Performing the services of engineers, non-legal experts, accountants, and clerks.
  - (3) Acting in a Department proceeding involving the adoption of a rule of future action which affects a group and where no vested rights of property are at stake.

## II. APPLICATIONS FOR A NEW LIQUOR OR BEER LICENSE

### A. Summary of the Application Process

1. All parties who seek a new liquor license must complete the Department's application forms, submit all required documents and information, and pay the application fee. Forms are available at the Department and on line at the following link:

[http://denvergov.org/Liquor\\_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx](http://denvergov.org/Liquor_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx).



2. A liquor license will not be issued until such time as all statutory, regulatory, and procedural application requirements are satisfied.
3. No application will be accepted or acted upon if it is excluded by operation of law. See Section I.A. above.
4. The application will be reviewed by the Department expeditiously, with a goal of completing the initial review within seven business days following receipt.
5. After initial review of the application, the Department will issue Findings to the applicant indicating whether the application is complete or, if it is not, an identification of the additional information required and/or deficiency (ies).
6. If the application is incomplete, or if deficiencies are identified, the Applicant will be provided an opportunity to supplement and/or correct the application.
7. When the application is complete and deficiencies have been resolved, a prehearing conference and/or an Administrative hearing will be scheduled:
  - a. A prehearing conference will be conducted in most cases. Failure to attend a pre-hearing conference, or to make necessary supplementation and/or corrections by the time of the scheduled pre-hearing conference, may result in delay in processing the license application. Failure to make necessary corrections may result in cancellation or postponement of the scheduled hearing date.
  - b. Each applicant shall appear before the Department on the date and time specified for an Administrative Hearing which will be conducted by the Director or an appointed hearing officer in accord with Denver Charter 2.7.4, D.R.M.C. 6-53(c), and these policies and procedures.

## **B. The Application**

1. Necessary documents
  - a. Applicants for new liquor licenses and existing licensees who seek to transfer a license to a new location (See Section 0 below) must submit all of the following documentation:
    - (1) Colorado State Form DR-8404, Retail License Application or Colorado State Form DR-8403 3.2% Beer Application;
    - (2) State sales tax license
    - (3) A lease, deed, or other agreement showing right to possession of the premises for which the license is sought.

Note 1: in some instances, contingent possession may be sufficient at time of application; however, complete possession must be in evidence for the license to be issued.

Note 2: The right to possession must be in evidence for the entire term of the license. However, a license may be issued for a term less than one year upon Applicant's request.

- (4) A zoning use permit which may be obtained from the city's Zoning Administration located at 201 West Colfax Avenue, 2nd floor. The permit must specify the class of license(s) being applied for;
- (5) An occupancy permit which may be obtained from the Denver Fire Department;
- (6) A diagram of the physical layout of the premises no larger than 8 ½ x 11 inches with dimensions included. The diagram does not have to be to scale, but must accurately reflect the area to be licensed, including depictions of the following:
  - (a) Exterior areas shall show control of the licensed premises (fences, walls, doors, gates, etc.).
  - (b) A separate diagram for each floor shall be submitted if the premise has multiple levels.
  - (c) The diagram must identify the kitchen area if the applicant is applying for a Hotel and Restaurant class liquor license. The diagram of the kitchen must include the range, refrigerator, sinks, dishwashers, and other industrial equipment.
  - (d) Each page of the floor plan(s) must be outlined in red or otherwise highlighted so as to indicate the boundary (including external and internal walls, doors, fences, gates and the like) and location of the proposed licensed premises which designates the only portion of the property where the privileges of the license may be exercised (i.e., where alcohol beverages may be sold, served, distributed, or consumed).
- (7) Changes to the proposed premises without properly notifying the Department will result in delay in the issuance of the requested license, and may require that the applicant file an amended floor plan or application to modify the premises.
- (8) If a building does not exist at the time the license is applied for, the applicant must submit an architect's drawing of the building to be constructed;
- (9) A list of equipment if the applicant is applying for a Tavern class liquor license and the proposed premises does not have a kitchen area;
- (10) Individual History Forms and Fingerprints. Each principal listed on the application must complete an individual history form and must be fingerprinted. (Note: Fingerprints are taken at the Department of Excise and Licenses, 201 West Colfax Avenue, Dept. 206, Denver, Colorado Monday through Friday from 8:00 a.m. to 4:00 p.m.) Out of state applicants must either (1) submit a

letter of clearance from the police authority where applicant resides stating that the applicant does not have outstanding warrants and includes a criminal history record; or (2) arrange for the submittal of a legible fingerprint card by the local police authority where applicant resides directly to the Department. If the applicant chooses the first option, the Department will require the applicant to ultimately submit a fingerprint card to maintain in Department files;

(a) The Department will submit fingerprint cards electronically or, alternatively, by hard copy to the Colorado Bureau of Investigation (“CBI”) for verification of criminal history of the applicants. Action upon the application will be taken upon receipt of the CBI results. If receipt is delayed, the Department reserves the opportunity to issue a license that is conditioned upon receipt of a background check which confirms the information supplied by applicant. In the event that the CBI check reveals undisclosed material facts, the Department may reject the application, or revoke or suspend or decline to renew a license; and,

(11) A financial questionnaire identifying all funding sources.

b. Forms are available at the Department and on line at the following link:

[http://denvergov.org/Liquor\\_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx](http://denvergov.org/Liquor_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx).

c. Application forms and all required documents for liquor licenses must be submitted in duplicate to the Department. One copy is for the City, and the original is for the State. The forms **MUST BE COMPLETED IN BLACK INK, AND MUST BE PRINTED OR TYPEWRITTEN**. All non-printed or non-typed applications will be rejected.

d. Failure to appropriately respond to application questions may result in a delay in processing the license application.

**2. Additional Documentation Required, by Form of Entity**

a. Corporate Applicants. In addition to the documents required under Section II.B.1 above, a corporation must submit a copy of each of the following documents:

(1) Certificate of Incorporation;

(2) A current Certificate of Good Standing;

(3) A Certificate of Authorization if the applicant is a foreign corporation;

(4) A list of Officers, Directors and Stockholders of the Parent Corporation (the list must designate one person as “principal officer”);

(5) A Trade Name Certificate, if applicable; and

- (6) Current Corporate minutes authorizing application for a liquor and/or cabaret license.
- b. Limited Liability Company Applicants. In addition to the documents required under Section II.B.1 above, a limited liability company must submit a copy of each of the following documents:
  - (1) Articles of Organization;
  - (2) A current Certificate of Good Standing;
  - (3) Operating Agreement;
  - (4) A Certificate of Authority if the applicant is a foreign company;
  - (5) A Trade Name Certificate, if applicable;<sup>1</sup> and
  - (6) Identification of its licensed premises manager.
- c. Partnership Applicants. In addition to the documents required under Section II.B.1 above, a partnership must submit a copy of each of the following documents:
  - (1) Partnership Agreement with the exception of a husband/wife partnership; and,
  - (2) Trade Name Certificate, if applicable.<sup>1</sup>
- d. Sole Proprietorship Applicants. In addition to the documents required under Section II.B.1 above, a sole proprietorship must submit a copy of each of the following documents:
  - (1) Trade Name Affidavit, if applicable.<sup>1</sup>

### **C. Application Fees**

1. At the time application is made for a liquor license, each applicant must remit appropriate application fees.
2. Application fees must be paid by cash, cashier's check, certified check, money orders, or checks drawn on attorney accounts, in the amounts established by statute and ordinance and be made payable to
  - The Manager of Finance
  - and
  - The Colorado Department of Revenue

### **D. Designated Areas; Notification to Registered Neighborhood Organizations**

1. At the time an Application is received, the Department will designate on a map an area around the proposed location from which residents or

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<sup>1</sup> C.R.S. 7-71-101 Statement of trade name required: Except as otherwise provided in section [7-71-107](#), a person shall not transact business in this state under a name other than the true name of the person or, in the case of a general partnership that is not a limited liability partnership, under a name other than the true name of each general partner of the general partnership, except in compliance with this article and not unless an effective statement of trade name is on file in the records of the Colorado Secretary of State.

business owners/managers may sign petitions for or against the application and may testify at the public hearing regarding the applied for license. A Designated Area will be determined with the following guidelines:

- a. Downtown Denver. For an application involving premises located in the downtown area, the Department will count nine (9) square blocks from the proposed location following the pattern of the block ends. The result will be a square shaped area.
  - b. All Other Areas. For an application involving premises located areas outside Downtown Denver, the Department will count five (5) blocks from the proposed location to the north, five (5) blocks to the south, five (5) blocks to the east and five (5) blocks to the west. These four points will then be joined by a straight line following the pattern of the block ends. The result will be a square shaped area.
  - c. The Department may modify a Designated Area to avoid cutting through blocks, residences, or businesses.
  - d. Any party in interest may request the Director to modify an established Designated Area.
  - e. The Director may modify an established Designated Area.
2. At the time an Application is received, the Department shall provide email notification to Registered Neighborhood Organizations (see I.C.2.d above below) whose boundaries encompass any portion of the Designated Area. The Director may modify the notification boundaries.

## **E. Review of Application and Investigation -- New license**

### **1. Completeness and Accuracy**

The Department will review application forms and accompanying documents for completeness and accuracy. An application for a new license will not be considered complete until receipt of a correctly and accurately completed application and all additional documents listed in Part 0 above.

### **2. Investigation**

- a. The Department may investigate the accuracy of information and/or documents submitted; the fitness of the applicant to conduct the business for which a license is sought; the character, record or reputation of the applicant or its officers or directors relating to the likelihood that violations of the liquor code may occur; and, whether the application is disqualified (see Section II.E.3.a(3) below).
- b. When the Department receives an application for a new license, the Department will send notification of the application to the Denver Police Department, Division Chief of Patrol, for review.

### **3. Findings**

It is the Department's goal that, within seven (7) working days after receipt of the application for a new license, the Department will issue written findings to the Applicant that address each of the following:

- a. Complete and Accurate Application
  - (1) Acknowledges receipt of a complete and accurate application; or,
  - (2) If the application is incomplete or deficient, or if the investigation has not been resolved to the satisfaction of the Department, the Department will identify the application deficiency (ies) and/or question(s) about which the Department requires additional information. The Department may require that the deficiency (ies) be corrected before it will set the matter for hearing.
  - (3) The Department reserves the right to (a) reject an application that has numerous deficiencies and (b) require that the application be resubmitted in correct form.
- b. Qualification or Disqualification of the Application
  - (1) Acknowledges that the application qualifies for further consideration; or,
  - (2) The application is disqualified from further consideration for any of the reasons listed below:
    - (a) 500 Foot Requirement. The proposed licensed premises is located within five hundred (500) feet of a public or private school that meets the compulsory education laws of the state of Colorado pursuant to C.R.S., Section 12-47-313(1)(d)(I).
    - (b) Previous Denial - Reasonable Requirements, Desires of the Neighborhood. An application for license to sell fermented malt beverages at retail at the same (or within 500 feet of the previously denied) location has been denied by the State or the Department within one year next preceding the date of the application for the reason that the reasonable requirements of the neighborhood or the desires of the inhabitants were satisfied by existing outlets.
      - (i) An application for a malt, vinous, or spirituous liquor license at the same (or within 500 feet of the previously denied) location has been denied by the State or the Department within two years next preceding the date of the application for the reason that the reasonable requirements of the neighborhood or the desires of the inhabitants were satisfied by existing outlets.
    - (c) Legal Possession. It is not established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other

arrangement for possession of the premises, or by virtue of ownership thereof. See also, Section [II.B.1.a.\(3\)](#) above.

