



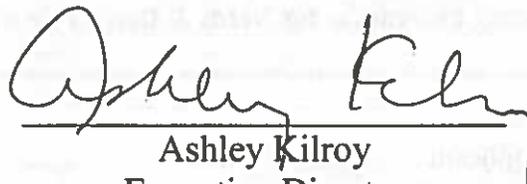
# DENVER

## EXCISE & LICENSES

### EXCISE AND LICENSES HEARING POLICIES AND PROCEDURES

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Effective date: October 22, 2018



Ashley Kilroy  
Executive Director

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# **ARTICLE I – GENERAL PROVISIONS**

## **Section 1.1 Authority**

These Policies and Procedures are adopted by the City and County of Denver’s Director of the Department of Excise and Licenses in accordance with the authority in Article II of the Charter of the City and County of Denver and Articles I through V of Chapter 6, Article XII of Chapter 24, and Article I of Chapter 32 of the Denver Revised Municipal Code of the City and County of Denver. These Policies and Procedures concern all licensing hearings and proceedings initiated by the Department after the effective date herein, and supersede and replace any previous versions or editions adopted by the Department.

## **Section 1.2 Definitions**

The following definitions of terms shall apply, unless the context requires otherwise:

“Applicant” means a person who has applied for a business or individual license with the Department, or any transaction relating thereto.

“Cabaret License” means a license granted to an establishment or business licensed to sell alcoholic or fermented malt beverages which offers or provides entertainment for patrons or guests.

“Cannabis Consumption Establishment License” means an annual license issued by the Director to an individual(s) or entity allowing for the consumption of marijuana in a Designated Consumption Area located inside of or adjacent to a licensed premise or other business.

“Cannabis Consumption Special Event License” means a license issued by the Director to an individual(s) or entity allowing for the consumption of marijuana in a Designated Consumption Area temporarily located: (i) on or adjacent to a licensed premise or other business, or (ii) not located on or adjacent to a licensed premise or other business.

“City” means the City and County of Denver, State of Colorado.

“Code” means the Denver Revised Municipal Code and any rules and regulations promulgated thereunder.

“Day” means calendar day unless expressly stated otherwise. If the last calendar day of any period falls on a weekend or holiday, the last day means the following business day.

“Department” means the Denver Department of Excise and Licenses.

“Director” means the Executive Director of the Department of Excise and Licenses, or his or her designee.

“Designated Area” means the area surrounding the proposed or licensed location that is determined to be the neighborhood under consideration.

“Final Decision” means the final order issued by the Department after review and consideration of the Recommended Decision, any objections, responses to objections, and the entire record, including the licensing file.

“Hearing Officer” means a person designated by the Director to conduct a public hearing to receive testimony and evidence, question the parties and any witnesses, and make a recommended decision on the matter. At her or his discretion, the Director may serve as the Hearing Officer in any particular matter.

“Licensee” means a person or entity who currently holds a business or individual license with the Department.

“Liquor License” means a license granted to an individual or entity to sell or otherwise provide alcoholic or fermented malt beverages issued pursuant to Title 44, Article 3, Article 4, or Article 5 of the Colorado Revised Statutes.

“Manager” means an individual who is responsible for managing, directing, and administering the general conduct of the entire business at the business location.

“Marijuana License” means a license granted to an individual or entity to sell, cultivate, process, test, transport, or store medical or retail marijuana pursuant to Chapter 6, Article V or Chapter 24, Article XII of the Code.

“Needs and Desires Hearing” means a public hearing on an application where the Director may consider the reasonable requirements of the Designated Area and/or the desires of the adult inhabitants therein.

“Neighborhood Witness” means an individual who resides in the Designated Area and is at least twenty-one (21) years of age, or an individual who owns or manages a business within the Designated Area, except in the case of a medical marijuana hearing, where “Neighborhood Witness” means an individual who resides in the Designated Area and is at least eighteen (18) years of age AND is registered as a medical marijuana patient with the State.

“Order” means any order issued pursuant to the Director’s authority under the Charter, the Code or the Colorado Revised Statutes.

“Party in Interest” means a person who is afforded certain legal rights at a licensing hearing. The specific rights afforded to a Party in Interest varies depending on the type of license for which the Applicant is applying. The table below indicates with an “X” which persons are considered a Party in Interest for each license type, and the legend below the table indicates which rights are afforded to a particular Party in Interest.

| Party Type             | License Type |        |         |
|------------------------|--------------|--------|---------|
|                        | Marijuana    | Liquor | Cabaret |
| Applicant              | X            | X      | X       |
| RNOs                   | X            | X**    | X**     |
| City Council           | X            | X***   | X***    |
| DPD Commander          |              |        | X       |
| School Principal       |              | X      |         |
| Business Owner/Manager | X*           | X*     | X*      |
| Resident               | X*           | X*     | X*      |

*X with no asterisk - The Party in Interest may testify, present evidence, and cross-examine witnesses.*

*X\* - The Party in Interest must live or work within the Designated Area and may testify, present evidence, and cross-examine witnesses. In addition, the individual must be at least 21 years of age, or for medical marijuana hearings, must be at least 18 years of age AND be registered as a medical marijuana patient with the State.*

*X\*\* - The Party in Interest may testify and present evidence, but may not cross-examine witnesses or seek judicial review of the Department's Final Decision.*

*X\*\*\* - The Party in Interest may testify and present evidence, but may not cross-examine witnesses, nor is their testimony afforded any weight.*

“Policies and Procedures” means these Excise and Licenses Hearings Policies and Procedures.

“Recommended Decision” means a Hearing Officer’s findings of fact, conclusions of law, and the decision suggested to the Director following a hearing and/or review of written briefs.

“Relevant Registered Neighborhood Organization (RNO)” means a Neighborhood Organization as defined in Chapter 12, Article III of the Code, registered with the Department of Community Planning and Development, whose boundaries overlap any portion of the Designated Area.

“Relevant City Council Member(s)” means the City Council member whose district boundaries overlap any portion of the Designated Area, including council members at-large.

“School Principal” means the principal or representative of any school as defined by the State located within five hundred feet of the premises for which the issuance of a license pursuant to CRS § 44-3-309(1) is under consideration.

“State” means the State of Colorado.

“Transferee” means any person or entity to whom a license interest is being conveyed.

## **Section 1.3 Scope and Construction of Hearing Policies and Procedures**

### **1.3.1 Legal Requirements**

**1.3.1.1** The legal requirements governing these licenses are established by the State of Colorado and the City and County of Denver and are contained in the Colorado Revised Statutes and the Denver Revised Municipal Code.

**1.3.1.2** All prior policies of the Department pertaining to hearings for liquor, 3.2 beer or Fermented Malt Beverages, cabaret, and marijuana licenses are hereby revoked and replaced in their entirety by these Policies and Procedures. These Policies and Procedures are intended to supplement any more specific statutes, Ordinances or Rules governing particular license types.

### **1.3.2 Scope**

These Policies and Procedures have been written to implement and interpret the laws referenced above and are intended for informational and guidance purposes only. They may be

modified or adapted at the discretion of the Director, as required to address particular matters, to the extent permitted by law. The Department will post on its website a current version of these Policies and Procedures and any subsequent modifications or changes.

### **1.3.3 Construction**

The Policies and Procedures shall be construed to promote the just and efficient determination of all matters presented.

## **Section 1.4 Applicability**

The provisions in this Article apply to all hearings conducted by the Department. Additional rules may apply for specific license types or hearing matters.

## **Section 1.5 Legal Representation before the Department**

### **1.5.1 Representation – The Department**

The Department shall be represented by the Denver City Attorney’s Office.

### **1.5.2 Representation – Relevant Registered Neighborhood Organizations**

An RNO may be represented by any person who has evidence of authority to represent the RNO at the specific public hearing, which authority may be shown through a letter signed by the President or the Chair of the Board of Directors or other evidence satisfactory to the Director or the Hearing Officer. For any application involving a Liquor License, with the exception of a special event Liquor License, the representative must reside within the RNOs boundaries.

### **1.5.3 Representation – Other Entities**

**1.5.3.1 Individuals and Sole Proprietors** - A natural person may appear on his/her own behalf.

**1.5.3.2 Partnerships** - A partnership may be represented by an active general partner.

**1.5.3.3 Corporations** - Pursuant to C.R.S. § 13-1-127, a corporation, limited liability company, or any other entity must appear before an administrative agency through an attorney. Proceedings commenced or advocated and pleadings filed by a corporation, limited liability company, or other entity without an attorney will not be accepted, EXCEPT that:

- (i) A closely held entity (three or fewer owners) may be represented by an officer of such closely held entity if the officer provides a corporate resolution authorizing the officer to appear on behalf of the entity in all matters before the Department and the amount at issue is less than \$15,000.
- (ii) The following persons shall be presumed to have the authority to appear on behalf of the closely held 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; or
- d. A member of a limited partnership association.

#### **1.5.4 Attorney Entry of Appearance**

**1.5.4.1 Licensed Attorneys** - A licensed attorney may represent any Applicant, Licensee, Party in Interest, or RNO 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, and email address.

### **Section 1.6 Procedures Applicable to All Hearings**

#### **1.6.1 General Communication Procedures**

**1.6.1.1 Ex Parte Communication – Prohibited** - The Director and Hearing Officer act as quasi-judicial decision-makers. As such, these individuals shall not initiate or consider ex parte communications, or consider other communications made to them outside the presence of the known Parties in Interest, or their lawyers, concerning the subject matter of the hearing, except when scheduling or rescheduling a hearing.

**1.6.1.2 Communications with Director or Hearing Officer** - All communications with the Director or Hearing Officer concerning the subject matter of a hearing or a decision must be made on the record with all other parties present or with all known Parties in Interest copied on written correspondence. Communications outside the hearing room must be in writing, sent to a designated e-mail address as provided by the Department, and must include all other known Parties in Interest.

