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El Paso County, CO



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RESOLUTION NO. 23-73 **Amended**

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION TO APPROVE AMENDED EL PASO COUNTY BEER AND LIQUOR  
POLICY**

WHEREAS, pursuant to C.R.S., §§ 30-11-101(1)(d) and 30-11-107(1)(e), the board of County Commissioners of El Paso County, Colorado (hereinafter "Board") has the legislative authority to make all contracts and manage the business and concerns of the County; and

WHEREAS, pursuant to the Colorado Beer Code C.R.S § 44-4-101 *et seq.*, the Colorado Liquor Code, C.R.S. § 44-3-101 *et seq.* and specifically, C.R.S. §§ 44-103(4) and 44-3-107(27), the Board acts as the Local Licensing Authority for beer and liquor licenses and permits; and

WHEREAS, the BOCC desires to amend the El Paso County Beer and Liquor Policy with the most recent amendment at Resolution No. 22-169; and

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby adopts and approves the amended El Paso County Beer and Liquor Policy, attached hereto and incorporated herein as Exhibit A and the license and permit fee schedule which can be accessed through the El Paso County Clerk to the Board website, <https://clerkandrecorder.elpasoco.com/clerk-to-the-board/>, under Liquor License Applications, and that the Clerk and staff are permitted to make ministerial corrections, such as correcting typos or formatting, if necessary.

BE IT FURTHER RESOLVED that the Board continues to waive the County's annual renewal and license fees for the El Paso County Fairgrounds Corporation.

BE IT FURTHER RESOLVED that this Resolution hereby repeals and replaces all previous resolutions concerning the liquor policy and application and license fees for beer and liquor license and permits.

BE IT FURTHER RESOLVED that Cami Bremer, Chair of the Board of County Commissioners, or Carrie Geitner, Vice Chair of the Board of County Commissioners, on behalf of the Board, are hereby authorized to execute any and all documents necessary to carry out the intent of the Board as described herein.

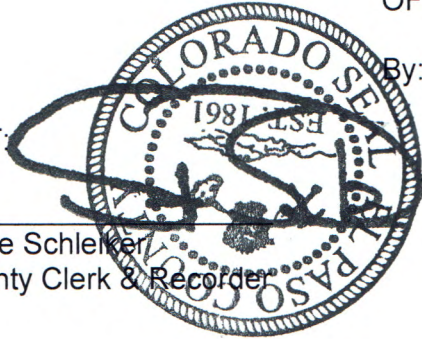
DONE THIS 21st day of March, 2023, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By: Cami Bremer  
Chair

ATTEST:

By: Steve Schleker  
County Clerk & Recorder



**RESOLUTION NO. 23-73**  
**EL PASO COUNTY BEER AND LIQUOR POLICY**

The Board of County Commissioners of the County of El Paso, State of Colorado ("Board"), in its capacity as the Local Licensing Authority pursuant to C.R.S. 44-3-103(27), hereby promulgates the following Policy to effectuate the enforcement of the Colorado Beer Code, Colorado Liquor Code, and Colorado Special Event Code (C.R.S. 44-4-101 *et seq.*, 44-3-101 *et seq.*, and 44-5-101 *et seq.*), and any regulations promulgated thereunder ("Liquor Code"), in the unincorporated portions of El Paso County. The term "liquor" used herein is inclusive of fermented malt beverages, malt, vinous, and spirituous liquor, unless otherwise noted.

The intent of this Policy is to establish consistent procedures for liquor licensing and to ensure the consistent application and enforcement of the liquor laws by the Clerk and Recorder's Office ("County Clerk"), the County Attorney's Office, and the Sheriff's Office ("Sheriff"). The Policy is broad in nature so that the County retains the flexibility to react to violations of the Liquor Code based upon the seriousness of the violation and with due consideration of the factual situation which is presented in a given case.