- (d) Zoning Non-Compliance. The proposed use is not in accordance with zoning restrictions established by the City and County of Denver.
  - (e) Sales Tax. Applicant does not have a valid sales tax license.
  - (f) Payment of Application Fee. Application fee has not been paid in full. (See Section II.B.2.d(1) above)
  - (g) The character, record, or reputation of the applicant is not satisfactory.
- c. Pre-hearing Conference Date. A date and time for a Pre-hearing Conference will be established.
  - d. The findings may be updated at any time, but in no event will findings be issued less than five (5) days prior to the hearing. (See Section F, below.
  - e. Written findings will include a date certain by which the applicant must correct identified problems which, in most circumstances, should be no later than the Pre-Hearing Conference date.

#### 4. Concurrent Review

If concurrent review by the State and local licensing authority has been requested, and the fees for same have been received, the Department will make the application available to applicant for applicant's delivery to the State Licensing Authority once the application has been determined complete, accurate, and not disqualified. The applicant will be responsible for taking the State's copy of application documents and fees to the State.

## F. Processing the Application

### 1. Pre-Hearing Conference

The Pre-Hearing Conference with Applicant will be conducted by the Director or a designee. The purposes of the pre-hearing conference are:

- a. Review supplemental information provided by Applicant in response to the Department's written findings identifying incomplete or deficient aspects of the application, or to respond to question(s) about which the Department requires additional information.
- b. If the Application is determined to be complete and accurate, and qualified (See Section II.E.3.a(3) above) for further consideration, a Hearing Date will be scheduled.
- c. Contents to be included on the posting sign will be established.
- d. Additionally, all other pre-hearing requirements will be established.
- e. At the time of prehearing conference, applicants or applicant representatives must notify the Department of any dates and times the

applicants will not be available to attend a hearing. Applicants should be advised that FAILURE TO APPEAR AT A SCHEDULED HEARING MAY RESULT IN THE APPLICATION BEING DEEMED ABANDONED.

**2. Party in Interest**

a. Any party in interest as defined by C.R.S., Section 12-47-311(5) (a) will be allowed to present evidence and to cross-examine witnesses at the public hearing.

(1) A party in interest is defined as:

(a) The applicant;

(b) An adult resident of the Designated Area;

(c) An owner or manager of a business in the Designated Area;

(d) Individuals who manage (“Manager”) or own properties in a Designated Area, even if they do not reside or have offices in the Designated Area. “Manager” is defined as the one individual who is responsible for managing, directing, and administering the general conduct of the entire business at the business location. A person who manages or oversees a division or department of the business does not qualify as a “Manager” eligible to testify or sign petitions for or against a license application; or

(e) The principal or representative of any school located within five hundred feet of the premises for which a malt, vinous, or spirituous liquor license is under consideration.

(2) Non-drinkers. Testimony given by someone who does not drink alcohol beverages will not be considered as evidence to the needs of the neighborhood, but may be considered as evidence of that person’s desire regarding the issuance of a liquor license in the area.

b. The rights of a party in interest include:

(1) Opportunity to testify at the public hearing;

(2) Opportunity to cross-examine witnesses at the public hearing;

(3) Opportunity to object to Recommended Decision

(4) Opportunity to appeal the Department’s Final Decision

**3. Posting of Notice**

a. The license applicant must post notice of the public hearing at the proposed license location for a period of twenty (20) days prior to the hearing. A relevant registered neighborhood organization may request that the posting be extended for an additional twenty-five (25) days, for a total of forty-five (45) days, only if such request is submitted in writing (e-mail or letter) within ten (10) days of the e-mailing of notice



to the RNOs. The hearing will be rescheduled and the posting will be revised accordingly.

- (1) The sign posted shall be sturdy and white, not less than 22 inches wide and 26 inches high, with letters not less than one inch high.
- (2) The Department will provide applicants with contents to be included on the posting sign.
- (3) The sign must be posted so as to be conspicuous and plainly visible to the general public.
- (4) A map of the Designated Area must be attached to the sign and must indicate the area in which petitions for or against the application may be circulated and from which witnesses may testify.
- (5) The sign must inform the public that petitions for evening hearings (see II.F.5.(b) below) must be filed 15 days before the scheduled hearing date.
- (6) An inspector from the Department will make random inspections of the posting.
- (7) Failure to abide by posting requirements will result in delaying the application process and, in some cases, may disqualify the license applicant from continuing with the application process.

b. Notification to Registered Neighborhood Organizations

- (1) The Department will provide written notification to registered neighborhood organizations whose boundaries encompass any portion of the Designated Area of the purpose, date, time, and place of a hearing in accordance with the following:
  - (a) This notice will be sent by e-mail to the two (2) contact person(s) for each relevant registered neighborhood organization.
  - (b) Contact information for registered neighborhood organizations is provided to the Department by the Department of Community Planning and Development. Any updates to this information should be made directly to the Community Planning Department by registered neighborhood organizations because the Department will rely upon that database. Registered neighborhood organizations are responsible for maintaining accurate e-mail addresses with the Department of Community Planning and Development.
  - (c) The Department is not responsible for any failed e-mail communications due to full e-mail boxes, wrong e-mail addresses, failure of the recipient's e-mail system, or recipient's failure to check e-mails.

c. Notification to City Officials

- (1) The Department will send e-mail notice of the application and scheduled hearing to the City Councilperson in whose district the proposed license is located.
- (2) The Department will send e-mail notice of the application and scheduled hearing to the Division Chief of Patrol in the Denver Police Department for distribution to the correct police district.

#### 4. Publication

- a. The Department will publish notice of license applications and hearing dates in a newspaper of general circulation. The publication will contain information that is contained in posted notices, but it will not include the map of the area or any reference thereto.
- b. In addition, the Department posts notice of license applications and hearing dates on its website. The Department will endeavor to keep this posting current but it may not always be up to date. See: <http://www.denvergov.org/Portals/265/documents/index.htm>

#### 5. Scheduling the Public Hearing

- a. Setting a Public Hearing. After license application forms, accompanying documents, and appropriate investigation are complete to the satisfaction of the Department, a public hearing will be set.
  - (1) Hearing dates will be scheduled to commence not less than twenty-one (21) days after receipt of a complete application and at least a 20-day posting period.
  - (2) Hearing dates are set by the Department based upon availability on the agency's hearing calendar and availability of hearing officers.
  - (3) Hearing dates may be revised or continued in the discretion of the Director.
  - (4) FAILURE TO APPEAR AT A SCHEDULED HEARING MAY RESULT IN THE APPLICATION BEING DEEMED DENIED. The Department reserves discretion to deem an application "withdrawn" rather than "denied" if an applicant fails to appear at a scheduled hearing and there is no opposition to the license.
- b. Evening Hearings
  - (1) Evening hearings can be scheduled only for a new application, a transfer of location (in effect, a new license for a new location), and relevant protests to a proposed material modification of an existing license.
    - (a) At the Director's discretion, an evening hearing may be scheduled for a protested license renewal if the Director deems the protest relevant and substantiated.
  - (2) Only a party in interest may request that a public hearing be rescheduled to take place during evening hours. The request for an evening hearing:

- (a) Must be submitted at least fifteen (15) days prior to the scheduled hearing date; and,
- (b) Must be in the form of a petition prepared by the Department.
- (c) The petition must contain at least ten (10) valid signatures of residents or owners/managers of businesses in the Designated Area, each of whom is over 21 years of age, along with the person's address and phone number.
- (3) Evening hearings will not be scheduled for new applications that post for twenty (20) days only.
- (4) Requests for evening hearings will be granted at the Director's discretion.
- (5) If a request is granted, the hearing will be held at 6:00 p.m. on the same date or a date as close as possible to the previously scheduled hearing date. The changed hearing date/time does not need to be re-posted but will be updated on the Department's website.
- (6) Petitions for an evening hearing will not be considered to be evidence in support of or in opposition to the issuance of the license

#### 6. Hearing Procedures

- a. The purpose of a public hearing on a liquor license application is to determine whether the residents and business owners or managers of the Designated Area need and desire that a liquor license issue.
- b. Hearings on license applications are conducted by the Director, a Hearing Officer, or any individual designated by the Director (collectively, hereafter, the "Presiding Officer").
- c. The presentation of evidence and cross-examination may be limited by the Presiding Officer in order to prevent repetitive and cumulative evidence or examination.
- d. The Presiding Officer will rule on the admissibility of evidence during the hearing proceeding.
- e. Hearings will be conducted in accordance with a decorum that reflects fairness and respect to all participating parties including the applicant, parties in opposition to the license application, neighborhood representatives, and the Assistant City Attorney.
- f. Testimony and evidence on a license application will be considered from:
  - (1) Applicant
 

The applicant must present at least one witness (other than the applicant) to testify regarding the needs and desires of the neighborhood in order for the application to be approved.
  - (2) Witnesses

A maximum of three (3) witnesses who qualify as parties in interest (see [II.F.2.a.\(1\)](#) above) may testify at length for each side regarding the needs and desires of the neighborhood, excluding the applicant and any representatives of registered neighborhood groups. Other parties in interest (see [II.F.2.a.\(1\)](#) above) who attend the hearing either for or against the application may testify “en masse” (as a group) either for or against the issuance of the license.

(3) Elected Officials

Any elected official, whose area of representation includes any part of the Designated Area, will be allowed to testify regarding his or her position. As an elected official, however, the individual is not a party in interest, and his or her testimony will have no evidentiary value. If an elected official resides within the Designated Area, he or she may testify at length as one of the three (3) witnesses allotted to either side.

(4) Registered Neighborhood Organizations whose boundaries encompass any portion of the Designated Area.

(a) A representative of a registered neighborhood organization whose boundaries encompass any portion of the Designated Area may testify as to the position taken by the organization regarding an application. Such representative shall reside within the registered neighborhood group’s geographic boundaries and shall be a member of the neighborhood organization. Such representative shall not be entitled to cross-examine witnesses or seek judicial review of the licensing authority’s decision. The testimony must specify the boundaries of the organization, the number of members of the group, the date of any meeting or telephone call held by the organization to discuss the proposed license, the manner of notification of the membership regarding the application, the number present at the meeting or contacted by telephone or e-mail, and the results of the vote.

g. The usual order of presentation is that the applicant will first present its case, followed by an opportunity for protestants, if any, to introduce evidence in opposition to the license application. This order of presentation can be modified by the Hearing Officer at his or her discretion, for example, to accommodate community residents at an evening hearing.

h. Introducing evidence at hearings

(1) It is recommended that any party or individual intending to participate in the hearing should review the relevant file sufficiently in advance to present an effective case.