**1.6.1.3 Written Communications to the Department** - Unless otherwise specified, all written communications, motions, notices, or petitions submitted to the Department must be e-mailed to [EXLApplications@denvergov.org](mailto:EXLApplications@denvergov.org). An exception shall be made for any communication exceeding 5 MB in size, which shall be submitted in person or via U.S. mail to the following address:

Denver Excise and Licenses  
ATTN: Hearings Coordination Unit  
201 W Colfax Ave – Department 206  
Denver, CO 80202

**1.6.1.4 Copy Request for Records** - Any person may submit a Copy Request to the Department to obtain records from a license file. Requests must be made in writing and sent via e-mail to [EXLRecordsManagement@denvergov.org](mailto:EXLRecordsManagement@denvergov.org). Associated fees must be paid prior to the release of any records.

#### **1.6.2 Use of Cameras at Hearings**

**1.6.2.1 Photography and Videotaping** – The use of any camera at the hearing to photograph or videotape the proceedings is prohibited, unless such use is approved in advance as provided in section 1.6.2.2. If a person has not received prior approval, the

use of cameras may be allowed at the discretion of the Director or Hearing Officer upon a showing of good cause for the failure to obtain prior approval.

**1.6.2.2 Request in Writing to Photograph or Videotape** - Any person who wishes to photograph or videotape the hearing must file a written request with the Department at least two (2) business days prior to the hearing per the guidelines outlined in section

1.6.1.3 The request must state the following:

- (i) The date, time, and location of the hearing; and
- (ii) The type of camera, microphones, and associated equipment proposed for use at the hearing; and
- (iii) The proposed location of the camera, microphones, and associated equipment in the hearing room; and
- (iv) The names and phone numbers of the persons who will be operating the equipment.

**1.6.2.3 Limitations** - The Director or Hearing Officer, in their discretion, may impose additional restrictions related to the number, operation, location, or use of cameras and associated equipment at the hearing for any reason including, but not limited to, preserving decorum, preventing disruption of the proceedings, preventing distraction, preserving fairness, and preventing intimidation of witnesses and others.

### **1.6.3 General Pre-Hearing Procedures**

**1.6.3.1 Hearing Location** - Unless the Director or Hearing Officer orders a change of hearing location or unless a different location is otherwise specified by the Department, hearings will be conducted at 201 West Colfax Avenue, Dept. 206, Denver, Colorado, 80202.

**1.6.3.2 Setting of the Hearing** - Hearing dates are set based upon availability on the Department hearing calendar, availability of hearing officers, and the date of the Application or Complaint giving rise to the hearing. No hearing shall be held before all applicable notice, posting, and publication requirements are met.

**1.6.3.3 Order Issued by Department Controls** - In the event of conflict between these Policies and Procedures and any Order issued by the Department, the provisions of the Order shall control.

**1.6.3.4 Pre-Hearing Conference** - The Director may require that an Applicant, Licensee, Party in Interest, or City Attorney attend a pre-hearing conference with the Director or a designee. The purpose of a pre-hearing conference is to:

- (i) Review supplemental information provided by the Applicant or Licensee in response to the Department's written findings, or to provide additional information that may be required by the Department;
- (i) Establish what contents shall be included on posting sign(s);
- (ii) Resolve evidentiary or other pre-hearing issues;
- (iii) Provide exhibits, documents, prepared testimony, and admissions or stipulations of fact which will avoid unnecessary proof;
- (iv) Define the scope and nature of testimony being offered;
- (v) Prevent repetitive and cumulative evidence or examination;
- (vi) Establish all other pre-hearing requirements such as the date and time of the hearing; and

- (vii) Consider any other matters which may expedite the disposition of the proceeding.

**1.6.3.5 Pre-Hearing Briefs** - Any Applicant, Licensee, Party in Interest, or City Attorney may file a pre-hearing brief for review of the matter. The Director or Hearing Officer may also require that any Applicant, Licensee, Party in Interest, or City Attorney file a pre-hearing brief. Such brief must be filed at least fourteen (14) days prior to the hearing date. At the discretion of the Director or Hearing Officer, any pre-hearing briefs filed after the deadline may be excluded from consideration.

**1.6.3.6 Responses to Pre-Hearing Briefs** - If any pre-hearing brief is filed, any Applicant, Licensee, Party in Interest, or City Attorney may file a response. Such response must be filed at least seven (7) days prior to the hearing date. At the discretion of the Director or Hearing Officer, any response filed after the deadline may be excluded from consideration.

**1.6.3.7 Motions Relating to Discovery** - The Department will treat motions for discovery in the same manner as a copy request outlined in section 1.6.1.4. Prior to the release of any records, a request must be made to the Department and the requesting party must pay all associated fees.

**1.6.3.8 Request for Interpreter Services** – Any Applicant, Licensee, Party in Interest, or City Attorney may request a foreign language interpreter for any hearing. Such requests must be made in writing per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3 no later than ten (10) days before the scheduled hearing date. Requests must include the name of the person who requires interpreter services, the address that qualifies the person as a Party in Interest (if applicable), the Business File Number, the language for which an interpreter is needed, and whether the Recommended and Final Decisions need to be translated.

**1.6.3.9 Request for Continuance** - A continuance may be requested by any Applicant, Licensee, Party in Interest, or City Attorney.

**1.6.3.9.1 Grounds for Continuance** - Hearing dates may be revised or continued at the discretion of the Director or Hearing Officer upon a showing of good cause. For purposes of this section 1.6.3.9 circumstances that might indicate “good cause” include, but are not limited to, occurrences outside of the requesting party’s control, or an unanticipated change in the status of the case, or a significant revision or amendment to the application.

**1.6.3.9.2 Scheduling Order** - If the request for a continuance is granted, the Department will issue a new Order or a new Applicant Letter, which may contain additional requirements deemed appropriate by the Director.

**1.6.3.9.3 Effect of Rescheduling Hearing** - The Applicant shall amend any applicable posting to reflect the rescheduled date and time of the hearing as provided in the Order. Posting notices shall remain in place for a minimum of ten (10) days once the notice has been amended, or for as long as is otherwise specified by the Order.

## **1.6.4 General Hearing Procedures**

**1.6.4.1 Hearings to be Open to the Public** - All hearings conducted by the Department shall be open to the public.

**1.6.4.2 Recording of Hearings** – The Director or Hearing Officer shall cause all hearings to be electronically recorded. If a hearing is not recorded or if the recording equipment fails, the Director or Hearing Officer, in his or her discretion, may order a new hearing or may recreate the record from exhibits admitted into evidence and the notes of the Hearing Officer.

**1.6.4.3 Hearing Officer Controls Hearings** - The Director or Hearing Officer shall control the conduct of persons attending the hearing to maintain order, promote efficiency in the presentation of relevant evidence, preserve decorum, prevent disruption and distraction of the proceedings, preserve fairness and respect for all parties, and prevent intimidation of witnesses and others. The Hearing Officer may issue rules and orders to control the hearing, including but not limited to:

- (i) Limit the presentation of evidence, testimony, or cross-examination to prevent irrelevant, repetitive, or cumulative evidence or examination; and/or
- (ii) Order any person to be removed from the hearing.

**1.6.4.4 Hearing Length** - Hearings shall last no longer than four (4) hours unless otherwise specified by the Department. If all parties agree, the Hearing Officer may allow a hearing to continue for an additional hour. If the hearing is not complete within the allotted time, the Hearing Officer may continue the hearing to a new date(s).

**1.6.4.5 Exhibits** - All parties shall provide at least four (4) identical copies of each exhibit that they intend to introduce as evidence at the hearing for the Hearing Officer, City Attorney, and all other known Parties in Interest. All parties shall be responsible for making copies of their own exhibits.

**1.6.4.6 Introduction of Evidence at Hearings** - Any party intending to participate in a hearing should review the entire file before the hearing. Any document contained in the Department's official file does not automatically become part of the hearing record unless it is admitted as evidence at the hearing. The process for requesting a copy is outlined in section 1.6.1.4.

**1.6.4.7 Introduction of Evidence by Non-Present Parties** - The Hearing Officer may admit a letter or other document written by a person not present at the hearing, if a person who is present offers the writing as evidence and provides sufficient information for authentication purposes. If admitted, the weight given to such evidence is within the discretion of the Hearing Officer.

**1.6.4.8 Permissible Evidence** - All relevant evidence is admissible, including hearsay evidence that is offered with sufficient reliability.

**1.6.4.9 Exclusion of Evidence** - In her or his discretion, the Hearing Officer may exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of irrelevant or cumulative evidence.

**1.6.4.10 Testifying Under Oath** - All testimony shall be given under oath.

**1.6.4.11 Qualified to Present Evidence** – The City Attorney and the Applicant/Licensee may introduce evidence, call witnesses, and cross-examine witnesses. Additional individuals who qualify as Parties of Interest may be able to testify and introduce evidence depending on the type of hearing. Please refer to the definition of “Party in Interest” in section 1.2.

**1.6.4.12 Questioning by Hearing Officer** - The Director or Hearing Officer may question any party or witness.

**1.6.4.13 Good Neighbor Agreements and Conditions** - The Department encourages regular communication between neighborhood representatives and Applicants/Licensees for resolution of issues that are of concern to the community. Neighborhood representatives and Applicants/Licensees have the option of negotiating a “Good Neighbor Agreement” (GNA) or other type of agreement.

**1.6.4.13.1 Retention of Good Neighbor Agreements** - A GNA submitted to the Department shall remain in the Applicant’s/Licensee’s permanent license file.

**1.6.4.13.2 Agreed-Upon Conditions** - Upon agreement between the Applicant/Licensee and a neighborhood representative, the Department may include specific GNA provisions as conditions of the license as long as the conditions are:

- (i) *Legal* – conditions may not violate local, state, or federal law; and
- (ii) *Enforceable* – conditions must be clearly and objectively enforceable.

**1.6.4.13.3 Enforceability and Permanence** - If conditions are attached to a license they shall remain on the license in the event of any transfer of the license to new ownership unless specifically removed by the Department or Director.

**1.6.4.13.4 Conditions on the License Document** – The Department will print license conditions on the face of the license. However, the Department will not incorporate the language of an entire GNA on the face of the license.

## **1.6.5 General Post-Hearing Procedures**

**1.6.5.1 Recommended Decision** - After considering all the evidence, the Hearing Officer shall make a Recommended Decision to the Director. If the hearing is uncontested, the Hearing Officer shall make all reasonable efforts to issue a Recommended Decision within five (5) business days after the hearing date.