**I. Liquor License Application Procedures**

- A. The County Clerk shall determine that all applications and fees have been filed and are complete and adequate before scheduling any hearing or consent item before the Board.
  - 1. Any request for an initial Bed and Breakfast permit to be used in conjunction with a Bed and Breakfast establishment shall be first processed by El Paso County Planning and Community Development Department ("PCD") for compliance with any required Land Development Code criteria.
  - 2. If the County Clerk determines that there are exigent circumstances, the County Clerk may place the item on the Board's agenda with a request that approval be contingent upon receipt of a favorable background investigation from the Sheriff.
  - 3. Tastings Permits associated with retail liquor stores, liquor licensed drug stores, and fermented malt beverage and wine retailers shall be processed by the County Clerk and considered in accordance with this Policy.
- B. All fingerprinting required by state law shall be taken and submitted to the County Clerk through an approved State Vendor. The approved Vendors are as follows:



**IdentoGO:** <https://uenroll.identogo.com/>

Phone: (844)539-5539

**Colorado Fingerprinting:**

<http://www.coloradofingerprinting.com/cabs/>

Phone: 720-292-2722 Toll Free: 833-224-2227

Details about the vendors and fingerprinting in Colorado can be found on CBI's website here:

<https://cbi.colorado.gov/sections/biometric-identification-and-records-unit>

- C. Pursuant to C.R.S. 44-3-103(27), the Board hereby designates the County Clerk as the Local Licensing Authority for purposes of administratively approving and processing liquor license renewals, tastings permits, special event permits, bed and breakfast permit renewal applications, art gallery permit renewal applications, applications for change of corporate structure, LLC members, and partnerships, change of manager applications, changes of corporate name and trade name applications, and temporary modification of premises applications to the State Department of Revenue, Liquor Enforcement Division, when the following criteria have been met:
1. A completed application has been timely filed with the County Clerk.
  2. No complaints have been filed with the County Clerk by any member of the public.
  3. The Sheriff's background investigation reveals no relevant criminal history.
  4. There have been no violations of the Liquor Code or this Policy, enforced at either the state or local level, during the current license period.
  5. A renewal hearing has not been requested by the Sheriff, County Attorney, County Clerk, or a member of the public.
- D. For an initial license application, the County Clerk shall schedule an item on the Board's agenda to set the hearing date and establish the neighborhood survey boundaries. The local licensing authority shall schedule a public hearing upon the application not less than thirty (30) days from the date of the application pursuant to C.R.S. 44-3-

311(1) (this provision does not apply to art gallery permit or bed and breakfast permit applications).

- E. The County Clerk shall coordinate with Planning and Community Development ("PCD"), the Assessor's Office, and Digital, Strategy & Technology Department - GIS Services on all initial licenses which require a neighborhood survey according to the MOU for the El Paso County Liquor License Survey Process, attached hereto as Appendix A. GIS Services shall prepare a proposed neighborhood survey boundary as described in Section III.
- F. PCD shall determine Zoning and Subdivision Compliance in conjunction with preparation of the neighborhood survey based on the following criteria:
  - 1. Land use compliance for the subject premises for which an application for a liquor license has been made shall be determined by PCD in conjunction with the preparation of proposed survey boundaries herein.
  - 2. The applicant, as part of the liquor license application to the Clerk, shall provide the schedule number, legal description, and current owner of the subject property.
  - 3. The County Clerk shall forward requests with the property information as well as a description of the specific class of proposed liquor license establishment.
  - 4. GIS shall create a vicinity map for the parcel with supporting descriptions and distances.
  - 5. Unless there are unique circumstances indicated in the readily available records of PCD, platted lots shall be assumed legally created.
  - 6. While subdivision compliance must be proven for un-platted parcels, PCD records that include sufficient information (i.e., interpretation) shall be accepted to demonstrate conformity.
  - 7. Any reasonable compliance concerns relating to zoning, including setbacks and structures shall be determined by PCD. (Note: septic and building permit violations will not be checked.)
  - 8. PCD shall make one of the following recommendations to the County Clerk:



- a. Zoning and Subdivision conformity reasonably documented;
  - b. More information is required in the form of an administrative determination (with the fee to be paid by the applicant); or
  - c. Zoning and/or subdivision standards cannot be met without further administrative or hearing-based processes.
- 9. If the recommendation contained in 8.b. or 8.c. above has been made:
  - a. PCD shall work directly with the applicant and notify the Clerk.
  - b. The Clerk shall afford the applicant the opportunity to withdraw the liquor license application before proceeding with the neighborhood survey.
  - c. The applicant may appeal the decision of PCD to the Board.
- G. The Clerk will provide addresses to GIS to determine the distance to the nearest similar and same class licenses in all appropriate cases, and whether the proposed location is within 500 feet of any prohibited location under subsection (J) of this section (but in no event shall distance be a requirement for hotel and restaurant, fermented malt beverage and wine, or fermented malt beverage licenses, except as stated in subsection (J) of this section).
- H. The applicant shall retain an independent person or firm to circulate petitions necessary to establish the reasonable requirements of the neighborhood and desires of the adult inhabitants as further described in the survey packet prepared by the County Clerk.
- I. For initial and change of location applications, the Board may waive the neighborhood survey upon the request of the applicant if a license was previously in effect on the subject premises, upon an adequate showing by the applicant that a survey completed was favorable and that the neighborhood has not significantly changed since the survey was completed.
- J. No application shall be accepted for the sale at retail of malt, vinous, or spirituous liquors in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located:

1. If the building in which the alcohol beverages are to be sold pursuant to a license described in this section is located within five hundred (500) feet of any public or parochial school or the principal campus of any college, university, or seminary.
    - a. The distances referred to in this subsection are to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.
  2. Within one thousand five hundred (1500) feet of another licensed premises licensed to sell malt, vinous, or spirituous liquors at retail for off-premises consumption C.R.S. 44-3-409; or
  3. For a new fermented malt beverage and wine retailer license authorizing the sale at retail of fermented malt beverages and wine in sealed containers for consumption off the licensed premises if the premises for which the retail license is sought is located within five hundred (500) feet of a retail liquor store licensed under C.R.S. 44-3-301.
- K. For purposes of determining whether the distance requirements specified in subsection (J) (2) and (3) are satisfied, the distance shall be determined by a radius measurement that begins at the principal doorway of the premises for which the application is made and ends at the principal doorway of the other retail licenses premises.
- L. If an application is withdrawn by the applicant or denied by the Board, the application fee shall not be refundable. The County Clerk shall refund any County license fees. State license fees shall be refunded only if the Board denies the application, or if the application is not forwarded to the State.
- M. The County Clerk shall schedule applications for consideration by the Board as follows:
1. The following applications shall be scheduled as regular items, upon proper notice:
    - a. A public hearing on initial license and change of location applications;
    - b. A public hearing on transfers where an unfavorable background check is received from the Sheriff;



- c. Renewal applications that do not meet the criteria set forth in paragraph C.2. through C.5. above, and
  - d. Renewal applications expired for more than ninety (90) days, but less than one hundred eighty (180) days (also see Section VII); and
  - e. Renewal applications when warning letters from the County Attorney's Office have been issued prior to the renewal period; and
  - f. Other applications listed in paragraph I(C) above that do not meet the criteria set forth in paragraph C.2. through C.5. above.
2. All renewal applications filed less than forty-five (45) days prior to the expiration date and; all applications referenced in Section II(A), except those listed in Section I(C) above that are administratively approved by the County Clerk, shall be scheduled as consent items on the Board's agenda if the applicant has received a favorable background investigation, if the application does not require a public hearing under this Policy, and if the Sheriff, County Attorney, County Clerk, or any member of the public has not requested that the item be scheduled as a regular agenda item. The Board may, in its discretion, remove any item from the consent agenda and set a hearing date thereon to enable proper notice.