- (2) Any document that may be contained in the Department's official file is not admissible at a hearing unless it is specifically offered up by a proponent such as the author or the representative of an organization's letter.
- (3) Hearsay evidence may be admissible if it is offered with indication of its reliability.
- (4) Cumulative evidence is discouraged. Witnesses should not repeat the same or very similar testimony of another witness.

**7. Undue Concentration of Liquor Outlets**

The Colorado Liquor Code authorizes the Department to deny an application for a new tavern or liquor store license if it determines that the additional license would add to the undue concentration of liquor licenses in the area and, as a result, require the use of additional law enforcement resources, C.R.S. § 12-47-301(2)(b). The Department may consider evidence presented at the new license application hearing as provided by Regulation 47-301 of the Colorado Liquor Enforcement Division.

**8. Petitions**

- a. Petitions may be circulated and presented as evidence in support of, or opposition to, the application for a liquor license.
- b. Petitions are not required.
- c. Petitions in support of or in opposition to an application must be circulated in the following manner:
  - (1) Petitions must be circulated on forms prepared by the Department or on forms prepared by the applicant(s) or protestant(s) which resemble Department forms.
  - (2) Petition circulators must be 18 years of age or older but need not be residents of the Designated Area;
  - (3) Petitions may not be circulated before the second day of posting. This restriction provides all interested persons equal time to circulate petitions. Any signatures obtained prior to the second day of posting will not be honored by the Department.
  - (4) Only those who reside in or who own or manage a business in the Designated Area are eligible to sign petitions for or against an application for a license. "Manager" is defined as the one individual who is responsible for managing, directing, and administering the general conduct of the entire business at the business location. A person who manages or oversees a division or department of the business does not qualify as a "Manager" eligible to testify or sign petitions for or against a license application.
  - (5) Each signature obtained must be affixed to a petition in the presence of the petition circulator.

- (6) Individuals who sign petitions must respond to each question presented on the petition. Failure to respond to each question will disqualify the signature. No one is allowed to sign more than one petition regarding the same application. If an individual signs a petition for one position and later wants to change his or her position, he or she must appear at the public hearing and ask to have his/her name stricken from the one petition and added to the other.
- (7) Petition circulators need not appear at a public hearing if the petitions are filed with the Department at least five (5) days prior to the date of the hearing. If petitions are pre-filed, the petition circulators must sign a notarized affidavit provided by the Department that states that the circulator has complied with circulation procedures approved by the Department. Notary services are provided by the Department for this purpose. If petitions are not filed five (5) days prior to the hearing date, the circulator must appear and testify at the hearing in order for the petitions to be admitted into evidence. If the fifth day prior to a hearing falls on a Saturday, Sunday, or legal holiday, petitions must be filed on the working day prior to the Saturday, Sunday or holiday. Petitions will be date stamped upon receipt in the Department.
- (8) In instances where an application is contested, signatures will be verified by the Department. Signatures that do not meet Department-established criteria and signatures that reflect an address outside the Designated Area will not be honored. The Department reserves the right to verify all signatures.

#### **9. Good Neighbor Agreements**

The Department encourages regular communication between registered neighborhood organizations and applicants/licensees for resolution of issues that are of concern to the community. Many neighborhood organizations have negotiated "Good Neighbor Agreements" with applicants and licensees. An entire Good Neighbor Agreement will not be incorporated into or attached to the license. However, if the licensee consents, particular terms of a Good Neighbor Agreement may be issued as conditions on the license but only if they are few, clear, objectively stated and enforceable by the Department pursuant to its municipal authority. All other terms of a Good Neighbor Agreement are a private matter between the parties.

#### **10. Recommended and Final Decision**

- a. If the hearing is conducted by a Hearing Officer, the Hearing Officer will issue a Recommended Decision as to whether or not the license should issue, as follows:

- (1) Within 10 calendar days after testimony and evidence is presented, the Presiding Officer will provide a written Recommended Decision to the Director and deposit a copy in the U.S. Postal Service mail, addressed to:
  - (a) The Applicant and the Applicant's attorney;
  - (b) The Assistant City Attorney who participated in the license hearing; and
  - (c) Either the representative of protestants at the hearing; or if no representative was used, any resident of, or owner or manager of a business in, the Designated Area who testified at length as a party in interest.
- (2) Any party in interest (see [II.F.2.a.\(1\)](#) above) who testified at the hearing either at length or en masse, and the City Attorney's Office, will have ten (10) calendar days from the date of mailing the decision to file objections to the Recommended Decision.
  - (a) Any party in interest who testified at the hearing and files objections must also mail a copy of the written objections to the other parties-in interest who testified at length in the hearing. No copies of objections need be sent to parties-in-interest who testified en masse.
- (3) The Director may grant a party in interest or the Assistant City Attorney three (3) days from the date of the filing of the written objections in which to submit to the Director a written reply to the objections.
- (4) The Director will strive to issue a written Final Decision to approve or disapprove the application within twenty (20) days following receipt of the Recommended Decision. The Director's final Decision will be mailed to the individuals listed in subsection (1) hereinabove.
- (5) The Director's decision is subject to judicial review by the Denver District Court if a request for judicial review is properly filed within thirty (30) days following the date of the Director's Final Decision pursuant to the Colorado Rules of Civil Procedure.

## **11. Inspections**

- a. Even if a license application is approved, unless all required inspections have been completed by the time of the Director's Final Decision (which would be very unusual), the license will not issue immediately. The license will issue only after all requisite inspections are conducted, and the State of Colorado and the Department complete the administrative steps necessary for the license to issue.
- b. Applicants will be provided an Inspection Card once the application is approved after the public hearing. Prior to the issuance of the license, the applicant will be required to have the Building, Fire,

Environmental Health, and Excise and Licenses Departments sign off on the Inspection Card.

- c. It is the applicant's responsibility to schedule each of the required inspections.
- d. As a general rule, the inspections should be completed within 90 days following the Director's final decision to grant a license. However, this is not a mandatory time limit and extensions will be freely granted upon request of the applicant.
- e. An inspection by the Department will be conducted by the Denver Police Department Vice Detective assigned to the Department or by the Director or his/her designated agent. The Department's inspection will be conducted only after approval has been given by Building, Fire, and Environmental Health. An appointment for an inspection by the Department will be scheduled within seventy-two (72) hours after the applicant makes request for the inspection.

## **12. Other Licensing Considerations**

- a. Hand Delivery. Once a license application is approved by the Department, an applicant may request in writing to hand-carry the City-approved application to the State Liquor Enforcement Division at 1881 Pierce Street, or to the cashier's office of the Colorado Department of Revenue at 1375 Sherman Street, for State approval of the application. Applicants may hand-carry the State license back to the Department if a request is made and granted.
- b. State license
  - (1) After the State has approved the application and issued the State license, the State license will be sent to the Department.
  - (2) It will be kept at the Department until the applicant submits a completed Inspection Card to the Department.

## **13. Display of License**

After a license is granted or modified in accordance with Part IV.D.5.d below, the license shall be displayed in a publicly visible location, together with the approved sketch of the licensed premises and any conditions issued in accord with Section [II.F.9.](#) above.



### **III. APPLICATIONS FOR TRANSFER OF OWNERSHIP OF A LIQUOR OR BEER LICENSE**

#### **A. The Application**

Applicants seeking to obtain ownership of an existing license must submit the following documents:

1. Transfer Application in the form provided by the Department;
2. Tax Certificate stating that no personal property taxes are due from the City Sales Tax Department; and
3. Affidavit of Transfer and Statement of Compliance (notarized statement on a form provided by the Department acknowledging that applicant may be held responsible for any pending disciplinary actions against the former owner and may be responsible for any days of suspension being held in abeyance.)

#### **B. Application Fees**

1. At the time application is made to transfer ownership of a liquor license, each applicant must remit appropriate application fees.
2. Application fees must be paid by cash, cashier's check, certified check, money orders, or checks drawn on attorney accounts, payable to:
  - The Manager of Financeand
  - The Colorado Department of Revenuein the amounts established by statute and ordinance.

#### **C. Investigation, Review of Application and Findings**

1. Investigation
  - a. The Department may investigate the accuracy of information and/or documents submitted; the fitness of the applicant to conduct the business for which a license is sought; the character, record or reputation of the applicant or its officers or directors relating to the likelihood that violations of the liquor code may occur; and, whether the application is disqualified (see Section III.E.3.a(3) above).
  - b. When the Department receives an application for a new license, the Department will send notification of the application to the Denver Police Department, Division Chief of Patrol, for review.

## 2. Findings

It is the Department's goal that, within seven (7) working days after receipt of the application for a new license, the Department will issue written findings to the Applicant that address each of the following:

- a. Complete and Accurate Application
  - (1) Acknowledges receipt of a complete and accurate application; or,
  - (2) If the application is incomplete or deficient, or if the investigation has not been resolved to the satisfaction of the Department, the Department will identify the application deficiency(ies) and/or question(s) about which the Department requires additional information. The Department may require that the deficiency(ies) be corrected before it will set the matter for hearing.
  - (3) The Department reserves the right to (a) reject an application that has numerous deficiencies and (b) require that the application be resubmitted in correct form.
- b. Qualification or Disqualification of the Application
  - (1) Acknowledges that the application qualifies for further consideration; or,
  - (2) The application is disqualified from further consideration for any of the reasons stated in C.R.S. § 12-47-307 or in section II.E.3.(b) above.
- c. Written findings will include a date certain by which the applicant must correct identified problems which, in most circumstances, should be no later than the Pre-Hearing Conference date.

### **D. Processing the Application**

1. The Department will only undertake a hearing on the transfer application if issues related to unsatisfactory character, record or reputation are uncovered in the application itself or in the investigation.
  - a. In such an event, a Show Cause Order will be issued by the Director, and a hearing will be scheduled to address only the character, record, and reputation of the applicant.
  - b. This hearing is not a "needs and desires" hearing, and only evidence with regard to character, record or reputation will be admitted, based on the allegations set forth in the Show Cause Order.
  - c. The Department has the burden to prove that the character, record, or reputation of the applicant is unsatisfactory, such that the transfer should be denied.
  - d. The hearing will be conducted by a Hearing Officer. The applicant will have full opportunity to be heard and to challenge the evidence presented by the Department. The Hearing Officer will issue a

recommended decision, and the Director will either accept or reject the recommended decision as her or his final decision.

2. If the Director decides that there is insufficient basis to deny the transfer application based on character, record or reputation, the application continues to the next phase in the process.
3. Closing documents: A copy of appropriate closing documents must be submitted to the Department prior to issuance of the license.
4. Inspections
  - a. Applicants seeking to obtain an existing license will be provided a city Inspection Card at the time fees are paid.
  - b. Prior to issuing a license, an applicant will be required to have Building, Fire, and Environmental Health sign off on the Inspection Card.
  - c. After the State has approved the application and issued the State license, the State license will be sent to the Department. It will be kept at the Department until the applicant submits a completed Inspection Card and closing documents to the local licensing authority.

#### **E. Temporary Permits**

An applicant who seeks to obtain ownership of an existing license may request a temporary liquor permit pursuant to C.R.S. Section 12-47-303.