**1.6.5.2 Email/Mailing Policy** - Recommended Decisions will be sent via email by the Hearing Officer to the individuals listed below. If an email address is not available, the Hearing Officer may send the Recommended Decision via U.S. mail or request that the Department do so.

- (i) The Director;
- (ii) Department Staff;
- (iii) Assistant City Attorney;
- (iv) Applicant or Licensee (or their attorney if represented); and

- (v) Any Party in Interest who requests a copy of the Recommended Decision at the hearing.

**1.6.5.3 Objections to Recommended Decision** - Any Applicant, Licensee, Party in Interest, or City Attorney may file written objections to the Recommended Decision within ten (10) business days from the date the Recommended Decision is issued, unless otherwise specified by the Director. Objections must be sent to all parties who were sent the Recommended Decision, and must be submitted to the Department per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3.

**1.6.5.4 Response to Objections** - If written objections are filed, any Applicant, Licensee, Party in Interest, or City Attorney may file a written response to the objections within five (5) business days of receiving the objections, unless otherwise specified by the Director. Responses to objections must be sent to all parties who were sent the Recommended Decision, and must be submitted to the Department per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3.

**1.6.5.5 Comments regarding the Hearing** - Comments which are not submitted to the Department in the manner provided by sections 1.6.5.3 and 1.6.5.4 will not be accepted and will not be afforded any weight.

**1.6.5.6 Final Decision** - The Director shall issue a Final Decision after reviewing and considering the Recommended Decision, any objections, responses to objections, the entire record, the facts and evidence adduced as a result of its investigation and the public hearing required, and any other pertinent matters affecting the qualifications of the Applicant or Licensee. The Department will send the Final Decision to all parties who were sent the Recommended Decision.

**1.6.5.7 Conditions** - At the Director's discretion, the Director may place additional conditions on the license as a result of evidence or testimony introduced at the hearing or as a result of the Department's investigation or general policies. The Department will print license conditions on the face of the license. If conditions are attached to a license, the conditions will remain on the license in the event of any transfer of the license to new ownership unless specifically removed by the Department or Director.

**1.6.5.8 Judicial Review** - In accordance with applicable law, Final Decisions are subject to judicial review by the Denver District Court.

## **ARTICLE II - PROCEDURES APPLICABLE ONLY TO NEEDS & DESIRES HEARINGS**

### **Section 2.1 General Pre-Hearing Procedures for Needs & Desires Hearings**

#### **2.1.1 Designated Area**

**2.1.1.1 How the Designated Area is Determined** - Prior to a hearing for a new license, change of location, or modification of an existing license, the Department shall generate a map of the Designated Area. Generally, the Designated Area will be created using the following guidelines:

- (i) **Downtown Denver** - If the proposed premises are located in the downtown area, the Department will count approximately three (3) blocks from the proposed location to the north, three (3) blocks to the south, three (3) blocks to the east, and three (3) blocks to the west, thereby creating a square shaped area. Downtown Denver includes the Central Business District and Union Station neighborhoods.
- (ii) **All Other Areas** - If the proposed premises are located outside of Downtown Denver as described above, the Department will count approximately 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) to the west, thereby creating a square shaped area.
- (iii) **Standard Block Sizes** - The Department will carry out the measurements above using standard block sizes of 300 feet east to west by 500 feet north to south.
- (iv) **Areas Included** - In cases where the boundary line touches or runs through a building, the entire building shall be included in the Designated Area.

**2.1.1.2 Modification of the Designated Area – Without Request** - The Department may modify the Designated Area to avoid cutting through blocks, residences, or businesses, or as otherwise deemed necessary by the Director.

**2.1.1.3 Modification of the Designated Area – Upon Request** - Any Party in Interest may request, in writing per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3 that the Director modify an established Designated Area. The request must explain the reason(s) for the request and must be filed no later than ten (10) days after the date that notice posting commences. The decision to grant or deny such a request shall be within the sole discretion of the Director.

#### **2.1.2 Findings**

**2.1.2.1 When Issued** - Prior to scheduling a Needs and Desires Hearing, the Department will issue written findings to the Applicant/Licensee and all known Parties in Interest.

**2.1.2.2 Purpose of Findings Document** - Written findings represent an initial investigation by the Department to ensure that an application is both complete and accurate. If the application is deficient, the findings will identify only those application deficiencies and a date by which the deficiencies must be cured. The Department reserves the right to

deny an application that has any deficiencies, or require that the application be resubmitted in correct form.

**2.1.2.3 Findings Do Not Preclude Department** - Nothing in this section shall preclude the Director from conducting further investigation, receiving additional evidence, and considering any pertinent matter affecting qualification of the Applicant for licensure. The failure to make any specific finding shall not preclude the Director from later determining that the application should be denied.

### **2.1.3 Notification to the Applicant**

The Department will send a Notice Packet to the Applicant/Licensee including but not limited to the following:

- (i) An Application Letter and/or Order stating the date and time of the hearing and any other hearing requirements;
- (ii) A copy of any findings made by the Department;
- (iii) Instructions for downloading or requesting a copy of Excise and Licenses Hearing Policies and Procedures which explains all hearings standards and procedures;
- (iv) Instructions for filing pre-hearing briefs, exhibits, petitions, and testimony;
- (v) A map of the Designated Area; and
- (vi) Any other documentation as deemed necessary by the Director.

### **2.1.4 Notification to Other Parties**

When scheduling a hearing, the Department will also send a Notice Packet to the following:

- (i) Any RNOs whose boundaries overlap any portion of the Designated Area;
- (ii) Relevant City Council Members;
- (iii) For Cabarets Licenses only, the Denver Police Department's designated representative; and
- (iv) For Liquor Licenses only, the Denver Public School's designated representative

### **2.1.5 Manner of Notification - RNOs**

**2.1.5.1 Electronic Notification** - The Department shall provide notification to RNOs via e-mail to the contact persons for each Relevant RNO.

**2.1.5.2 RNO Contact Information** - Contact information for registered neighborhood organizations is provided to the Department by the Department of Community Planning and Development ("CPD"). RNOs are responsible for maintaining accurate e-mail addresses with CPD. The Department relies upon the CPD database and is not responsible for any failed e-mail communications due to incorrect e-mail addresses, full e-mail boxes, failure of the recipient's e-mail system, or recipient's failure to check e-mails.

### **2.1.6 Posting Signs and Notices**

**2.1.6.1 Posting Sign Location** - Posting signs must be placed in a conspicuous place on the licensed premises or proposed licensed premises which is clearly visible to the public.

**2.1.6.2 Posting Sign Requirements** - The requirements of a posting sign are as follows:

- (i) The sign posted must be sturdy and white, not less than 22 inches wide and 26 inches in height, with letters not less than one inch in height.
- (ii) The Department will provide the Applicant/Licensee with content to be included on the posting sign. The sign must be posted with all required content at all times during the posting period.
- (iii) The sign shall indicate the name and address of the Applicant/Licensee and any partners or officers of the Applicant/Licensee. The sign may be posted inside of the proposed premises but must be posted so as to be conspicuous and plainly visible to the general public.
- (iv) 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.
- (v) The sign must inform the public that petitions for evening hearings must be filed fifteen (15) days before the scheduled hearing date.

**2.1.6.3 Failure to Adhere to Posting Requirements** - An inspector from the Department may make random inspections to ensure that posting requirements are met. If the Applicant/Licensee fails to adhere to the posting requirements, the Director, in his or her discretion, may reschedule the hearing and require an additional period of posting or deny the Application.

**2.1.6.4 Publication – Newspaper of General Circulation** – For hearings related to new liquor, new marijuana, new cannabis consumption, and new cabaret licenses, the Department will publish notice of the public hearing in a newspaper of general circulation as required by statute and ordinance for the specific type of public hearing occurring. The publication shall identify the same information contained in posted notices, with the exclusion of the map of Designated Area.

**2.1.6.5 Publication – Department Website** - The Department may post notice of the public hearing on its website and will make reasonable efforts to ensure that postings are current.

## **2.1.7 Petitions**

**2.1.7.1 Petitions – Permitted** - Petitions opposing or supporting the license or Application may be circulated by the Applicant/Licensee, by any Party in Interest, or by a representative of the Applicant/Licensee or any Party in Interest. Petitions are not required, nor are they the only method to establish the reasonable requirements and/or desires of the adult inhabitants of the Designated Area.

**2.1.7.2 Petition Forms** - Petitions must be circulated in a manner provided by the Department.

**2.1.7.3 Circulator Age Requirement** - Petition circulators must be eighteen (18) years of age or older, but do not need to be residents of the Designated Area.

**2.1.7.4 Commencement of Circulation** - Circulators may begin gathering petitions on the day following the date that notice posting commences. Signatures obtained before this date will not be considered by the Department.

**2.1.7.5 Signature Requirements** - Any signature not in compliance with the following requirements shall be disqualified from consideration:

- (i) Signatures may be obtained only from individuals who reside in the Designated Area and are at least twenty-one (21) years of age, or individuals who own or manage a business within the Designated Area, or in the case of a medical marijuana hearing, individuals who reside in the Designated Area and are at least eighteen (18) years of age and are registered as a medical marijuana patient with the State.
- (ii) Petitions must be signed in the presence of the petition circulator.
- (iii) Individuals signing the petition must respond to each and every question presented on the petition.

**2.1.7.6 Limitation on Signatures** - A person may sign no more than one petition regarding the same Application/license. If a person wants to change his or her position regarding the issuance of the license, that person must appear at the hearing and request that his or her name be stricken from one petition and added to the other.

**2.1.7.7 Pre-filed Petitions - Required**. Petitions must be pre-filed with the Department at least seven (7) days prior to the date of the hearing. Petition circulators must sign a notarized affidavit provided by the Department which states he/she has complied with circulation procedures.

**2.1.7.8 Petitions Collected Prior to Continuance** - If the hearing is continued, Circulators may continue gathering petitions subject to the requirements of this section 2.1.7.

**2.1.7.9 Inspection of Petitions** - Any Party in Interest seeking a copy of the petitions must do so in writing per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3. The Department shall make pre-filed petitions available to Parties in Interest upon such request.