## **II. Investigation of Applicants and Violations of Liquor Code**

- A. The Sheriff shall investigate each application for a new license, transfer of a license, change of license location, license renewal, Special Event permit, Bed and Breakfast permit, Art Gallery permit, and for changes in corporate structure, partnerships, and membership in a limited liability corporation for all individuals with more than 10% ownership, made pursuant to the Liquor Code to verify that such person or entity is of good moral character and that such person or entity meets the requirements for issuance or transfer of a license under the Liquor Code. No investigation shall be required for temporary permits, changes of licensee name or establishment name, modification of licensed premises, and changes or additions to optional premises. The investigation shall be conducted in compliance with the applicable Liquor Code provisions. The Sheriff shall present to the County Clerk written results of the background investigation based upon the application calendar coordinated by the County Clerk.
- B. The Sheriff shall investigate violations of the Liquor Code in accordance with standard police procedures and shall issue



summonses and complaints for violations for which there are criminal penalties. The Fourth Judicial District Attorney is charged with prosecuting all criminal violations of the Liquor Code.

- C. Based upon an appropriate criminal complaint, or where a violation of the Liquor Code is committed, for which there is no criminal penalty, the Sheriff, County Attorney or County Clerk shall, in their discretion, request a suspension or revocation hearing and, where appropriate, a hearing on license renewal.
- D. The Sheriff may conduct periodic compliance audits, in his discretion, of all licensed premises within the unincorporated areas of El Paso County. Licensees who fail the compliance audit shall be referred for criminal or civil action pursuant to Sections II(B) and II(C). Licensees who have passed the compliance audit shall be notified by the Sheriff of their successful audit in writing, and the Sheriff shall keep a record of each successful audit for future reference.

### **III. Methodology for Liquor License Surveys**

#### **A. Introduction**

- 1. C.R.S. 44-3-312(2)(a) states that the reasonable requirements of the neighborhood shall be considered in making any decision on a liquor license.
- 2. Pursuant to Resolution No. 89-112 (adopted in 1989), the Board of County Commissioners (the "Board") requires liquor license applicants to retain independent persons or firms to circulate petitions necessary to establish the reasonable requirements of the neighborhood and desires of the inhabitants.

#### **B. Preparation of Proposed Survey Boundary Map**

- 1. GIS is relied upon to establish the proposed boundaries for such surveys in general accordance with the MOU for the El Paso County Liquor License Survey Process, attached hereto as Appendix A, and the parameters described below. GIS shall have the discretion to use reasonable flexibility in establishing exact boundaries.
- 2. Proposed survey boundary maps shall be prepared on the County's GIS (Geographic Information System) and shall utilize the latest Assessor's data and other pertinent information available on that system. PCD may take more

recent information into consideration but is not bound to do so.

3. Use of Physical Features:

a. Unless there are obvious and identified unique or extenuating circumstances, proposed liquor survey boundaries shall always be described using physical features which are easily identified in the field. It is preferred that roadways be used wherever practical. Other physical features, however, such as major drainage ways, lakes, streams, and mountainous terrain, may also be utilized.

b. Jurisdictional Boundaries:

(1) The survey area established shall not exclude properties on the basis of being within a city, town, adjoining county, military installation, or other governmental or quasi-governmental boundaries.

4. Process and Parameters:

a. Establishment of Initial Survey Radius:

(1) For generally urban density areas, the radius from the center of the subject property shall be 1/2 (one-half) mile in each direction. Generally urban areas are defined as having a predominance of lots or parcels smaller than 2.5 (two and one-half) acres in area.

(2) For generally rural or rural residential density areas, the radius from the center of the subject property shall be 1 (one) mile in each direction. Generally rural or rural residential areas are defined as having a predominance of lots or parcels 2.5 (two and one-half) acres or larger in area.