1. If request is made for a temporary permit, the request must be made in writing.
2. The filing of a change in ownership application together with a request for a temporary permit will not be considered filed unless and until all application documents are complete.
3. Once an applicant completes application requirements to the satisfaction of the Department, an application for a temporary permit will be reviewed to determine if the temporary permit should issue.
4. The review is subject to investigations and the discretion granted to the Department by the Colorado Liquor and Beer Codes.
5. Investigation of character, record or reputation, and any hearing thereon, may result in a delay in issuance of the temporary permit.
6. A temporary permit will not be approved until the transfer application documents and investigation, if any, are complete.
7. A temporary permit may be cancelled, revoked, or summarily suspended if the Department determines that there is probable cause to believe that:
  - a. The transferee has violated any provision of this article 46 or 47 of the Colorado Liquor Code; or
  - b. The transferee has violated any rule or regulation promulgated there under; or

- c. The transferee has failed to disclose truthfully matters contained in the application.

**F. Surrender of License: Possession by Operation of Law**

1. If a licensee presents a license for surrender, the Department will not take action to accept the surrender until receipt of the following documentation:
  - a. Evidence of legal authority to surrender the license on behalf of the licensee; and
  - b. Consent from parties who may/do have a property interest in the license.
2. A landlord or other party who will/may come into possession of the premises by operation of law may wish to file a statement with the Department to provide notice of the potential claim of landlord, which statement should include:
  - a. Submittal of a copy of the Summons/Complaint, Order, and/or other Legal Process to establish a reasonable/substantial basis to grant a request that the proffered surrender be rejected.
3. The Department may establish reasonable terms and conditions appropriate to the circumstance for acceptance of the surrender.

**G. Failure to Inform the Department of a Change in Ownership or Corporate Structure**

**1. Administrative Action**

The Department will take appropriate administrative action against a licensee who fails to notify the Department of changes in ownership or corporate structure, taking into account the following considerations:

- a. The length of time before the Department was informed of the changes;
  - b. The manner in which the Department was informed (voluntarily or through investigation);
  - c. The knowledge or lack thereof of the former and current licensees of the violation;
  - d. The truthfulness of the licensee regarding the situation; and
  - e. The extent of the change.
- 2. Operating without a License**
- a. If a change in ownership or corporate structure presents a situation where the occupant of the premises is operating without a valid license, all alcohol sales must cease until a temporary permit or a new license is issued.

- b. Depending on the circumstances, an invalid license may have to be surrendered and a new license application filed, without the availability of a temporary permit.

#### **IV. RENEWAL OF EXISTING LICENSES**

##### **A. Date Due**

1. Application for renewal of a license for the retail sale of fermented malt beverage and alcohol beverages must be submitted to the Department no later than forty-five (45) days prior to an expiration date. (For example: if a license will expire on December 31, renewal application must be submitted by November 16.)
2. An application form for renewal is the same as an application form for a new license, which is available at the Department and on line starting at the following link:  
[http://denvergov.org/Liquor\\_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx](http://denvergov.org/Liquor_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx)
3. Under C.R.S. Section 12-47-302, applications to renew a license for the retail sale of fermented malt beverage and alcohol beverages must be submitted to the State licensing authority no later than thirty (30) days prior to a license expiration date.
4. License renewal applications will not be approved by the Department earlier than 45 days prior to the expiration date of the existing license.

##### **B. Application Procedures**

1. Summary
  - a. Each renewal application must be complete. Applications that are not complete will not be accepted.
  - b. Renewal applications must include a lease, deed, or other agreement showing right to possession of the premises for which the renewal is sought if up-to-date documents are not in the file.
  - c. State renewal applications must be submitted to the Department with both City and State renewal fees.
  - d. If the renewal applicant is a corporation, a current certificate of good standing must also accompany the renewal application. Any changes in corporate structure must be noted in the renewal application. Supporting documents must be provided.
2. Late Applications
  - a. A licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of the license renewal fees and any penalties, plus a nonrefundable late application fee of \$500.00 to the City.

- b. A late application for renewal will require that the fees and penalties be paid by cash, cashier's check, certified check, or checks written on an attorney's account.
- c. A licensee who has filed a late renewal application and paid the requisite fees may continue to sell alcohol until both State and City have approved the renewal application and the licenses are issued.
- d. If a liquor license has been expired for more than ninety (90) days, the licensee must stop the sale of alcoholic beverages and beer. The license may not be renewed and the licensee must follow the process for obtaining a new license application before alcohol may be served on the premises again.

**C. Insufficient Funds**

If funds paid to renew an existing liquor license are insufficient, the following procedures will be followed:

- 1. If the ninety (90) - day grace period has not expired, the licensee must pay a \$500.00 penalty to the State and a \$500.00 penalty to the City.
  - a. Penalty fees must be paid in addition to license fees for all license renewals.
  - b. If penalty fees are not paid, licenses will not be renewed.
- 2. If the ninety (90)-day grace period has expired, a new application will be required unless the licensee can demonstrate compelling reason to allow a late renewal.
  - a. What constitutes a compelling reason will be decided by the Director of the Department in his or her discretion.
  - b. The Director reserves the right to take administrative action against a licensee who has failed to renew its licenses in timely fashion.

**D. Renewal Hearings**

The Department may cause a hearing to be held on an application to renew a liquor or beer license.

- 1. Good Cause
  - a. The Department may refuse to renew a license for good cause.
  - b. "Good Cause" for purpose of refusing or denying a license renewal means:
    - (1) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Liquor Code or any rules and regulations promulgated pursuant to the Colorado Liquor Code; or
    - (2) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior

disciplinary proceedings or arose in the context of potential disciplinary proceedings; or

(3) Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity, or disorderly conduct.

(a) For purpose of this section, “disorderly conduct” is defined by

(i) C.R.S., Section 18-9-106; or

(ii) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the local Cabaret Code, Denver Revised Municipal Ordinances, or any rules and regulations or policies and procedures promulgated pursuant to the local licensing authority.

## 2. Written Complaints

If the Department receives a written complaint(s) from residents or owners or managers of businesses in the neighborhood about a licensee, or a written request to not renew a license, the Department will determine if the complaint(s) provides “good cause” to subject a licensee to a renewal hearing.

- a. All liquor licenses showing the expiration date of the license must be posted on liquor-licensed premises and must be available for review by residents of the neighborhood and any interested Registered Neighborhood Organization.
- b. Due to staffing constraints, and the availability of the information on the licensee’s site, telephone or e-mail inquiries regarding expiration dates will not be entertained.
- c. Letters requesting the Department to deny a license renewal must be received by the Department at least forty-five (45) days prior to the expiration date for the license. Exceptions to this policy will be made only in special circumstances.
- d. Written complaints can be submitted at any time. The Department will consider any complaint that, by the nature of the allegation, requires expeditious action for the protection of health, safety, and welfare of the neighborhood. Otherwise, the Department will consider any complaints submitted since the time of the last licensing action at the time it considers the merits of a renewal application.
- e. Written complaints serve as a basis for the Department’s decision on whether to conduct an evidentiary hearing. If a hearing is scheduled and the complainant/objector wishes this information considered, evidence and/or testimony related to the objections and/or complaint must be presented at the hearing.

### 3. Posting, Publication, and Notification

If the Department determines that a valid basis exists to conduct a renewal hearing, notice will be provided in the following manner:

- a. The licensee must post the premises with notice of the hearing for at least twenty (20) days prior to the hearing. Upon written request of a relevant registered neighborhood organization, the posting will be extended and the hearing rescheduled, for an additional twenty-five (25) days.
- b. The posting sign must:
  - (1) Be sturdy and white, not less than 22 inches wide and 26 inches high, with letters not less than one inch high.
  - (1) Indicate the type of license to be renewed, the date and time of the hearing, the name, and address of the licensee and any partners or officers of the licensee.
  - (2) Posted in a conspicuous place on the premises so that it is plainly visible and legible to the public.
- c. A licensee who has timely submitted a renewal application may continue to sell alcohol pending the outcome of the renewal hearing even if the license has expired, except as noted in the following paragraph.
- d. Failure to post correctly will result in the public hearing being postponed until the first available hearing date after the premises are posted correctly for the requisite number of days. If the hearing is postponed for this reason to a date after the expiration of the license, the licensee may not be allowed to sell alcohol until the Department has issued a ruling on the renewal issue.

### 4. Public Hearing

- a. The City bears the burden of proof in a renewal hearing.
- b. Presentation of evidence at the hearing will be limited to allegations concerning good cause for non-renewal.
- c. Parties who may present evidence at a renewal hearing include:
  - (1) The licensee or an attorney representing the licensee;
  - (2) The Department;
  - (3) A representative of a registered neighborhood group whose boundaries encompass any portion of the Designated Area for the licensed location; and/or
  - (4) Residents and business owners/managers in the neighborhood, who may testify at length. No “en masse” testimony will be accepted in renewal hearings.



## 5. Issuing a Decision

- a. After testimony and evidence is presented, the Presiding Officer will issue a written Recommended Decision.
  - (1) A copy of the Recommended Decision will be sent to the licensee and licensee's attorney, if any; the Assistant City Attorney; and either the representative of protestants at the hearing; or if no representative was used, any resident of, or owner or manager of a business in, the Designated Area who testified as a party in interest in the hearing.
- b. Applicant, any party in interest who testified at the hearing, and the City Attorney's Office, will have ten (10) calendar days from the date of mailing the decision to file objections to the Recommended Decision.
  - (1) Any party in interest who testified at the hearing and files objections must also mail a copy of the written objections to the other parties-in interest who testified in the hearing.
  - (2) The Director may grant Applicant, a party in interest, or the Assistant City Attorney three (3) days from the date of the filing of the written objections in which to submit to the Director a written reply to the objections.
  - (3) If the Director grants ten days for a written reply to be filed, the 30-day timeframe within which to issue a final decision will be extended.
- c. The Director will then issue a final written decision which will be mailed to the applicant, applicant's attorney if any, the Assistant City Attorney, and any party in interest who testified at the hearing.
- d. The Director's decision is subject to judicial review by the Denver District Court if a request for judicial review is properly filed within thirty (30) days of the date of the Director's Final Decision pursuant to the Colorado Rules of Civil Procedure.

## V. MODIFICATION OF PREMISES

Colorado Liquor Code Regulation 47-302 provides that, after a liquor or beer license has been issued, the licensee may not make any physical change, alteration, or modification of the premises that materially or substantially alters the licensed premises, or the use of the licensed premises, from the plans and specifications including walls submitted at the time of obtaining the original license without the prior written consent of the local and state licensing authorities.

## **A. Prior Approval Required**

1. A licensee must seek approval from the Department and the State Liquor Enforcement Division prior to any material or substantial modification of a licensed premise.
2. Any material change, alteration, or modification of the licensed premises without the prior written consent of the Department will be viewed as a violation of the Colorado Liquor or Beer Codes.

## **B. Application Forms**

Application forms to modify existing, licensed premises are available from the Department.

### **1. Time to Submit**

A request to modify licensed premises must be made to the Department by completing application forms in duplicate no fewer than thirty (30) days prior to a proposed construction start date and/or construction date.