**2.1.7.10 Challenges to Validity** – Any Applicant, Licensee, Party in Interest or City Attorney may challenge the validity of petition signatures and addresses that do not meet the requirements set out in this section 2.1.7. A hearing officer may allow such parties additional time after the hearing to file objections to petition signatures. The Department reserves the right to verify all signatures and to strike any signatures that do not meet these requirements.

## **2.1.8 Exhibits**

All documents, exhibits, electronically stored information, and tangible things that a party intends to introduce as evidence which are not included in the licensing file, excluding any verification or affirmation of notice posting or publication, shall be filed with the Department at least seven (7) days prior to the hearing. At the discretion of the Director or Hearing Officer, any documents filed after the deadline may be excluded from consideration.

## **Section 2.2 Special Pre-Hearing Procedures for Needs & Desires Hearings – Evening Hearings**

### **2.2.1 Applicability**

Evening hearings may be scheduled for any hearing at the discretion of the Director or Hearing Officer.

### **2.2.2 Requesting an Evening Hearing**

Requests for evening hearings may be made only by Applicants, Licensees, or Parties in Interest. Such requests must:

- (i) Be submitted at least fifteen (15) days prior to the scheduled hearing date or rescheduled hearing date;
- (ii) Be made in writing per the guidelines outlines in sections 1.6.1.2 and 1.6.1.3 using a form provided by the Department; and
- (iii) Contain at least fifteen (15) valid signatures of Parties in Interest, along with each individual's address and phone number.

### **2.2.3 Grant or Denial**

A request for an evening hearing may be granted or denied at the discretion of the Director.

### **2.2.4 Scheduling of Evening Hearing**

If the request is granted, the Department will re-schedule the evening hearing to a date as close as possible to the previously scheduled hearing date and will make best efforts to schedule the hearing for a date within thirty (30) days after the approval of the request. The hearing will be held at 6:00 p.m. at a location designated by the Director.

### **2.2.5 Scheduling Order**

If the request for an evening hearing is granted, the Department will issue a new Order providing the date and time of the hearing, as well as any additional requirements deemed appropriate by the Director.

### **2.2.6 Effect of Rescheduling Hearing**

The Applicant/Licensee shall amend the posting to reflect the rescheduled date and time of the hearing as provided in the Order. Posting notices shall remain in place for a minimum of ten (10) days once the notice has been amended, or for as long as is otherwise specified by the Order. All qualified petitions gathered prior to the rescheduling of the hearing may still be considered at the evening hearing.

## **Section 2.3 General Hearing Procedures for Needs & Desires Hearings**

### **2.3.1 Order of Presentation**

The Applicant/Licensee will first present evidence in support of the Application. Any opponents will then have an opportunity to introduce evidence against the Application. This order of presentation may be modified by the Hearing Officer at his or her discretion.

### **2.3.2 Failure to Appear and Withdrawal**

Failure to appear at a scheduled hearing may result in the Application being denied. If an Applicant/Licensee fails to appear at a scheduled hearing and there is no opposition to the license, the Director or Hearing Officer, in his or her discretion, may deem an application “withdrawn” rather than “denied.” Although an Applicant/Licensee may submit a written request to the Director to withdraw the Application at any time, a request to withdraw an application after a Needs and Desires hearing has been held must be approved by the Director, in his or her discretion.

## **ARTICE III – HEARINGS FOR NEW LIQUOR LICENSES**

### **Section 3.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires Hearings) shall apply to all hearings for new Liquor Licenses conducted by the Department. The following provisions of Article III apply in addition to those provisions outlined in Article I and Article II.

### **Section 3.2 Public Hearing Requirement**

Public hearings shall be required as follows:

| License types that <b>DO</b> require hearing: | License types that <b>DO NOT</b> require hearing: |
|---|---|
| Arts License                                  | Art Gallery Permit                                |
| Beer and Wine License                         | Bed and Breakfast License                         |
| Brew Pub License                              | Club License                                      |
| Distillery Pub License                        | Importer's License                                |
| Hotel and Restaurant License                  | Limited Winery License                            |
| Liquor-Licensed Drug Store License            | Malt Liquor Importer's License                    |
| Lodging and Entertainment License             | Manager's Permit                                  |
| Optional Premises License                     | Nonresident Manufacturer's License                |
| Racetrack License                             | Public Transportation System License              |
| Retail Gaming Tavern License                  | Wholesaler's Beer License                         |
| Retail Liquor Store License                   | Wholesaler's Liquor License                       |
| Tavern License                                | Wine Packaging Permit                             |
| Vintner's Restaurant License                  | Sales Room Permit                                 |
| Fermented Malt Beverage License               | Tasting Room Permit                               |

Special Event Liquor Licenses may require a public hearing, but the provisions governing such licenses are covered in Article VIII of this document and these provisions of Article III do not apply.

### **Section 3.3 Combined Hearings**

In the event that an Applicant for a new Liquor License simultaneously applies for a new Cabaret License, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion. The Applicant shall have the burden for establishing the qualifications for each license.

### **Section 3.4 Pre-Hearing Procedures**

#### **3.4.1 Posting Requirements**

The Applicant must post notice of the public hearing at the proposed location for a minimum of twenty (20) days or as otherwise provided in the Application Letter and/or Order.

## Section 3.5 Hearing Procedures

### 3.5.1 Presentation of Evidence and Testimony

**3.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor of the Application and three (3) may testify at length against the Application. This number does not include “en masse” (as a group) testimony.
  - c. The Hearing Officer may allow testimony at length from additional Neighborhood Witnesses if the Hearing Officer finds that the witness’s interests are not adequately represented by one of the three (3) Neighborhood Witnesses, and if the testimony will not be cumulative or repetitive.
  - d. Other Neighborhood Witnesses who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether the witnesses qualify as Parties in Interest and whether the witnesses support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer’s discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.
- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
  - b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (v) A principal or representative of any school
  - a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.

- b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (vi) Expert Witnesses.
- a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
  - b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and any reports created by the expert or document used to support the expert's opinions.

**3.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

### **3.5.2 Standards for Approval**

In deciding whether to issue a license the Department shall consider evidence and testimony presented on each of the following:

- (i) Needs and Desires - The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
- (ii) Effect on Competition - With respect to a second or additional license for the same Licensee, the Department shall consider the effect on competition of granting or disapproving of additional licenses to such Licensee. The Department will not approve an application for a second or additional license that would have the effect of restraining competition.
- (iii) Undue Concentration - With respect to a new tavern or retail liquor store license, the Department may consider whether the issuance of the license would result in or add to an undue concentration of the same class of license, and, as a result, require the use of additional law enforcement resources. The Department may consider evidence as provided in Regulation 47-301 of the Colorado Liquor Rules. 1 C.C.R. 203-2.
- (iv) Additional Considerations - Nothing in this section shall preclude the Department from finding that the Application should be denied for any other reason under state or local law, or rules and regulations adopted pursuant thereto.

## **ARTICLE IV - HEARINGS FOR LIQUOR LICENSE CHANGES OF LOCATION**

### **Section 4.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires Hearings) shall apply to all hearings for a Liquor License change of location conducted by the Department. The following provisions of Article IV apply in addition to those provisions outlined in Article I and Article II.

### **Section 4.2 Public Hearing Requirement**

Public hearings shall be required as follows:

| License types that <b>DO</b> require hearing: | License types that <b>DO NOT</b> require hearing: |
|---|---|
| Arts License                                  | Art Gallery Permit                                |
| Beer and Wine License                         | Bed and Breakfast License                         |
| Brew Pub License                              | Club License                                      |
| Distillery Pub License                        | Importer's License                                |
| Hotel and Restaurant License                  | Limited Winery License                            |
| Liquor-Licensed Drug Store License            | Malt Liquor Importer's License                    |
| Lodging and Entertainment License             | Manager's Permit                                  |
| Optional Premises License                     | Nonresident Manufacturer's License                |
| Racetrack License                             | Public Transportation System License              |
| Retail Gaming Tavern License                  | Wholesaler's Beer License                         |
| Retail Liquor Store License                   | Wholesaler's Liquor License                       |
| Tavern License                                | Wine Packaging Permit                             |
| Vintner's Restaurant License                  | Sales Room Permit                                 |
| Fermented Malt Beverage License               | Tasting Room Permit                               |

### **Section 4.3 Combined Hearings**

In the event that an Applicant for a Liquor License change of location simultaneously applies for a Cabaret License change of location, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion. The Applicant shall have the burden for establishing the qualifications for each license.

### **Section 4.4 Pre-Hearing Procedures**

#### **4.4.1 Posting Requirements**

The Applicant must post notice of the public hearing at the proposed location for a minimum of twenty (20) days or as otherwise provided in the Application Letter and/or Order.

### **Section 4.5 Hearing Procedures**

#### **4.5.1 Presentation of Evidence and Testimony**

**4.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor or in opposition of the Application. This number does not include “en masse” (as a group) testimony.
  - c. Other Parties in Interest who attend the hearing may testify en masse (as a group) either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether they qualify as a Party in Interest and whether they support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer’s discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.
- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
  - b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (v) A principal or representative of any school
  - a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.
  - b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (vi) Expert Witnesses.
  - a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
  - b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert’s name, the expert’s field of expertise, curriculum vitae, and any reports created by the expert or document used to support the expert’s opinions.

**4.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

#### **4.5.2 Standards for Approval**

In deciding whether to issue a license the Department shall consider evidence and testimony presented on each of the following:

- (i) Needs and Desires - The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
- (ii) Additional Considerations - Nothing in this section shall preclude the Department from finding that the Application should be denied for any other reason under state or local law, or rules and regulations adopted pursuant thereto.

# **ARTICLE V - HEARINGS FOR LIQUOR LICENSE RENEWALS**

## **Section 5.1 Applicability**

The provisions contained in Article I (General Provisions) shall apply to all hearings for Liquor License renewals conducted by the Department. However, Article II (Procedures Applicable Only to Needs & Desires Hearings) only apply to hearings for Liquor License renewals upon proper notice to the Applicant. The following provisions of Article V apply in addition to those provisions outlined in Article I.