(3) The initial survey area should then be determined by drawing a boundary, using physical features, which encompasses the entire radius, irrespective of the distance this boundary extends beyond the radius.



- b. Exclusion of Properties from Initial Survey Area:
  - (1) GIS may exclude certain properties from within the initial survey area. It should be shown that either, the majority of the property is situated outside of the initial survey radius, the property is oriented away from the subject property, or its inclusion in the boundary, through the use of physical features, would cause the need to include large amounts of other property outside of the desired influence area.
- c. Inclusion of Properties into the Initial Survey Radius:
  - (1) GIS should add properties to the initial survey area if these properties are located in close proximity of the established radius and GIS believes such properties should be reasonably added to the area of influence. Added properties would normally include residential, religious, park, school, or related uses.
- d. The proposed survey boundary map shall include:
  - (1) A label identifying the name of the applicant, trade name, address of proposed premises, property zoning, the approximate number of households within the proposed boundary, and the name and address of the nearest school and its distance to the proposed premises.
  - (2) The proposed survey boundary, and location of the proposed premises, households and vacant parcels platted and un-platted areas, street names and each school within the proposed boundary.
- e. The following shall accompany the survey boundary map:
  - (1) The survey boundary description; and
  - (2) A mailing list of all vacant landowners within the proposed survey area.

C. **Survey Petition Packet**

1. Upon establishment of the neighborhood survey and the hearing date by the Board, the County Clerk shall complete and provide a petition packet to the applicant or representative which includes:
  - a. The petition cover sheet describing the applicant's name, trade name, proposed license type, address of proposed premises, hearing information and survey boundaries;
  - b. The survey map;
  - c. Petition signature pages to be completed by qualifying residents within the survey boundaries;
  - d. A list of all vacant landowners and mailing addresses to be surveyed by a mail survey;
  - e. Vacant landowner survey;
  - f. Affidavit to be completed by each petition circulator; and
  - g. Instructions regarding submittal deadlines and survey recapitulations including the mail survey of vacant landowners.
2. Unless specifically requested by the applicant/representative, a survey completion timeframe encompassing two weekends shall be provided to all applicants.

D. **Petition Circulator Requirements**

1. There are no restrictions on the number of petition circulators participating in a neighborhood survey.
2. Completion and submittal of a Circulator's Affidavit with the completed survey affirming:
  - a. The petition circulator has no financial interest or equity in the establishment (C.R.S. 44-3-308(2));
  - b. The petition circulator has completed a door-to-door canvass of the residences and businesses contained within the established boundary as depicted on the survey map. If more than one petition circulator is utilized, a copy of the survey map describing the specific area surveyed shall be provided; and
  - c. The petition circulator has witnessed the signing of the petition by all individuals whose names appear on the petition.



**E. Survey Procedures and Eligibility Requirements**

1. There are no restrictions on completion of the survey within the timeframe allotted (weekdays, weekends and morning, daytime, and evening hours).
2. The neighborhood survey shall be conducted by attempting to survey all households immediately surrounding the subject site then outward toward the survey boundary in all directions until a minimum total of 50-80% of the total households have been surveyed.
3. The remaining 20-50% of households within the established boundary may be surveyed by either a door-to-door sampling of households or an attempt shall be made to contact each household.
4. The petition circulator shall offer each signatory the opportunity to read, or have read to him, the petition in its entirety.
5. Signatories must:
  - a. Be at least 21 years of age and list their age on the petition.
  - b. Sign their formal name and date the petition in front of the petition circulator;
  - c. Sign for him/herself (e.g., a wife may not sign for her husband);
  - d. Print their name, house or apartment number, and street address (must be legible); and
  - e. Reside within the defined neighborhood.
6. The petition circulator must make it clear to each signatory that by signing the petition, the signatory is indicating they have read the instructions and are qualified to sign.
7. The petition circulator must make it clear to the signatory that the signatory is either declaring that the needs and desires of the neighborhood either are or are not being met, or that the signatory has "No Opinion":