- a. The Director may waive the thirty (30) day requirement upon justification.
- b. Filing this request 30 days prior to the proposed starting date does not
- c. guarantee that any request will be approved within 30 days.
- d. Failure to submit a complete application to modify licensed premises will result in delay in processing the application.

### **2. Required Information and Documentation**

Applications to materially or substantially modify licensed premises must include:

- a. A lease or deed showing evidence of right to possession of the premises but, if no changes in possession have occurred since the initial application, new evidence is not required;
- b. A zoning use permit but, if the proposed modification does not alter the zoning use, new zoning evidence is not required; and
- c. Plans or sketches of the premises depicting the configuration that will or may impact the flow/control of liquor:
  - (1) As currently licensed and as the premises are proposed to be modified.
  - (2) The plans or sketches must be a true and accurate representation, but need not be to scale.
  - (3) The floor plan drawing is to be 8 1/2 inches by 11 inches.
- d. If approved, the plan or sketch of the modified premises must be posted with the license as per II.F.12.b(2) above.

### **C. The Review Process**

- 1.** After application forms and accompanying documents to modify existing premises are complete to the satisfaction of the Department, the Director will determine whether the modification is material or substantial. For example:
  - a. In the past, some modifications to add certain patios have been considered substantial, as have additional bar space and dance areas.
  - b. In the past some configurations of eating areas and kitchens have not been considered substantial.
- 2.** If the Director determines the modification is not material and substantial, the application will be approved without posting or hearing.
- 3.** Posting and Notification

If the Director determines the modification is material and substantial, notice regarding a hearing on the modification will be provided in the following manner:

  - a. The licensee must post the premises with the request for modification of the licensed premises for twenty (20) days. The posting sign must:
    - (1) Be on white cardboard which is not less than 22 inches wide and 26 inches high, with letters not less than one inch high.
    - (2) Indicate the before- and after- modifications, the name and address of the licensee and any partners or officers of the licensee.
    - (3) State the due date for objections, which will be no later than the first business day following the 20-day posting period.
    - (4) Be posted in a conspicuous place on the premises so that it is plainly visible and legible to the public.
  - b. Failure to post correctly will result in delay of the decision on the request for modification until the premises are posted correctly.
  - c. The Department will notify registered neighborhood organizations whose boundaries encompass any portion of the Designated Area of the location.
  - d. Objections to the requested modification must be submitted in writing to the Department no later than the first business day following the 20-day posting period, with a copy provided to Applicant.
  - e. The Director may waive the 20-day notification period if the applicant and relevant registered neighborhood groups agree in writing to the modification.
- 4.** If objections that are relevant to the basis for approval or denial of the requested modification are submitted (see section V.C.4.c below), a hearing will be scheduled upon fifteen (15) days notice to the applicant and the registered neighborhood organizations.

- a. Written objections serve as a basis for the Department's decision to conduct an evidentiary hearing. Testimony regarding any objections to the requested modification must be presented at the hearing.
- b. The Department encourages registered neighborhood organizations to meet with applicants to discuss resolution of their objections and, perhaps, to reach agreement acceptable to the parties. If agreement is reached, the hearing will be cancelled and the application approved.
- c. Good neighbor agreements. Good neighbor agreements will not be incorporated wholesale into a license. However, if the licensee consents, particular terms of such agreements may be issued as conditions of the license but only if they are few, clear, objectively stated and enforceable by the Department pursuant to its municipal authority. All other terms of the Agreement are a private matter between the parties.

#### **D. Public Hearing**

Per Regulation 47-302 of the Colorado Code of Regulations, the purpose of a hearing with respect to any proposed changes, alterations, or modifications of licensed premises is to determine whether the premises, as changed, will meet the pertinent requirements of the Colorado Liquor or Beer Codes and the Regulations promulgated thereunder.

1. The applicant bears the burden of proof to make a prima facie case that the premises, as changed, will meet stated requirements.
2. Factors taken into consideration by the Department to determine whether the applicant has met its burden include, but are not limited to:
  - a. The reasonable requirements of the Designated Area and the desires of its adult inhabitants for the modification;
  - b. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement;
  - c. Compliance with the applicable zoning laws of the municipality, city and county or county; and
  - d. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.
  - e. Economic and social welfare; health, peace and morals of the people.

#### **E. Decision**

1. After testimony and evidence is presented; the Presiding Officer will issue a written Recommended Decision.
2. The Director will then issue a final written decision which will be mailed to the representatives for each side.

## **F. Inspection**

After approval of the modification by the State and by the City, the Fire, Building, Health, and Excise and Licenses Departments must inspect the premises. A Department inspector will make the final inspection before the new license is issued.

## **VI. CHANGES IN CORPORATE OR LIMITED LIABILITY STRUCTURES**

According to C.R.S. Section 12-47-301(7), any changes in corporate or limited liability structures must be reported to the Department.

### **A. Definition**

A change in corporate structure exists where there is a change of corporate officers and/or directors and/or 10% or greater stockholders or managers and/or members holding 10% or greater interest in a limited liability company.

### **B. Reporting**

1. Transfers or changes of financial interest in a license must be reported to the State Liquor Licensing Division within thirty (30) days.
2. Changes in corporate or limited liability structure related to a retail license must be reported to the Department within thirty (30) days.

### **C. Organizational Structure, Ownership or Management**

#### **1. Forms**

An application form for transfer of ownership is the same as an application form for a new license, which is available at the Department and on line starting at the following link:

[http://denvergov.org/Liquor\\_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx](http://denvergov.org/Liquor_Licensing/OnlineFormsApplications/tabid/428138/Default.aspx).

#### **2. Corporations**

Where a change in structure relates to a corporation, the licensee must submit:

- a. State form DR8177, Limited Liability Company and Corporate Report of Changes;
- b. The names and addresses of all the corporation's officers and directors;
- c. A copy of the corporation's articles of incorporation;
- d. Evidence of the corporation's ability to do business within the State if the corporation is a foreign corporation; and
- e. Names, addresses, and individual history records of all persons owning 10% or more of the outstanding or issued capital stock.

### 3. Limited Liability Companies

Where a change in structure relates to a limited liability company, the licensee must submit:

- a. State form DR8177, Limited Liability Company and Corporate Report of Changes;
- b. A financial questionnaire if 10% or greater interest changes;
- c. A copy of the purchase agreement or equivalent thereto;
- d. Names, addresses, and individual history records of all persons owning 10% or more of the outstanding or greater interest.

### 4. Other Considerations

- a. Each document related to a change in organizational structure must be filed in duplicate.
- b. Any persons new to the corporation or limited liability company who have not previously been qualified must be fingerprinted.
- c. If new corporate members are from out of State, they must submit a letter of clearance from their local police authority and a criminal history check from the local police officials or a legible fingerprint card sent from the local police officials directly to the Department.
- d. The licensee must pay a \$100 fee to the City for each new individual who is completing an Individual History form.
- e. If an officer or manager of a licensee has already been qualified and is only changing positions within the licensee entity, that person will not have to be re-qualified, and no fee will be charged unless the Department has reason to suspect that there has been a change in the record of the individual since the last qualification. For example, if the vice-president is becoming the president, that person will not have to be fingerprinted or complete another individual history form unless the Department has reason to suspect that there have been changes in the record of the individual or if the form needs to be updated. If a new vice-president is elected from outside the current officers or directors, that person will need to be qualified. In either case, notice of the corporate structure change must be filed.

### 5. Change in Manager

- a. A change in manager of a liquor-licensed establishment must be reported in writing to the Department within thirty (30) days of the occurrence.
- b. Managers of hotel and restaurant and tavern liquor licensed establishments who are not principals to the license must be registered on forms obtained at the Department. These managers must:
  - (1) Pay a \$75 registration fee to both the City and the State,
  - (2) Complete an individual history form, and
  - (3) Be fingerprinted.

- c. The form for registration of a manager, or change in manager, is the same as an application for a liquor license and is available at the Department or on line at the following link:

<http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1191399145455&ssbinary=true>

#### **D. CONVERTING A LIQUOR LICENSED DRUG STORE TO A RETAIL LIQUOR STORE**

Under C.R.S. Section 12-47-408(5), a liquor-licensed drug store licensee may file an application to convert or transfer from its current license to that of a retail liquor store license. A hearing will not be scheduled for this process unless there is an objection received for the proposed conversion.

##### **1. Process for Conversion**

- a. Applicants who wish to convert to a retail liquor store license shall:
  - (1) Submit a completed application on form DR 8404, Retail License Application or DR 8403, 3.2% Beer License Application;
  - (2) Remit appropriate license application fees
  - (3) Submit a new zoning use permit
  - (4) Submit a new diagram of the premises
  - (5) Submit three maps of the area
- b. Notification of the application will be sent to registered neighborhood organizations whose boundaries encompass any portion of the Designated Area around the liquor-licensed drug store.
  - (1) Registered neighborhood organizations will have twenty (20) days to submit objections. Upon request, the time will be extended to forty-five (45) days.
  - (2) Objections may only be based on “Conduct of Establishment” as set forth in Colorado Regulation 47-900.
- c. Applications to convert to a retail liquor store will be processed in a manner similar to applications for modification of premises. See Part IV.D.5.d above, except that at the public hearing only the reasonable requirements of the neighborhood for this class of license will be considered.

### **VII. ENFORCEMENT, SUSPENSION AND REVOCATION OF LICENSES**

#### **A. Investigations and Administrative Action**

The Department may initiate investigations related to alleged violations of the license or permit, the State Liquor and Beer Codes, the State Regulations, the City Ordinance or City Regulations issued there under. The Department may take administrative action against a licensee where appropriate.

## **B. Investigative Procedure**

### **1. Investigations**

- a. Investigations related to alleged violations of the State Liquor and Beer Codes, regulations and or local ordinances may be initiated upon receipt of information by the Department that suggests that a licensee has engaged in conduct or behavior that violates law or regulation.
- b. Investigations may be conducted by State Liquor Enforcement officials, the Denver Police Department or its designated agents, Inspectors employed by the Department or any other representative or agent of the City vested with authority to maintain the health, safety, peace, and welfare of Denver citizens.
- c. The Department may “order in” the licensee (require the licensee to come to the Department for further questioning regarding the allegations) or the Department may issue a complaint against the licensee, commence suspension proceedings through a show cause order, issue fines and penalties, or take any other enforcement action authorized by law.

### **2. “Order In”**

- a. The Department or its designated agent may order a licensee to appear at the Department to discuss alleged violations of requirements governing liquor licensed establishments.
  - (1) During an “order” in the Department provides fair warning to a licensee about alleged non-compliant conduct and admonishes a licensee to immediately take corrective action.
  - (2) The Department may require a licensee to agree in writing to correct non-compliant conduct or be subject to further disciplinary action.

### **3. Show Cause Order**

- a. The Director may issue a show cause order to any licensee who is alleged to be in violation of requirements governing liquor-licensed establishments.
- b. The Department shall provide the licensee with a copy of a show cause order. Such order shall include the basis of the complaint and notice of the date and time of a hearing at which the licensee must show cause why its license should not be suspended or revoked.
- c. The City bears the burden of proof regarding the basis of the show cause order.
- d. The licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary for any hearing that the licensing authority is authorized to conduct.