## **Section 5.2 Public Hearing Requirement**

Public hearings for Liquor renewals are not automatic. The Director may hold a hearing upon an Application for renewal of any Liquor License at the Director's discretion or upon relevant and substantial Complaints. Complaints must be submitted in writing per the guidelines outlined in section 1.6.1.3.

## **Section 5.3 Combined Hearings**

In the event that a hearing is scheduled for a Liquor License renewal where a Cabaret License also exists, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion.

## **Section 5.4 Pre-Hearing Procedures**

### **5.4.1 Setting of the Hearing**

**5.4.1.1 Scheduling** - The Director will issue an Order if a hearing is required and will notify the Licensee of the hearing at least ten (10) days before the hearing.

### **5.4.2 Posting Requirements**

**5.4.2.1 Notice of Posting – Required** - The Licensee must post notice of the public hearing at the proposed location for ten (10) days or as otherwise provided in the Order.

## **Section 5.5 Hearing Procedures**

### **5.5.1 Introduction of Evidence at Hearings**

**5.5.1.1 Permissible Evidence** - Presentation of evidence at the hearing will be limited to allegations concerning good cause for non-renewal.

**5.5.1.2 Order of Presentation** – The Department will first present evidence in support of the Order for Renewal Hearing. The Licensee will then have an opportunity to introduce evidence against the allegations contained in the Order for Renewal Hearing. This order of presentation may be modified by the Hearing Officer at his or her discretion.

## **5.5.2 Presentation of Evidence and Testimony**

**5.5.2.1 Qualified to Testify** - Parties who may present evidence at a renewal hearing include:

- (i) The Licensee;
- (ii) The Department;
- (iii) Neighborhood Witnesses;
- (iv) City Council Member;
- (v) Authorized RNO Representatives;
- (vi) A principal or representative of any school

## **5.5.3 Qualified to Cross-Examine**

The City Attorney, the Licensee, and any Party in Interest as defined in Article I may cross-examine witnesses.

## **5.5.4 Standards for Renewal**

The Director may refuse to renew any license for good cause, subject to judicial review. For purposes of denying a renewal, good cause means:

- (i) 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 thereto;
- (ii) 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 a context of potential disciplinary proceedings;
- (iii) Evidence that the licensed premises has 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. For purposes of this paragraph (iii), “disorderly conduct” has the meaning as provided for in section C.R.S. §18-9-106; or
- (iv) The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the provisions of the Code or any rules and regulations adopted pursuant thereto.

## **5.5.5 Failure to appear**

Failure to appear at a scheduled hearing may result in the hearing proceeding on the scheduled date. Testimony and evidence may be taken regarding the allegations, and the license may be denied a renewal without further notice.

# **ARTICLE VI - HEARINGS FOR LIQUOR LICENSE TRANSFERS OF OWNERSHIP**

## **Section 6.1 Applicability**

The provisions contained in Article I (General Provisions) shall apply to all hearings for a transfer of ownership of Liquor Licenses conducted by the Department. The following provisions of Article VI apply in addition to those provisions outlined in Article I.

## **Section 6.2 Public Hearing Requirement**

Public hearings for Liquor License transfers of ownership are not automatic. A public hearing may be scheduled at the Director's discretion to determine whether the transferee meets all qualifications for licensure pursuant to C.R.S. §44-3-307 and the accompanying rules and regulations.

## **Section 6.3 Combined Hearings**

In the event that an Applicant for a transfer of ownership of a Liquor License simultaneously applies to transfer ownership of a Cabaret License, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion. The Applicant shall have the burden for establishing the qualifications for each license

## **Section 6.4 Pre-Hearing Procedures**

### **6.4.1 Setting of the Hearing**

**6.4.1.1 Scheduling** - The Director will issue an Order if a hearing is required and will notify the Applicant of the hearing at least ten (10) days before the hearing.

### **6.4.2 Posting Requirements**

**6.4.2.1 Notice of Posting – Required** - The Applicant must post notice of the public hearing at the proposed location for at least ten (10) consecutive days or as otherwise provided in the Order.

## **Section 6.5 Hearing Procedures**

### **6.5.1 Order of Presentation**

The Applicant or Transferee will first present evidence in support of the Application. The Department will then have an opportunity to introduce evidence. This order of presentation may be modified by the Hearing Officer at his or her discretion

### **6.5.2 Standards for Approval**

In deciding whether to grant a transfer of ownership of a Liquor License, the Department shall consider whether or not the Applicant meets all qualifications for licensure pursuant to C.R.S. §44-3-307 and the accompanying rules and regulations.

### **6.5.3 Failure to Appear**

Failure to appear at a scheduled hearing may result in the Application being denied. The Director or Hearing Officer, in his or her discretion, may deem an Application “withdrawn” rather than “denied.”

# **ARTICLE VII - HEARINGS FOR CHANGE, ALTERATION, OR MODIFICATION OF LIQUOR LICENSED PREMISES OR USAGE**

## **Section 7.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires Hearings) shall apply to all hearings for a Liquor License change, alteration, or modification of the licensed premises or usage conducted by the Department. The following provisions of Article VII apply in addition to those provisions outlined in Article I and Article II.

## **Section 7.2 Public Hearing Requirement**

### **7.2.1 Prior Approval Required**

A Licensee must seek and obtain approval from the Department and the State Liquor Enforcement Division prior to any material or substantial modification of a licensed premises. No licensed premises shall be expanded, enlarged, or modified without the written approval of the Director.

### **7.2.2 Material or Substantial Modification - Determination**

The Director will determine whether a modification is material or substantial. In addition to modifications that have been identified by the State Liquor Enforcement Division, Regulation 47-302, the following types of modifications are considered “material and substantial”:

- (i) The addition or deletion of a patio or outdoor area;
- (ii) An increase in bar area that lengthens or adds bar space;
- (iii) Any additional levels added to Liquor Licensed establishment;
- (iv) Material change in the flow or control of liquor;
- (v) Non-de minimis increase in seating capacity.

### **7.2.3 Material or Substantial Modification – Hearing Required**

Public hearings shall be required of the following license types if the Director determines the proposed modification is material and substantial:

| License types that <b>DO</b> require hearing: | License types that <b>DO NOT</b> require hearing: |
|---|---|
| Arts License                                  | Art Gallery Permit                                |
| Beer and Wine License                         | Bed and Breakfast License                         |
| Brew Pub License                              | Club License                                      |
| Distillery Pub License                        | Importer’s License                                |
| Hotel and Restaurant License                  | Limited Winery License                            |
| Liquor-Licensed Drug Store License            | Malt Liquor Importer’s License                    |
| Lodging and Entertainment License             | Manager’s Permit                                  |
| Optional Premises License                     | Nonresident Manufacturer's License                |
| Racetrack License                             | Public Transportation System License              |
| Retail Gaming Tavern License                  | Wholesaler’s Beer License                         |
| Retail Liquor Store License                   | Wholesaler’s Liquor License                       |
| Tavern License                                | Wine Packaging Permit                             |
| Vintner’s Restaurant License                  | Sales Room Permit                                 |
| Fermented Malt Beverage License               | Tasting Room Permit                               |

### **Section 7.3 Combined Hearings**

In the event that an Applicant for a change, alteration, or modification of a Liquor Licensed premises or usage simultaneously applies for a change, alteration, or modification of a Cabaret Licensed premises or usage, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion. The Applicant shall have the burden for establishing the qualifications for each license.

### **Section 7.4 Pre-Hearing Procedures**

#### **7.4.1 Posting Requirements**

Applicant must post notice of the public hearing at the proposed location for a minimum of twenty (20) days or as otherwise provided in the Order.

### **Section 7.5 Hearing Procedures**

#### **7.5.1 Presentation of Evidence and Testimony**

**7.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor of the Application and three (3) may testify at length against the Application. This number does not include "en masse" (as a group) testimony.
  - c. The Hearing Officer may allow testimony at length from additional Neighborhood Witnesses if the Hearing Officer finds that the witness's interests are not adequately represented by one of the three (3) Neighborhood Witnesses, and if the testimony will not be cumulative or repetitive.
  - d. Other Neighborhood Witnesses who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether the witnesses qualify as Parties in Interest and whether the witnesses support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer's discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.
- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.

- b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (v) A principal or representative of any school
  - a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.
  - b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (vi) Expert Witnesses.
  - a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
  - b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and any reports created by the expert or document used to support the expert's opinions.

**7.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

## **7.5.2 Standards for Approval**

In deciding whether to grant approval for the modification, the Department shall consider evidence and testimony presented on each of the following:

- (i) The reasonable requirements of the neighborhood and the desires of the adult inhabitants.
- (ii) The possession, by the Licensee, of the changed premises by ownership, lease, rental or other arrangement.
- (iii) Compliance with the applicable zoning laws of the City.
- (iv) Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.
- (v) The legislative declaration that the Colorado Liquor and Beer Codes are an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.
- (vi) Additional Considerations - Nothing in this section shall preclude the Department from finding that the Application should be denied for any other reason under state or local law, or rules and regulations adopted pursuant thereto.

# **ARTICLE VIII – HEARINGS FOR SPECIAL EVENT LIQUOR LICENSES**

## **Section 8.1 Applicability**

The provisions contained in Article I (General Provisions) shall apply to all hearings for Special Event Liquor Licenses conducted by the Department. The following provisions of Article VIII apply in addition to those provisions outlined in Article I.

## **Section 8.2 Public Hearing Requirement**

### **8.2.1 Application Timeframe Requirements**

Applications for special event licenses 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 Application 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).

### **8.2.2 Posting Required**

Regardless of whether or not the Director schedules a public hearing for the Application, the Applicant must post notice of the Special Event Application on the proposed licensed premises for ten (10) days or as otherwise specified by the Department. The posting period is the time during which any written objections to or requests for a public hearing on the Application will be received.

### **8.2.3 Discretionary Public Hearing Requirement**

Public hearings for Special Event Liquor Licenses are not automatic. A Special Event Liquor Hearing may be scheduled if the Department receives relevant protest or written objections filed within ten (10) days after the date of notice explaining why the Applicant will not satisfy the Standards for Approval outlined in section 8.3.2. Written objections must be submitted per the guidelines outlined in section 1.6.1.3. A hearing may then be granted or denied at the discretion of the Director.