Place an "X" in the "NO" column of the petition if signatory feels the needs and desires are being met by existing similar

outlets and signatory desires that a license should not be granted;

-OR-

Place an "X" in the "YES" column of the petition if signatory feels the needs and desires are not being met by existing similar outlets and signatory desires that a license should be granted;

-OR-

Place an "X" in the "No Opinion" column of the petition if signatory has no opinion concerning the needs and desires of the neighborhood or whether a license should or should not be granted.

8. A school representative shall be surveyed for each school contained within the survey boundary.
9. Signatures may be obtained from the owner or manager of a business located within the defined boundary.
10. The petition circulator must provide the County Clerk's contact information to anyone who believes that they have been unduly influenced by the petitioner or have questions or comments concerning the proposed application or survey method.
11. Patrons of an existing unlicensed establishment applying for a liquor license may sign a separate petition prepared in the same format as the neighborhood survey.

**F. Vacant Landowner Mail Survey Requirements**

1. The County Clerk shall provide a Mail Survey for each listed owner and each school within the survey boundary to the applicant/petition circulator.
2. The petition circulator must utilize the Survey form provided by the County Clerk.
3. The petition circulator shall include prepaid, pre-addressed return envelopes with the Mail Survey.



4. The petition circulator must mail the Survey no later than two days from receipt of the survey packet. Failure to mail the Survey within two days shall result in the continuance of the hearing.
5. All Mail Surveys must be returned to the petition circulator. (Multiple owners may return the Mail Survey to the petition circulator in one envelope.)
6. Completion and submittal of a Vacant Landowner Mail Survey Affidavit with the completed Survey affirming:
  - a. The mail survey circulator has no financial interest or equity in the establishment (C.R.S. 44-3-308(2) ).
  - b. The mail survey was conducted in compliance with Mail Survey Requirements F.2. through F.5.

**G. Survey Submittal Requirements**

1. The following shall be submitted to the County Clerk no later than one week prior to the week of the scheduled public hearing before the Board:
  - a. Affidavit of Posting the subject premises;
  - b. Survey map;
  - c. Completed Petition forms;
  - d. Completed Circulator's Affidavit for each petition circulator;
  - e. Completed Vacant Landowner Mail Survey;
  - f. Affidavit of Completed Vacant Landowner Mail Survey;
  - g. Recapitulation of signatures collected and mail survey responses including residents, vacant landowners and business owners/managers and school representatives in favor, opposed, or those who do not have an opinion, and those who are unavailable, disqualified, including duplications, ineligible and those who decline to participate; and
  - h. Any additional survey information the applicant or representative wishes to present for Board consideration.
2. The petition circulator shall present and recap any Mail Survey results received after the survey deadline up until Board consideration of the application at the public hearing.

3. The applicant's hearing before the Board shall be rescheduled if the survey submittal is late or incomplete.

#### **IV. Legal Advisor**

- A. The County Attorney shall designate one or more Assistant County Attorneys to act as a legal advisor to the Sheriff and the County Clerk for purposes of this Policy. The County Attorney shall advise the Board for purposes of this Policy. The County Attorney and Assistant County Attorney designated to act under this Policy shall not discuss any matters which may come before the Board for consideration under this Policy, except for the purposes of scheduling and/or determining if a matter may qualify for an abbreviated hearing under this policy.
  1. If a matter appears before the Board for a suspension or revocation hearing on a liquor license bed and breakfast permit, or art gallery permit, or for denial of an initial application, bed and breakfast permit, art gallery permit, change of location, renewal, or license transfer, the designated Assistant County Attorney shall act as prosecutor in the matter, pursuant to this policy, on behalf of the Sheriff.