- e. Stipulations in lieu of public hearing
  - (1) Licensees subject to show cause actions will have opportunity to meet with an Assistant City Attorney to discuss allegations in the complaint to resolve the show cause matter without a hearing.
  - (2) If agreed by the parties, the Assistant City Attorney and the licensee may submit a proposed Stipulation to the Director of the Department to resolve the show cause matter.
    - (a) The Director has sole discretion to either accept or reject a proposed stipulation.
    - (b) If a proposed Stipulation is accepted, the Director will issue an Order to include any administrative action taken against the licensee. The Department will provide a copy of the order to the licensee.
    - (c) If a proposed Stipulation is rejected, the Director will issue an Order so indicating and will further order the parties to proceed to hearing as originally scheduled.
    - (d) GENERALLY, THE DIRECTOR WILL NOT ACCEPT A PROPOSED STIPULATION WITHIN SEVENTY-TWO (72) HOURS OF A SCHEDULED HEARING.
- f. Recommended and Final Decision after Public Hearing
  - (1) When a matter proceeds to hearing, the Hearing Officer will determine whether a violation has occurred and consider the statutory and regulatory penalty ranges as well as aggravating and mitigating circumstances in making a Recommended Decision.
  - (2) Within ten (10) days of the date following conclusion of the hearing, a Hearing Officer will issue a written Recommended Decision.
    - (a) A copy of the decision will be provided to the licensee.
    - (b) The City Attorney and the licensee will each have ten (10) days to file objections to a Recommended Decision.
    - (c) Once objections, if any, are received and considered, the Director will issue a final decision. The Director may consider, but is not limited to, the penalty ranges and aggravating and mitigating circumstances in accordance with C.R.S. §§ 12-47-601 and 47-604 in making a decision.
  - (3) Any suspension of a license as the result of a show cause action shall not exceed a period of six (6) months.

### **C. Notification to Law Enforcement Officials**

1. When final enforcement action has been taken by the Department against a licensee, the Department will notify the district commander of the district in which the premises are located of the violation and the penalty imposed.
2. Notification will also be provided to the Vice Bureau of the Denver Police Department and the Colorado Liquor Enforcement Division.
3. The Department will notify the respective police districts regarding any orders which result in the non-sale of alcohol in establishments.
4. Details on the enforcement action will be included in the Department's file for consideration at renewal of the license or with regard to any challenge to the license.

## **VIII. HEARING OFFICERS**

**A.** Whenever an administrative hearing is conducted, the Director may appoint a hearing officer to conduct such hearings in accordance with Denver Charter 2.7.4 and D.R.M.C. 6-53(c).

**B.** The Hearing Officer will provide a written Recommended Decision to the Director which must include a summary of the testimony and evidence, as well as the pertinent statutory or regulatory provisions upon which the Recommended Decision is based.

**C.** After consideration of any objections, the Director will issue a final decision.

## **IX. CABARET LICENSES**

D.R.M.C. 6-31, et seq., authorizes the Department to issue a cabaret license to liquor-licensed establishments that wish to offer live entertainment.

Cabarets are associated with, and authorize live or recorded entertainment at liquor licensed or fermented malt beverage licensed establishments.

Live entertainment includes karaoke music or entertainment offered by a disc jockey.

### **A. New Applications**

#### **1. Application Process**

- a. Application for a new cabaret license must be made on a form provided by the Department and requires specific accompanying documents and materials.

(1) Application forms are also available at the Department and on line at the following link:

<http://denvergov.org/Portals/264/documents/Cabaret%20License%20Application.pdf>.

- (2) All questions must be fully answered.
  - (3) Information that has been supplied in a simultaneous application for a liquor license associated with the premises does not have to be re-supplied if reference to the licensee's name and license number is included in the cabaret license application.
- b. The following additional documents must be provided:
- (1) A zoning use permit approved by the Zoning Administration;
  - (2) An occupancy permit issued by the Denver Fire Department;
  - (3) A diagram of the premises;
  - (4) Proof of possession of the premises;
  - (5) Class of cabaret license applied for and type of entertainment to be provided;
  - (6) Floor space and seating capacity, including any floor space to be used for dancing;
  - (7) Financial information concerning the funding of the establishment;
  - (8) Individual history forms for officers, directors, members, managers, partners, 10% or greater shareholders or members;
  - (9) If pool tables or amusement devices are provided, the number of each of them; and,
  - (10) Any other information required by the Department.
- c. The applicant and/or its officers, directors, partners, members, and 10% or greater shareholders and members will be fingerprinted by the Department if this has not already occurred in the liquor licensing process. Out-of-state applicants must provide either a clearance letter and a criminal history record police department or a fingerprint card from a local police department.
2. Review of Cabaret Application and Investigation
- a. The Department will strive to review application forms and accompanying documents within seven (7) business days of receipt.
  - b. After initial review of the cabaret application, the Department will issue written "findings" to the applicant.
    - (1) Findings identify problems with the application and provide the applicant with a pre-hearing conference date and time as well as a hearing date and time.
    - (2) Failure to attend a pre-hearing conference will result in delay in processing the license application.
    - (3) Applicants must correct problems with an application by the date and time scheduled for a pre-hearing conference.

- (a) Failure to make necessary corrections by a scheduled pre-hearing conference may result in an applicant having to begin the cabaret application process all over, including paying application fees.
  - (b) Failure to make necessary corrections will result in the applicant losing its scheduled hearing date.
- 3. The Department may investigate the accuracy of information and/or documents submitted and whether the cabaret application contains any fraudulent, misrepresented, or false statement of material or relevant fact.
  - a. Grounds for denial of a cabaret license are outlined in D.R.M.C. § 6-55, et seq.
- 4. At the time a cabaret application is received, the Department shall provide email notification to registered neighborhood organizations (see I.C.2.d above) whose boundaries encompass any portion of the Designated Area around the cabaret location. See definition of Designated Area, section [II.D.1.](#) above. The Director may modify the notification boundaries.
- 5. Scheduling the Hearing
  - a. Once the application is complete and all fees paid, the cabaret application will be set for a public hearing. If the cabaret is associated with a new liquor license, this hearing will be conducted at the same time as an application for a liquor license.
  - b. Hearings for cabaret license applications will be scheduled at least forty (40) days after the date the application is filed.
- 6. Posting and Notification
  - a. The location must be posted with notice of the hearing date and time for at least twenty (20) days prior to the hearing. Upon written request of a relevant registered neighborhood organization, the posting will be extended for an additional twenty-five (25) days and the hearing will be rescheduled accordingly.
  - b. The sign must comply with the requirements for liquor license application postings.
  - c. The Department will provide the applicant with the specifics for the posting sign.
  - d. The Department will notify registered neighborhood groups and the Division Chief of Patrol (DPD) of the application and hearing in the same manner as it does for liquor license hearings.
  - e. The Department will publish the requisite notice if the application includes a liquor license application as well.
- 7. Designated Area
  - a. The Department will designate the neighborhood surrounding the proposed location from which residents and/or business owners and managers may sign petitions or testify regarding the license.

- (1) Only those residents and business owners/managers who reside in Designated Area will be allowed to sign petitions and testify.
- (2) Representatives from registered neighborhood organizations whose boundaries encompass any portion of the Designated Area may testify as to their position on the application only.
- (3) Petitions may be circulated and presented in the same fashion as liquor license applications, but are not required.

**8. Hearing and Decision**

- a. After an applicant completes application forms and accompanying documents to the satisfaction of the Department, a date and time for an administrative hearing at the Department will be calendared for the cabaret individually or together with the liquor-license application with which it is associated.
- b. The purpose of the hearing is to consider testimony and evidence relating to the needs and desires of the neighborhood for the cabaret, and whether the health, welfare, or morals of the neighborhood would be adversely impacted by issuance of the cabaret license.
- c. At the public hearing, evidence will be taken regarding whether
  - (1) The residents and/or business representatives of the area desire the issuance of the license;
  - (2) There is a need in the neighborhood for the license; and,
  - (3) The effect the issuance of the license would have on the health, welfare, or morals of the designated neighborhood.
- d. The applicant has the burden of proof for issuance of the license.
- e. The usual order of presentation is that the applicant will first present its case, followed by an opportunity for protestants, if any, to introduce evidence in opposition to the license application. This order of presentation can be modified by the Hearing Officer at his or her discretion, for example, to accommodate community residents at an evening hearing.
- f. Testimony and evidence on the cabaret license application will be received from parties in interest as set forth in section [II.F.6.\(f\)](#) above.
- g. The procedure for recommended decision, objections and final decision will be the as set forth in section [II.E.10](#) above.
- h. The Director may impose conditions on a cabaret license if the evidence presented at the hearing supports the imposition of such conditions.

**9. Inspections and Issuance of License**

If a license application is approved, the license will issue only after inspections are conducted by the Building, Fire, Environmental Health, and Excise and License Departments, the applicant completes

administrative steps necessary for the license to issue and the Department completes administrative steps necessary for the license to issue.

## **B. Renewal of Cabaret Licenses**

1. Forms for renewal of cabaret licenses are the same as for new cabaret licenses and are available at the Department and on line at the following link:  
<http://denvergov.org/Portals/264/documents/Cabaret%20License%20Application.pdf>.
2. Licenses are issued for one year and must be renewed every year. The City will send renewal applications to active licensees sixty (60) days prior to expiration.
3. A licensee has up to ninety (90) days after the expiration date to renew. However, a fine of 20% of the license fee will be charged if the license is renewed up to 30 days after the expiration date. A fine of 50% will be charged if the cabaret license is renewed 31-90 days after expiration.
4. The procedures for hearings on cabaret license renewals, if any, are the same as for new cabaret licenses. The Director may hold a hearing upon application for renewal or change of ownership of the licensed premises at the Director's discretion or upon relevant and substantiated complaints to the Director.

## **C. Changes in Ownership of Cabaret Licenses**

1. Forms for changes in ownership are available at the Department and on line at the following link:  
<http://denvergov.org/Portals/264/documents/Cabaret%20License%20Application.pdf>.
2. The procedures and requirements for changes of ownership of cabarets are the same as for changes in ownership of liquor licensed premises. See section VI.B.2 above.
3. The Department will notify registered neighborhood organizations whose boundaries encompass any portion of the Designated Area of the location of the proposed change of ownership and will include the name, address and telephone numbers of the prime contact person for the proposed owner. A hearing may be held on the transfer of the cabaret license at the Director's discretion pursuant to D.R.M.C. § 6-53(f).

## **D. Compliance and Enforcement**

1. If complaints are received regarding the conduct of a cabaret licensed establishment, the Department will generally follow the same procedures outlined in Section VI.D.1.c above regarding liquor-licensed premises. An investigation may be launched and a complaint issued. A meeting

with the Department vice detective and mediation may be requested. A show cause order and hearing may be required to address the suspension or revocation of the license. Ultimately, the license may be revoked.