### **8.2.4 Setting of Public Hearing**

If the Director sets a public hearing, it shall be held at least ten (10) days after the initial posting of the notice, and notice thereof shall be provided to the Applicant and any person who has filed a protest.

## **Section 8.3 Hearing Procedures**

### **8.3.1 Presentation of Evidence and Testimony**

**8.3.1.1 Qualified to Testify** – Any witness may testify and present relevant and admissible evidence for or against the Application.

### **8.3.2 Standards for Approval**

In deciding whether to deny a license, the Department shall consider evidence and testimony presented on each of the following:

- (i) Proper Notice Posting. The Department will consider evidence that public notice of the proposed license and the procedure for protesting issuance of the license was not conspicuously posted at the proposed location for at least ten (10) days before the scheduled hearing.
- (ii) Effect on Public Welfare. The Department shall consider evidence that the issuance of the Special Event License would be injurious to the public welfare because of the nature of the special event, its location within the community, or the failure of the Applicant in a past special event to conduct the event in compliance with applicable laws.

## **ARTICLE IX – HEARINGS FOR NEW CABARET LICENSES**

### **Section 9.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires Hearings) shall apply to all hearings for new Cabaret Licenses conducted by the Department. The following provisions of Article IX apply in addition to those provisions outlined in Article I and Article II.

### **Section 9.2 Public Hearing Requirement**

Public hearings are required for all Applications for new Cabaret Licenses.

### **Section 9.3 Combined Hearings**

In the event that an Applicant for a new Cabaret License simultaneously applies for a new Liquor License, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion. The Applicant shall have the burden for establishing the qualifications for each license.

### **Section 9.4 Pre-Hearing Procedures**

#### **9.4.1 Posting Requirements**

The Applicant must post notice of the public hearing on the proposed licensed premises for a minimum of thirty (30) days or as otherwise provided in the Order.

### **Section 9.5 Hearing Procedures**

#### **9.5.1 Presentation of Evidence and Testimony**

**9.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor or in opposition of the Application. This number does not include "en masse" (as a group) testimony.
  - c. Other Parties in Interest who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether they qualify as a Party in Interest and whether they support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer's discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.

- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
  - b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (v) A principal or representative of any school;
  - a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.
  - b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (vi) Expert Witnesses; and
  - a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
  - b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and any reports created by the expert or document used to support the expert's opinions.
- (vii) The Commander of the Police District.
  - a. The Commander of the Police District in which the premises are located, or his or her representative, shall be entitled to testify to the effect of the issuance of the license would have on the health or welfare or morals of the designated neighborhood.
  - b. If the Commander resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

**9.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

### **9.5.2 Standards for Approval**

In deciding whether to issue a license the Department shall consider evidence and testimony presented on each of the following:

- (i) Needs and Desires - The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
- (ii) Health, Welfare and Morals – The Department will consider the effect the issuance of the license would have on the health or welfare or morals of the Designated Area.

## **ARTICLE X - HEARINGS FOR CABARET CHANGES OF LOCATION**

### **Section 10.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires Hearings) shall apply to all hearings for Cabaret License changes of location conducted by the Department. The following provisions of Article X apply in addition to those provisions outlined in Article I and Article II.

### **Section 10.2 Public Hearing Requirement**

Public hearings are required for all Applications for Cabaret License changes of location.

### **Section 10.3 Combined Hearings**

In the event that an Applicant for a Cabaret License change of location simultaneously applies for a Liquor License change of location, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director's discretion. The Applicant shall have the burden for establishing the qualifications for each license.

### **Section 10.4 Pre-Hearing Procedures**

#### **10.4.1 Posting Requirements**

The Applicant must post notice of the public hearing at the proposed location for a minimum of thirty (30) days or as otherwise provided in the Order.

### **Section 10.5 Hearing Procedures**

#### **10.5.1 Presentation of Evidence and Testimony**

**10.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor or in opposition of the Application. This number does not include "en masse" (as a group) testimony.
  - c. Other Parties in Interest who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether they qualify as a Party in Interest and whether they support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer's discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.

- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
  - b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (v) A principal or representative of any school
  - a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.
  - b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (vi) Expert Witnesses.
  - a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
  - b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and the subject matter of expert's opinion.
- (vii) The Commander of the Police District.
  - a. The Commander of the Police District in which the premises are located, or his or her representative, shall be entitled to testify to the effect of the issuance of the license would have on the health or welfare or morals of the designated neighborhood.
  - b. If the Commander resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

**10.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

### **10.5.2 Standards for Approval**

In deciding whether to issue a license the Department shall consider evidence and testimony presented on each of the following:

- (i) Needs and Desires - The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
- (ii) Health, Welfare and Morals – The Department will consider the effect the issuance of the license would have on the health or welfare or morals of the Designated Area.

# **ARTICLE XI – HEARINGS FOR CABARET LICENSE RENEWALS**

## **Section 11.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires hearings) shall apply to all hearings for Cabaret License renewals conducted by the Department. The following provisions of Article XI apply in addition to those provisions outlined in Article I and Article II.

## **Section 11.2 Public Hearing Requirement**

Public hearings for Cabaret License renewals are not automatic. The Director may hold a hearing upon an Application for renewal of any Cabaret License at the Director’s discretion or upon relevant and substantial Complaints. Complaints must be submitted in writing per the guidelines outlined in section 1.6.1.3.

## **Section 11.3 Combined Hearings**

In the event that an Applicant for a Cabaret License renewal simultaneously applies for a Liquor License renewal, the hearings for the Cabaret License and Liquor License may be combined into one hearing at the Director’s discretion. The Applicant shall have the burden for establishing the qualifications for each license.

## **Section 11.4 Pre-Hearing Procedures**

### **11.4.1 Posting Requirements**

The Applicant must post notice of the public hearing at the proposed location for a minimum of thirty (30) days or as otherwise provided in the Order.

## **Section 11.5 Hearing Procedures**

### **11.5.1 Presentation of Evidence and Testimony**

**11.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor or in opposition of the Application. This number does not include “en masse” (as a group) testimony.
  - c. Other Parties in Interest who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether they qualify as a Party in Interest and whether they support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their

qualifications to testify. At the Hearing Officer's discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.

(iii) City Council Member;

- a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
- b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.

(iv) Authorized RNO Representatives;

- a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
- b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

(v) A principal or representative of any school

- a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.
- b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

(vi) Expert Witnesses.

- a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
- b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and the subject matter of expert's opinion.

(vii) The Commander of the Police District.

- a. The Commander of the Police District in which the premises are located, or his or her representative, shall be entitled to testify to the effect of the issuance of the license would have on the health or welfare or morals of the designated neighborhood.
- b. If the Commander resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

**11.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

### **11.5.2 Standards for Approval**

In deciding whether to issue a license the Department shall consider evidence and testimony presented on each of the following:

- (i) Needs and Desires - The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
- (ii) Health, Welfare and Morals – The Department will consider the effect the issuance of the license would have on the health or welfare or morals of the Designated Area.

## **ARTICLE XII – HEARINGS FOR CHANGE OF OWNERSHIP OF A CABARET**

### **Section 12.1 Applicability**

Any change of ownership, except as set forth in section 6-52(c) of the Code, shall require a new Application and License, with payment of fees therefor, and approval of the Director. Public hearings for Cabaret License changes of ownership are not automatic. The Director may hold a hearing upon an Application for any Cabaret License change of ownership at the Director's discretion. If a public hearing is held for a Cabaret License change of ownership, Article I (General Provisions), Article II (Procedures Applicable Only to Needs & Desires Hearings), and Article IX (Hearings for New Cabaret Licenses) shall apply.

**ARTICLE XIII – HEARINGS FOR CHANGE, ALTERATION, MODIFICATION OF A CABARET LICENSED PREMISES OR USAGE**

**Section 13.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable to Needs & Desires Hearings) shall apply to all hearings for the Change, Alteration, or Modification of a Cabaret Licensed Premises or Usage conducted by the Department. The following provisions of Article XIII apply in addition to those provisions outlined in Article I and Article II.

**Section 13.2 Public Hearing Requirement**

**13.2.1 Prior Approval Required**

A Licensee must seek and obtain approval from the Department prior to any material or substantial modification of a licensed premise. No licensed premises shall be expanded, enlarged or modified without the written approval of the Director.

**13.2.2 Material or Substantial Modification - Determination**

The Director will determine whether a modification is material or substantial. In addition to modifications that have been identified by the State Liquor Enforcement Division, Regulation 47-302, the following types of modifications are considered “material and substantial”:

- (i) The addition or deletion of a patio or outdoor area;
- (ii) An increase in bar area that lengthens or adds bar space;
- (iii) Any additional levels added to licensed premises;
- (iv) Material change in the flow or control of liquor;
- (v) Non-de minimis increase in seating capacity.

**13.2.3 Material or Substantial Modification – Hearing Required**

If the Director determines the proposed modification is material and substantial, a hearing will be held on the Application.

**Section 13.3 Combined Hearings**

In the event that an Applicant for a change, alteration, or modification of a Cabaret License premises or usage simultaneously applies for a change, alteration, or modification of a Liquor Licensed premises or usage, the hearing for the Cabaret and Liquor License may be combined into one hearing at the Director’s discretion. The Applicant shall have the burden for establishing the qualifications for each license.

**Section 13.4 Pre-Hearing Procedures**

**13.4.1 Posting Requirements**

The Applicant must post notice of the public hearing at the proposed location for a minimum of thirty (30) days or as otherwise provided in the Order.