#### **E. Underage Patrons Licenses in Cabarets**

1. Underage patrons may be admitted to cabaret-licensed premises, but under the D.R.M.C. § 6-34, such a cabaret must shut down at 10:30 p.m. unless the cabaret has an underage patron license.
2. D.R.M.C. § 6-70 authorizes the issuance of an underage patrons license to be attached to any standard cabaret, dance cabaret, special dance cabaret, acoustic cabaret or events center cabaret license.
3. New application process
  - a. Application for a new, underage patrons' license must be made on a form provided by the Department and requires specific accompanying documents and materials.
    - (1) Application forms are also available at the Department and on line at the following link:
    - (2) All questions must be fully answered.
    - (3) Information that has been supplied in a simultaneous application for a cabaret license or a liquor license associated with the premises does not have to be re-supplied if reference to the licensee's name and license number is included in the under-age patrons' license application.
  - b. The following additional documents must be provided:
    - (1) A zoning use permit approved by the Zoning Administration;
    - (2) A building code approval; and
    - (3) An occupancy permit issued by the Denver Fire Department.
4. Physical segregation required
  - a. Physical segregation of underage patrons via split-premises operation will be required for any underage patrons licensed premises.
  - b. Applicants must submit a detailed, written plan describing the physical segregation, including:
    - (1) A detailed drawing of the proposed premises, where the alcohol will be sold, stored, and consumed, and physical designs to prevent any alcoholic beverage from being passed from the alcohol service area to the non-alcohol service area.
    - (2) Description of an accurate and reliable method of determining the age of all patrons prior to entry into the liquor-licensed premises;
    - (3) Description of temporary physical barriers, if they are to be used to separate underage patrons from all areas where alcohol beverages are sold, possessed or consumed; and

- (4) Training provided to employees and/or agents.
  - c. All plans for physical segregation must be approved by the Director.
- 5. Reasons for denial
  - a. Among other reasons cited in the Denver Revised Municipal Code, an application for an underage patrons' license will be denied if the applicant's record does not establish competence in managing the liquor licensed premises.
  - b. Competence will be presumed upon:
    - (1) Management of cabaret-licensed premises for at least two (2) years without any violation of the Colorado Liquor Code involving a minor; and
    - (2) No public nuisance abatement plan being issued during the previous two (2) years.
- 6. At the time an underage patrons' application is received, the Department shall provide email notification to registered neighborhood organizations (see I.C.2.d above) whose boundaries encompass any portion of the Designated Area around the cabaret-licensed location. The Director may modify the notification boundaries.
  - a. If a request is received from a relevant RNO within ten (10) days of the e-mailing of the notice, the time for submission of relevant objections to the proposed underage patrons' license will be forty-five (45) days.
  - b. If no request is received within ten (10) days, the license will be processed in due course.
- 7. Inspections and Issuance of License
 

If an underage patrons' license application is approved, the license will issue only after inspections are conducted by the Building, Fire, Environmental Health and Excise and License Departments, the applicant completes administrative steps necessary for the license to issue and the Department completes administrative steps necessary for the license to issue.
- 8. Change in ownership
  - a. Changes in ownership require a new application and license, including payment of fees, except in the case of change in spouse ownership or domestic partner ownership, or limited partners.

**F. Modifications of Cabarets**

- 1. The provisions of Section IV.D.5.d above for modification of liquor-licensed establishments shall also apply to requests for cabaret modifications.
- 2. Forms for modification of cabaret-licensed premises are available at the Department or on line at the following link:



<http://denvergov.org/Portals/264/documents/Cabaret%20License%20Application.pdf>.

## **X. SPECIAL EVENT CABARET PERMITS**

### **A. When Required**

Special Event Cabaret permits are required if a liquor licensee desires to have entertainment or dancing on the premises on a limited or one-time basis, or if a special event liquor permittee is going to provide live entertainment or dancing.

1. Application forms are available at the Department or on line at the following link:  
<http://denvergov.org/Portals/264/documents/SpecialEventCabaretAppl.pdf>
2. Applications must be filed at least four (4) days prior to the day of the event.
3. Action will be taken on an application within three (3) days of the filing of the application.
4. The approved permit will be mailed if there is sufficient time. Otherwise, the applicant will be required to pick it up.

### **B. Limitations**

A special event cabaret permit may be issued for a total of ten (10) days in one calendar year, except for events held on public streets, highways, roadways, and sidewalks, which may be issued for fifteen (15) days in one calendar year.

## **XI. SPECIAL EVENTS, PRIVATE PARTIES, GAMBLING DEVICES**

### **A. Special Event Liquor Permits**

#### **1. What is allowed**

A special event liquor permit allows the sale of malt beverages by the drink only, or the sale of malt, spirituous, or vinous liquors by the drink only.

#### **2. Qualifying Organizations**

A special event permit may only be issued to:

- a. An organization that has been incorporated under the laws of the State of Colorado for purposes of a social, fraternal, patriotic, political, or athletic nature, and not for pecuniary gain, or
- b. An organization that is a regularly chartered branch, lodge, or chapter of a national organization or society organized for such purposes and being nonprofit in nature, or

- c. An organization that is a regularly established religious or philanthropic institution, or
  - d. To any political candidate who has filed the necessary reports and statements with the Colorado Secretary of State or the Clerk and Recorder of Denver.
- 3. When Required**
- a. A special event liquor permit is required if alcohol is to be sold on premises that do not hold a liquor license or is to be sold by a qualifying organization/political candidate.
  - b. By way of example, special event liquor permits are required when a qualifying organization or political candidate:
    - (1) Has an event and wants to sell alcohol beverages.
    - (2) Has an event that is open to the public and alcohol beverages are available.
    - (3) Has an event where there is a cash bar.
    - (4) Has a public event where donations are requested.
    - (5) Has a public event where admission fees are required.
- 4. Limitations**
- a. Sandwiches or food snacks must be available at all times that alcohol beverages are being sold.
  - b. A special event permit may not be issued to the same applicant for more than ten (10) days in any one calendar year.
- 5. Application Process**
- a. Applications for special event permits must be submitted at least thirty (30) days before the date of a desired event. Late applications will not be accepted. The Department is not responsible for failure of the Special Event Permit due to insufficient time for completing the process (including preliminary review, posting, and submittal of written objections, public hearing, and issuance of recommended/final decision, and State review and approval).
  - b. Applications shall be filed with the Department on forms provided by the State licensing authority.
  - c. Applications for special event permits are available in the Department and on line at the following link: <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1191399143561&ssbinary=true>.
  - d. The application forms shall be verified by oath or affirmation of an officer of the organization or the political candidate making application.
  - e. No action will be taken by the Department until the application is complete to the satisfaction of the Department.

- f. Applications for special event permits must be accompanied by:
    - (1) A diagram of the area to be permitted which clearly depicts the bar and alcohol service areas;
    - (2) A copy of a deed, lease, or written permission of the owner for use of the premises; and
    - (3) A certificate of good standing from the Colorado Secretary of State within the past year, a nonprofit charter, or copies of reports and statements filed with the Colorado Secretary of State if a political candidate.
    - (4) Sales tax license
  - g. Applications and accompanying documents must be filed in duplicate and be signed by the president or secretary of the applicant.
- 6. Application Fees**
- a. At the time application is made for a special event permit, the applicant must remit appropriate application fees.
  - b. Application fees must be paid by cash, check, or money orders payable to the Manager of Finance and the Colorado Department of Revenue for the amounts set by law.
- 7. Review of Application Forms and Documents**
- a. The Department will review application forms and accompanying documents for accuracy and completeness and determine if the premises is already licensed and, if so, whether any exclusions (such as social room) apply. This preliminary review will most likely be conducted while the applicant waits.
  - b. Failure to correct identified problems with the application will result in delay in processing the requested permit.
  - c. In reviewing an application, the Department will apply the same standards for approval and denial as are applied by the State licensing authority.
- 8. Posting**
- a. After application forms and accompanying documents are complete to the satisfaction of the Department, which is usually while the applicant waits, the applicant will be instructed to post notice of the special event application for ten (10) days.
  - b. The notice must be posted on the premises where the special event is proposed and must be posted in accordance with Department policies and procedures.
  - c. Failure to post the notice properly (e.g., is not visible enough, not large enough, obstructed view) will require re-posting and delay in issuance of the permit or denial of the liquor application for the event.
- 9. Objections, Public Hearing and Decision**

- a. After application forms and accompanying documents are complete to the satisfaction of the Department, which is usually while the applicant waits, the Department will also schedule a public hearing on the application. Generally, the hearing will be set for the day after the posting period.
- b. The posting period is the time during which any written objections to the application will be received.
- c. If no objections are received from a party in interest (see [II.F.2.](#) above) during the posting period, the hearing will be vacated and the application will be approved if the Department is satisfied that:
  - (1) The applicant is qualified pursuant to C.R.S. § 12-48-102; and
  - (2) The applicant will conduct the event lawfully.
- d. If the Department receives written objections within the posting period, a hearing will be held at which time both sides may present evidence and argument.
  - (1) After testimony and evidence is presented, the Presiding Officer will submit a written recommended decision to the Director, concurrently providing a copy by email or mail to the parties in interest who have testified at length at the hearing.
  - (2) The parties shall have three (3) calendar days, from the date of the recommended decision to submit objections.
  - (3) Once objections, if any, are received and considered, the Director will issue a final written decision.
    - (a) The Director may deny the permit if its issuance would be injurious to the public welfare by reason of the nature of the special event, its location within the community, or the failure of the applicant at a past special event to conduct such event in compliance with applicable laws and regulations.
    - (b) The Director may also order conditions to be placed on the permit if the evidence at a hearing warrant conditions.
    - (c) The Director's decision will be e-mailed or mailed to the applicant, the Assistant City Attorney, and the parties in interest who testified at length at the hearing.

**10. State Approval**

If the application is approved by the Department, the City will forward the City-approved application to the State for its review and approval no later than ten (10) days prior to the event.

**11. Obligations of the special event licensee:**

- a. As holder of the permit, the special event licensee must purchase liquor to be served and/or sold at the event only from a licensed wholesaler or a licensed retail liquor store.

- b. A special event permit is authorized only for the benefit of the non-profit organization or political candidate who holds the permit. Proceeds from the event must inure to the benefit of the non-profit organization or the political candidate.
- c. Holders of a special event permit may employ event managers to handle the event for a fee that reasonably compensates their work. The “fee” of an event manager may not be the revenues from the event.
- d. The Director may require examination of the books and records of a special event permittee to ensure compliance with permit obligations.

**B. Private Parties and Events**

1. Anyone may serve alcohol at a private party in their own home. Anyone may serve alcohol at a private party in a public location such as a hall, restaurant, or other business location without a license or special event liquor permit under the following conditions:
  - a. The proposed location for the party/event meets the requirements of the Zoning, Public Safety, Fire, and Environmental Health Departments.
  - b. The event/party is by invitation only and a copy of the invitation list or other means of verifying who is invited is on-site or readily available for inspection by police officers or Department inspectors.
  - c. Invitations are sent out in advance of the party/event and are not publicly distributed.
  - d. There is no element of a sale of alcohol, directly or indirectly. Donations or entry fees that qualify the donor to be served alcohol will be considered an implied sale of alcohol, and such an event will require a permit.
  - e. No fees or other charges are imposed as a pre-condition for admission to the private, invitation-only party.
  - f. There is no cash bar.
  - g. There is no requirement for donations or other obligations to obtain an alcohol beverage or beer.
2. The Department will allow liquor-licensed premises to reserve the entire licensed premises for a private party under the following circumstances:
  - a. The opportunity to reserve the entire premises for a period of ten (10) hours or less shall be available to all members of the general public on the same terms, without discrimination of any sort;
  - b. No group will be allowed to have a standing reservation for the use of the entire licensed premises on a weekly or monthly basis. This situation implies the exercise of the privileges of a club license.