## Section 13.5 Hearing Procedures

### 13.5.1 Presentation of Evidence and Testimony

**13.5.1.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor or in opposition of the Application. This number does not include “en masse” (as a group) testimony.
  - c. Other Parties in Interest who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether they qualify as a Party in Interest and whether they support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer’s discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.
- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
  - b. Testimony given by members of City Council will have no evidentiary value. However, if a member of City Council resides within the Designated Area, he or she may testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.
- (v) A principal or representative of any school
  - a. The principal or representative of a school located within five hundred (500) feet of the premises shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the qualifications of the school. A principal or representative may cross-examine any witness.
  - b. If a principal or representative of any school resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

- (vi) Expert Witnesses.
  - a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
  - b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and the subject matter of expert's opinion.
- (vii) The Commander of the Police District.
  - a. The Commander of the Police District in which the premises are located, or his or her representative, shall be entitled to testify to the effect of the issuance of the license would have on the health or welfare or morals of the designated neighborhood.
  - b. If the Commander resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

**13.5.1.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

### **13.5.2 Standards for Approval**

In deciding whether to issue a license the Department shall consider evidence and testimony presented on each of the following:

- (i) Needs and Desires - The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
- (ii) Health, Welfare and Morals – The Department will consider the effect the issuance of the license would have on the health or welfare or morals of the Designated Area.
- (iii) Additional Considerations - Nothing in this section shall preclude the Department from finding that the Application should be denied for any other reason under state or local law, or rules and regulations adopted pursuant thereto.

## **ARTICLE XIV - HEARINGS FOR NEW MARIJUANA STORE AND CENTER LICENSES**

### **Section 14.1 Applicability**

The provisions contained in Article I (General Provisions) and Article II (Procedures Applicable Only to Needs & Desires Hearings) shall apply to all hearings for new Marijuana Store and Center Licenses conducted by the Department. The following provisions of Article XIV apply in addition to those provisions outlined in Article I and Article II.

### **Section 14.2 Pre-Hearing Procedures**

#### **14.2.1 Setting of Hearing**

All complete Applications for New Marijuana Store or Center Licenses shall be scheduled for a public hearing not less than (30) days from the date of the Application, with notice to be provided to all RNOs within the Designated Area.

#### **14.2.2 Notice of Posting and Publication**

The Applicant must post notice of the public hearing at the proposed location for a minimum of twenty (20) days or as otherwise provided in the Order.

### **Section 14.3 Hearing Procedures**

#### **14.3.1 Burden of Proof**

The Applicant shall have the burden of proving by a preponderance of the evidence the need and desire for the Marijuana Store and/or Center License in the Designated Neighborhood.

#### **14.3.2 Standards for Issuance**

In deciding whether to issue a Marijuana Store or Center License the Department shall consider evidence and testimony presented on each of the following:

- (i) **Good Cause**. Under the Denver Medical and Retail Marijuana Codes, the Director has the authority to refuse to issue any medical marijuana center or retail marijuana store license for good cause, subject to judicial review. “Good cause” means:
  - a. The Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Colorado Medical or Retail Marijuana Code or any rule and regulations promulgated pursuant thereto, or the Denver Medical or Retail Marijuana Code or any rules and regulations promulgated pursuant thereto.
  - b. With respect to a second or additional medical or retail marijuana business license proposed by the same Applicant, the Director shall consider the effect on competition of the granting or disapproving of additional licenses to such Licensee, and no Application for a second or additional license that would have the effect of restraining competition shall be approved.
  - c. For Applications to license any medical or retail marijuana business in the same location where any medical or retail marijuana business is or has previously been

- licensed, evidence that the licensed premises have been previously operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located.
- d. Evidence that the issuance of the license will adversely impact the health, welfare or public safety of the neighborhood in which the medical or retail marijuana business is proposed to be located.
- (ii) Needs and Desires. The Department will consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that the Department has placed or may place upon the license.
  - (iii) Additional Considerations:
    - a. The number and availability of other medical marijuana centers or retail marijuana stores in or near the Designated Area.
    - b. Whether the issuance of such license would result in or add to an undue concentration of medical marijuana centers or retail marijuana stores and, as a result, require the use of additional law enforcement resources.

### **14.3.3 Presentation of Evidence and Testimony**

**14.3.3.1 Qualified to Testify** - Testimony and evidence for or against the Application may be considered from the following witnesses:

- (i) The Applicant;
- (ii) Neighborhood Witnesses;
  - a. The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue.
  - b. A maximum of three (3) Neighborhood Witnesses may testify at length in favor or in opposition of the Application. This number does not include “en masse” (as a group) testimony.
  - c. Other Parties in Interest who attend the hearing may testify en masse either for or against the issuance of the license. En masse testimony shall be limited to a determination of whether they qualify as a Party in Interest and whether they support or oppose the issuance of the license. En masse witnesses may not be cross-examined, except as to their qualifications to testify. At the Hearing Officer’s discretion, the Hearing Officer may take en masse testimony at any time during of the hearing.
- (iii) City Council Member;
  - a. Any member of City Council, whose area of representation includes any part of the Designated Area, shall be allowed to testify in his or her official capacity regarding his or her position on the Application and/or to convey the position of his/her constituents.
- (iv) Authorized RNO Representatives;
  - a. Any RNO may submit testimony regarding its position on the Application and/or to convey the position of its members. Only one representative of each RNO may testify regarding the position taken by the organization on the Application.
  - b. If an RNO representative resides within the Designated Area, he or she may also testify en masse or at length as one of the three (3) witnesses allotted to either side.

(v) Expert Witnesses.

- a. A witness intending to give expert opinion testimony must first be qualified by the Hearing Officer as an expert at the hearing.
- b. At least five (5) days prior to the hearing, parties shall file a list of any witnesses they intend to call as an expert witness. The list should include the expert's name, the expert's field of expertise, curriculum vitae, and any reports created by the expert or document used to support the expert's opinions.

**14.3.3.2 Qualified to Cross-Examine** – The City Attorney, the Applicant, and any Party in Interest as defined in Article I may cross-examine witnesses.

**ARTICLE XV - HEARINGS FOR CHANGES OF LOCATION OF  
MEDICAL MARIJUANA CENTER OR RETAIL MARIJUANA STORE**

**Section 15.1 Applicability**

The hearing procedures for the change of location of a Marijuana Center or Store are the same as those for a New Marijuana Center or Store License. The provisions in Article I (General Provisions), Article II (Procedures Applicable Only to Needs & Desires Hearings), and in Article XIV (New Marijuana Center or Store License) shall apply to all hearings for a Marijuana Center or Store License change of location conducted by the Department.

# **ARTICLE XVI - HEARINGS FOR RENEWAL OF MARIJUANA LICENSES**

## **Section 16.1 Applicability – All Marijuana Licenses**

In addition to the provisions contained in Article I (General Provisions) the following provisions of Article XVI shall apply to all renewal hearings for Marijuana Licenses.

## **Section 16.2 Public Hearing Requirement – All Marijuana Licenses**

Public hearings for Marijuana renewals are not automatic. The Director may hold a hearing upon an Application for renewal of any Marijuana License at the Director’s discretion or upon relevant and substantial Complaints. Complaints must be submitted in writing per the guidelines outlined in section 1.6.1.3.

## **Section 16.3 Pre-Hearing Procedures – All Marijuana Licenses**

### **16.3.1 Setting of the Hearing**

The Director will issue an Order if a hearing is required and will notify the Applicant/Licensee of the hearing at least ten (10) days before the hearing. The Director may set a hearing for renewal of any marijuana license type if there is reasonable cause to believe that the renewal may be denied.

### **16.3.2 Notice of Posting – Required**

The Applicant/Licensee must post notice of the public hearing at the proposed location for a minimum of ten (10) days or as otherwise provided in the Order.

## **Section 16.4 Hearing Procedures – All Marijuana Licenses**

### **16.4.1 Introduction of Evidence at Hearings**

**16.4.1.1 Permissible Evidence** - Presentation of evidence at the hearing will be limited to allegations concerning standards for non-renewal.

**16.4.1.2 Order of Presentation** – Parties will first present evidence in support of the Order for Renewal Hearing. The Licensee will then have an opportunity to introduce evidence against the allegations contained in the Order. This order of presentation may be modified by the Hearing Officer at his or her discretion.

### **16.4.2 Presentation of Evidence and Testimony**

**16.4.2.1 Qualified to Testify** - Parties who may present evidence at a renewal hearing include:

- (i) The Incumbent Licensee;
- (ii) The Department;
- (iii) Relevant City Council Member;
- (iv) Neighborhood Witnesses; or

(v) Authorized RNO Representatives.

#### **16.4.2.2 Qualified to Cross-Examine**

The City Attorney, the Applicant/Licensee, and any Party in Interest as defined in Article I may cross-examine witnesses.

#### **16.4.3 Standard for Denial of Renewal**

The Director may deny the renewal of a license upon a showing by preponderance of the evidence that:

- (i) the Licensee or any of the agents, servants or employees of the license, have violated any ordinance of the City or any state law on the premises or have permitted such a violation on the premises by any other person; or
- (ii) there are grounds for suspension, revocation, or other licensing sanctions as provided in the Denver Retail Marijuana Code or the Denver Medical Marijuana Code; or
- (iii) the Licensee is not in full compliance with applicable state or city law or regulation, or
- (iv) there have been any significant changes in the Licensee, the principals, the licensed premises or the adjacent grounds.

#### **16.4.4 Failure to Appear**

Failure to appear at a scheduled hearing may result in the hearing proceeding on the scheduled date. Testimony and evidence may be taken regarding the allegations, and the license may be denied a renewal without further notice.

### **Section 16.5 Special Rules for Renewal of Marijuana Cultivation Licenses**

#### **16.5.1 Applicability**

In addition to the provisions contained in Article I (General Provisions) and this Article XVI the following provisions shall apply to renewal hearings for any medical or retail marijuana cultivation license that is located in a zone district where plant husbandry is not a permitted use, but is already occurring as a compliant or nonconforming use under the zoning code.

#### **16.5.2 Form of Request**

The hearing request must be submitted in the form of a petition prepared by the Department and must contain at least ten (10) valid signatures from Parties in Interest gathered within ninety (90) days of the renewal date.

#### **16.5.3 Standards for Renewal**

In addition to the standard identified in section 16.4.3 above, a marijuana cultivation license shall be ineligible for renewal in its current location if it is shown by a preponderance of the evidence that:

- (i) The existence of the marijuana cultivation facility has frustrated the implementation of the city's comprehensive plan and any adopted neighborhood plan applicable to the subject property;

- (ii) The existence of the marijuana cultivation facility has negatively affected nearby properties or the neighborhood in general, including by way of example any adverse effects caused by excessive noise, odors, vehicular traffic, or any negative effects on nearby property values;
- (iii) The existence of the marijuana cultivation facility has caused crime rates to increase in the surrounding neighborhood;
- (iv) The continued existence of a licensed marijuana cultivation will have a deleterious impact on public health, safety and the general welfare of the neighborhood or the city; or
- (v) The Applicant or any person from whom the Applicant acquired a marijuana business failed to meet one of the requirements for licensure.