- c. Licensees will be allowed to hold a grand opening party one time, which may be restricted to invited guests.
- d. Licensees must notify this office in writing at least three (3) days in advance of the event that the entire premises have been reserved for a given day or night and identify the organization that has reserved the premises.
  - (1) For example, if the event is to be held on Friday, the Department must be notified by 5:00 p.m. on the Tuesday prior to the event.
  - (2) The Director will consider exceptions to the three-day notification requirement for good cause shown.
- e. Licensees must post at least two signs at least three (3) days prior to the event notifying customers that the establishment will not be open to the public on the given date.
  - (1) Notification for a Friday night event should begin by 5:00 p.m. on Tuesday.
  - (2) The size and exact wording of the signs will be left to the discretion of the licensee but must be adequate to notify customers that the public will not be admitted on a certain day during certain times.
  - (3) One sign must be posted inside the premises and one sign must be posted on the door to the establishment.
- f. At no time may the licensee relinquish control of the licensed premises or the service of alcohol to any other person or entity.
  - (1) The licensee must remain in control of the premises and must continue to be in control of the alcohol and service thereof during the event.
  - (2) The licensee and its employees will be held responsible for all conduct taking place on its premises during the event and must at all times comply with all requirements of the Colorado Liquor and Beer Codes, and the Denver Revised Municipal Code regarding cabaret licenses if the establishment has a cabaret license.
  - (3) The licensee will be required to comply with all applicable laws at all times.

### **C. Gambling Devices**

1. The Colorado Liquor Code prohibits an establishment that has a liquor license from permitting any gambling or use of any gambling machine or device on the premises.
2. Gambling devices may be allowed on liquor licensed premises in Denver if they are not being used for gambling. If the devices are not used to generate funds or benefit to the participants, they are not considered gambling devices for that event. For example, if a non-profit organization

holds a fundraiser and charges a certain amount to gain entry into the event, such as a “Las Vegas” night, all money raised from the use of any gambling device or from gambling-like activity must go to the non-profit. Funds raised may not go to the participants or users of the devices in any manner, i.e., prizes, drinks, a drawing for a prize, etc.

**3. Non-Profit Statement**

- a. Any licensee who proposes to allow the type of fundraiser described above must file statement with the Department from the sponsors of the event stating that all profits from use of gambling machines will be contributed directly to an identified non-profit organization. The Director may request a review of the books and financial records of the licensee to ensure compliance with this requirement.
- b. Said organization must file proof of its status as a non-profit with the Department. Proof of non-profit status may be determined by presenting a current certificate of good standing as a non-profit in the state of Colorado, a letter from the Internal Revenue Service granting non-profit status to the organization, a letter from the national office of a local chapter outlining the basis of the non-profit status, or other document deemed adequate by the director.

**XII. ART GALLERY PERMITS**

**A. Permit Established**

Under C.R.S. 12-47-422, an art gallery wishing to serve complimentary malt, vinous or spirituous liquors for consumption on the premises must obtain an Art Gallery Permit. This is not a license to sell alcohol, but a permit to serve it on a complimentary basis.

**B. Authorized Activity**

1. Complimentary malt, vinous, or spirituous liquors may be consumed only on the licensed premises.
2. An Art Gallery permittee may serve complimentary alcohol beverages for no more than four (4) hours a day, no more than fifteen (15) days a permit year.
3. An Art Gallery shall NOT:
  - a. Sell alcohol beverages by the drink directly or indirectly
  - b. Charge an entrance fee or cover charge
  - c. Intentionally allow more than 250 people to be on the licensed premises at any one time while alcohol beverages are being served
  - d. Serve alcohol beverages for more than four (4) hours in any one day
  - e. Serve alcohol beverages for more than fifteen (15) days per permit year

4. Except as specifically noted in the State statute, Art Gallery permittees are subject to the same requirements and penalties of the Colorado Liquor Code as other licensees, including but not limited to the following:
  - a. An Art Gallery must purchase its inventory only from licensed liquor wholesalers or a licensed retail liquor store
  - b. An Art Gallery may not accept donations of alcohol beverages
  - c. A special events permit may be issued to location that holds an Art Gallery Permit
  - d. An Art Gallery permittee may have multiple ownerships or hold an interest in other on-premises liquor licenses.
  - e. Any person serving alcohol beverages must be at least eighteen (18) years old if only beer or wine is being served. Any person serving alcohol beverages must be at least twenty-one (21) years of age if spirits will be served.
5. No food service is required for an Art Gallery Permit.
6. An Art Gallery Permit application may NOT be denied by the Department solely on the basis of a proposed location's proximity to public or private schools, or the principal campus of a college, university, or seminary.
7. An Art Gallery Permit application may be rejected by the Department if the applicant cannot establish that it can serve complimentary alcohol beverages without violating the Colorado Liquor Code or creating a public safety risk to the neighborhood. The Department makes the decision as to whether or not a public hearing is necessary to make this finding. If a hearing is held, the Colorado Liquor Code's 10-day requirement for posting and publishing applies, as it would for any public hearing held by the Department.

### **C. Application Processing**

1. The Art Gallery Permit is not a Special Event Permit. The filing requirements for a Special Event Permit do not apply to an Art Gallery Permit.
2. Art Gallery Permit applications are not time-sensitive like applications for Special Event permits. There are no filing date requirements or restrictions. The applicant should file the application far enough in advance to have its application approved by both the Department and the State before the first scheduled day of service of alcohol.
3. The application form is available in the Department or on line at the following link:  
<http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1191403598469&ssbinary=true>.
4. The Art Gallery application must list the fifteen (15) days that alcohol beverages will be served at the time of application and on renewal.



5. Documentation of possession of the proposed licensed premises is required
6. Detailed diagram of the proposed licensed premises is required
7. Individual History forms and background investigations are not required.
8. Permitted days may not be changed without at least fifteen (15) days written notice to the Department
9. The Art Gallery Permit is valid for one year from the date of issue. It must be renewed annually. If the permit expires, a new application must be submitted. A late fee will be charged if renewal is sought more than 90 days after expiration of the Permit.

### **XIII. MEDIATION PROCEDURES**

The Director will consider whether mediation might be useful to help resolve complaints when the Department receives one or more complaints that allege behavior by a liquor licensee or its patrons that is causing problems in the neighborhood, including but not limited to the following: inappropriate behavior of patrons of the licensed premises when they leave the establishment, creating noise, trash, litter and impeding residential parking.

- A. If the Director believes that mediation may be useful, the Director will ask the licensee and the neighbors to participate in mediation.
  1. If all parties agree, a mediator will be assigned to handle the matter.
  2. The goal is to reach a written conclusion that is acceptable to all involved.
  3. The written agreement may or may not become part of the license depending on the circumstances of the case.

### **XIV. ADDITIONAL POLICIES REGARDING HEARINGS**

#### **A. Number of Persons in the Hearing Room**

The persons authorized to be in the hearing room at the Department are the Hearing Officer, counsel for the Respondent or Applicant, one advisory witness for the Respondent or Applicant, Assistant City Attorney, one advisory witness for the City Attorney, the witness then testifying, and six other persons. The Hearing Officer may limit the number of additional persons or observers at his or her discretion.

#### **B. Use of Still Cameras at Hearings**

1. Still cameras using any type of lights or flash shall not be permitted at any hearing in the hearing room.
2. Still cameras without lights and flash may be used at hearings in the hearing room only if the photographer who is photographing any witness

while the witness is testifying remains at least 25 feet away from the witness while taking the photograph.

3. Hearing Officers shall not permit use of still cameras at hearings in violation of these policies.
4. The Director and Hearing Officers may impose additional restrictions on the use of still cameras at hearings to preserve decorum, prevent disruption of the proceedings, preserve fairness, minimize distraction, preserve the ability of the parties to see and hear the proceedings, and to prevent intimidation of witnesses and others.

### **C. Use of Video and Television Cameras at Hearings**

1. Video or television cameras that use any type of lights, either as part of the camera or as a separate appliance, shall not be permitted at any hearing.
2. Any person who wishes to use a video or television camera at a hearing shall inform the Director in writing of their request at least 24 hours before the hearing. The notice shall state:
  - a. The date, time and place of the hearing; and
  - b. The type of camera, microphones, and associated equipment proposed for use at the hearing; and
  - c. The proposed location of the camera, microphones and associated equipment in the hearing room; and
  - d. The names and phone numbers of the persons who will be operating the equipment.
3. Only one video camera or one television camera shall be permitted at any hearing. Where multiple media providers are involved they shall make arrangements to pool coverage through a single camera.
4. No visible or audible signal indicating that the camera is on, taping, broadcasting, or otherwise operating shall be used on any camera or associated equipment.
5. The Director or Hearing Officer shall designate a single location for the video or television camera, microphones, and associated equipment designed to preserve decorum, prevent disruption of the proceedings, preserve fairness, minimize distraction, preserve the ability of the parties to see and hear the proceedings, and to prevent intimidation of witnesses and others. The camera, microphones, and associated equipment shall be set up at that location before the hearing begins and shall not be removed until the hearing is completed or adjourned. The camera, microphones, and associated equipment shall not be moved during the hearing.
6. Media identifying marks, call letters, logos, and symbols shall not be displayed on cameras, microphones, cameras, or other equipment.

7. The Hearing Officers shall not permit use of video cameras, television cameras and associated equipment in violation of these policies.
8. The Director and Hearing Officers may impose additional restrictions on the use of video cameras, television cameras and associated equipment at hearings to preserve decorum, prevent disruption of the proceedings, prevent distraction, preserve fairness, and to prevent intimidation of witnesses and others.

#### **D. Control of Hearing**

1. The Hearing Officer shall control the conduct of all persons present at the hearing to preserve decorum, prevent disruption of the proceedings, prevent distraction, preserve fairness, and to prevent intimidation of witnesses and others.
2. In order to control the conduct of persons at the hearing the Hearing Officer may, in his or her discretion:
  - a. Admonish any person;
  - b. Order any person to perform any reasonable act or to refrain from any act as may be necessary to preserve decorum, prevent disruption of the proceedings, prevent distraction, preserve fairness, and to prevent intimidation of witnesses and others;
  - c. If the person is a party, an applicant, a party in interest, or a witness, expressly take notice of that person's conduct on the record and consider that conduct as reflecting on that person's credibility, character, or fitness to hold the license at issue;
  - d. Order the person to leave the hearing room; or
  - e. If the person is a party or an applicant, order the party or applicant's application, position, or defense withdrawn, denied, or defaulted as may be appropriate.