**Section 16.6 Posting and Notice**

The hearing shall not be conducted until the Director has posted or caused to be posted a notice of hearing on the licensed premises for a period of ten (10) days, and provided notice to each of the following at least ten (10) days prior to the hearing:

- (i) the Licensee,
- (ii) the city council representative for the district in which the licensed premises is located,  
and
- (iii) any RNOs entitled to receive notice as provided in the Code.

## **ARTICLE XVII - HEARINGS FOR NEW CANNABIS CONSUMPTION ESTABLISHMENT LICENSES**

### **Section 17.1 Applicability**

The provisions contained in Article I (General Provisions), Article II (Procedures Applicable Only to Needs & Desires Hearings), and Article XIV (Hearings for New Marijuana Store and Center Licenses) apply to hearings for Cannabis Consumption Establishment Licenses. The following provisions of Article XVII apply in addition to those provisions outlined in Article I, II, and XIV.

### **Section 17.2 Standards for Issuance**

In deciding whether to issue a Cannabis Consumption Establishment License, the Department shall consider evidence and testimony presented on each of the following:

- (i) Whether the Eligible Neighborhood Organization was created for the primary purpose of supporting a Cannabis Consumption Establishment License; or
- (ii) Whether the Applicant fails to establish valid and reliable Evidence of Community Support;  
or
- (iii) Whether the Applicant fails to submit a complete Application; or
- (iv) Whether the Applicant fails to establish, by a preponderance of the evidence, any of the qualifications for the License at a public hearing; or
- (v) Whether the Applicant submits an Application that does not comply with all state and local laws, and any rules and regulations adopted pursuant thereto; or
- (vi) Whether the premises for which Application has been made is not approved for the purpose by the Denver Department of Public Health and Environment, Public Works, Community Planning and Development, or the Denver Fire Department; or
- (vii) Whether the information and evidence available to and considered by the Director fails to reasonably establish that the proposed procedures for security and admission control will prevent the distribution of marijuana to underage persons; or
- (viii) Whether the information and evidence available to and considered by the Director reasonably establishes that the character or reputation of the Applicant, principal of the Applicant, or any manager, or the past record of operation of the establishment or business is such so as not to warrant the confidence of the Director that the Designated Cannabis Consumption Area will be lawfully operated; or
- (ix) Whether the Applicant, principal of the Applicant, or any manager has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding the Application date, subject to the provisions of C.R.S. section 24-5-101, as amended, except that the Director may grant a license if the sentence was for a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the conviction had occurred on the date of Application.

## **ARTICLE XVIII - HEARINGS FOR RENEWAL OF CANNABIS CONSUMPTION ESTABLISHMENT LICENSE**

### **Section 18.1 Applicability**

In addition to the provisions contained in Article I (General Provisions), the following provisions of Article XVIII shall apply to all renewal hearings for Cannabis Consumption Establishment License.

### **Section 18.2 Discretionary Renewal Hearing**

The Director may set a renewal hearing upon receipt of an Application for renewal of any Cannabis Consumption Establishment License if there is reasonable cause to believe that:

- (i) The Licensee or any of the agents, servants or employees of the license, have violated any ordinance of the city or any state law on the premises or have permitted such a violation on the premises by any other person, or
- (ii) There are grounds for suspension, revocation, or other licensing sanctions,
- (iii) The Licensee is not in full compliance with applicable state or city law or regulation
- (iv) There have been any significant changes in the Licensee, the principals, the licensed premises or the adjacent grounds.

## **ARTICLE XIX - HEARINGS FOR SPECIAL EVENT CANNABIS CONSUMPTION LICENSE**

### **Section 19.1 Applicability**

The provisions contained in Article I (General Provisions), Article II (Procedures Applicable Only to Needs & Desires Hearings), and Article XIV (Hearings for New Marijuana Store and Center Licenses) apply to hearings for Special Event Cannabis Consumption Licenses. The following provisions of Article XIX apply in addition to those provisions outlined in Article I, II, and XIV.

### **Section 19.2 Pre-Hearing Procedures**

#### **19.2.1 Posting Notice of Special Event**

The Applicant must post notice of the event ninety (90) days before the event for a minimum period of thirty (30) consecutive days.

#### **19.2.2 Setting of Hearing**

A Special Event Cannabis Consumption License hearing may be scheduled if the Department receives written requests by Parties in Interest. Such request must be submitted at least thirty (30) days prior to the proposed date of the event in the form of a petition prepared by the Department and must contain at least ten (10) valid signatures gathered within ninety (90) days of the event date.

#### **19.2.3 Posting Notice of Hearing**

If a public hearing is requested, the Applicant must post notice of the public hearing at the proposed location for the ten (10) days or as otherwise provided in the Order.

### **Section 19.3 Standards for Issuance**

In deciding whether to issue a Special Event Cannabis Consumption License, the Department shall consider:

- (i) Whether the Eligible Neighborhood Organization was created for the primary purpose of supporting a Cannabis Consumption Special Event License; or
- (ii) Whether the Applicant fails to establish valid and reliable Evidence of Community Support; or
- (iii) Whether the Applicant fails to submit a complete Application; or
- (iv) Whether the Applicant fails to establish, by a preponderance of the evidence, any of the qualifications for the License at a public hearing; or
- (v) Whether the Applicant submits an Application that does not comply with all state and local laws, and any rules and regulations adopted pursuant thereto; or
- (vi) Whether the premises for which Application has been made is not approved for the purpose by the Denver Department of Public Health and Environment, Public Works, Community Planning and Development, or the Denver Fire Department; or
- (vii) Whether the information and evidence available to and considered by the Director fails to reasonably establish that the proposed procedures for security and admission control will prevent the distribution of marijuana to underage persons; or

- (viii) Whether the information and evidence available to and considered by the Director reasonably establishes that the character or reputation of the Applicant, principal of the Applicant, or any manager, or the past record of operation of the establishment or business is such so as not to warrant the confidence of the Director that the Designated Cannabis Consumption Area will be lawfully operated; or
- (ix) Whether the Applicant, principal of the Applicant, or any manager has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding the Application date, subject to the provisions of C.R.S. section 24-5-101, as amended, except that the Director may grant a license if the sentence was for a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the conviction had occurred on the date of Application.

# **ARTICLE XX – APPLICATION DENIAL HEARINGS FOR ALL LICENSES**

## **Section 20.1 Applicability**

In addition to the provisions contained in Articles I (General Provisions), the provisions of this Article XX apply to any Applicant/Licensee whose Application has been denied.

## **Section 20.2 General Procedures**

### **20.2.1 Petition for Appeal**

Any Applicant or Licensee whose Application has been denied without a public hearing may appeal the decision of the Director by submitting an appeal request on forms provided by Department within ten (10) days following the date of such decision.

### **20.2.2 Scheduling the Hearing**

The Department will issue an Order setting the appeal hearing.

### **20.2.3 Burden of Proof**

The Applicant or Licensee shall have the burden of proving by a preponderance of the evidence that the Application should not be denied. All claims must be reasonably based in fact; mere speculation or supposition is insufficient.

### **20.2.4 Failure to Appear and Withdrawal**

Failure to appear at a scheduled denial hearing shall result in the appeal request being withdrawn and the Denial Order being treated as a Final Decision. An Applicant may submit a written request to the Director to withdraw the Application at any time; however, the Director retains the discretion to deny a withdrawal after a hearing on the denial has been held.

# **ARTICLE XXI - DISCIPLINARY PROCEEDINGS, ALL LICENSES**

## **Section 21.1 Applicability**

In addition to the provisions contained in Article I (General Provisions), the provisions of this Article XXI apply to any disciplinary proceeding before the Department.

## **Section 21.2 General Procedures**

### **21.2.1 Proceedings to Investigate Violations**

Upon his or her own motion or upon Complaint, the Director may, in the Director's discretion, initiate disciplinary proceedings for revocation or suspension of a license through a show cause hearing.

### **21.2.2 Notice**

The Department shall provide the Licensee with a copy of the Order to Show Cause. 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.

### **21.2.3 Burden of Proof**

At the hearing, the Department shall bear the burden of proving by a preponderance of the evidence that the Licensee is properly subject to disciplinary action. The assigned Assistant City Attorney is a party to these matters and the hearings are contested.

### **21.2.4 Oaths and Subpoenas**

The Department 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.

### **21.2.5 Standard for Hearing**

The Hearing Officer or Director will determine whether a violation has occurred and may consider the statutory and regulatory penalty ranges as well as aggravating and mitigating circumstances in making a Recommended Decision or Final Decision, respectively.

### **21.2.6 Stipulation in Lieu of Public Hearing**

Licensees subject to disciplinary proceedings may contact an Assistant City Attorney to discuss allegations in the Complaint and to resolve the show cause matter without a hearing, subject to the following conditions:

- (i) Twenty-Four Hour Notice. The Director will not accept a proposed stipulation within twenty-four (24) hours of a scheduled hearing.
- (ii) Director Approval – Required. The Director has sole discretion to accept or reject a proposed stipulation.

- (iii) Approval Order. 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. Such Order shall constitute a final agency action subject to review in Denver District Court.
- (iv) Rejection Order. If a proposed stipulation is rejected, the Director will issue an Order so indicating and will reschedule the hearing on the matter. The Director's rejection of a proposed stipulation does not preclude the Director from considering and accepting any subsequent stipulation.

### **21.2.7 Conditions in Addition or Alternative to Penalties**

In addition to or in the alternative to any suspension, revocation, or administrative fine imposed for any violation, the Director may impose new or additional terms, requirements, conditions, or limitations on any license.

### **21.2.8 Surrender of License**

The Director, in his or her discretion, may accept or reject the voluntary surrender of any license. Once an Order to Show Cause has been issued by the Department and a hearing has been held, the Applicant's request to surrender the license shall not affect the Director's ability to discipline the Licensee in a Final Decision.