#### **V. Hearings on Applications for Initial License, Transfer, and Renewal**

##### **A. Matters Applicable to All Hearings.**

##### **1. Prerequisites to Hearing.**

- a. Prior to any hearing, the County Clerk shall prepare a public notice of hearing and affidavit of posting, and the applicant shall post said notice in a conspicuous place on the premises for which the application has been made as further described in the instructions provided by the County Clerk not less than ten (10) days prior to the hearing. The completed affidavit of posting shall be provided by the applicant to the County Clerk by the indicated deadline to avoid continuance. Failure by the applicant to comply with the prerequisites shall be grounds for denial, suspension or revocation of the subject liquor license or permit.
- b. The County Clerk shall publish notice of any scheduled public hearing required by statute in a newspaper of general circulation in El Paso County at least ten (10) days before the hearing, in the form prescribed by C.R.S. 44-3-311(2), (3), and (4).



- c. At least five (5) days before the public hearing for an initial license/permit, the County Clerk shall provide notice of the hearing and the written findings of the investigation conducted by the County to the applicant and other interested parties and their counsel (C.R.S. 44-3-312(1)).
2. **Criminal History.** In the event the Board considers information concerning the applicant's criminal history record, the Board shall, pursuant to C.R.S. 24-5-101, also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his/her application for a license.
3. **Board's Consideration of Evidence.** The decision of the Board must be based solely upon competent evidence presented at the public hearing, and a proper weighing thereof.
4. **Notification of Board's Decision.** Any decision of the Board denying an application and the reasons therefore shall be set forth in writing within thirty (30) days after the date of the public hearing. Board decisions on initial licenses, renewal hearings, bed & breakfast permits, and art gallery permits shall be by resolution. The County Clerk shall send a certified copy of the decision by certified mail (44-3-312(3)) to the applicant or licensee at the mailing address shown in the application and via email at the applicant's request. For the purposes of compliance with Liquor Regulation 47-310(A), the County Clerk shall provide a copy of the Board's approval resolution with the application for an initial license to the State Liquor Enforcement Division.

**B. Initial License Application Hearings.**

1. **Purpose of Hearing.** The Board must determine whether the applicant has complied with the requirements of the Liquor Code and must determine the "desires of the inhabitants" and the "needs of the neighborhood" as required by the Liquor Code.

2. **Abbreviated Hearing Process.** At the discretion of the Board, an abbreviated hearing process may be utilized if the following criteria are met:

- a. Applicant has fulfilled all state and local requirements;
- b. The neighborhood survey, if required, supports the needs and desires of the local community for the requested license;
- c. No opposition has been voiced against the issuance of the requested license;
- d. No party in interest is present at the Board hearing to formally oppose the issuance of the requested license.
- e. The Sheriff's investigation revealed no criminal history relevant to the issuance of a liquor license.

If all of the foregoing is adequately established, the Board may, upon passage of a motion, dispense with a formal hearing process, and allow comments or testimony of the applicant, including the recapitulation of the neighborhood survey and the needs and desires of the local community for the requested license. Based thereon, the Board may take formal action approving the liquor license/permit application.

3. **Formal Hearing Process.**

- a. The Chair or Chair's designee shall swear in all parties interested in testifying with the following oath:
  - (1) "Do you solemnly swear or affirm that the testimony that you are about to give before this Board shall be the truth, the whole truth, and nothing but the truth?"
- b. Only parties in interest may present evidence and cross-examine. A "party in interest" means any of the following: the applicant; an adult resident of the neighborhood under consideration; the owner or manager of a business located in the neighborhood under consideration; or the principal or representative of any school located within five hundred feet of the premises for which the license is under consideration. A representative of an organized neighborhood group that encompasses part of the entire neighborhood under consideration may present evidence. Such representative shall reside within the neighborhood group's geographic boundaries and shall be a member



of the neighborhood group. Such representative shall not be entitled to cross-examine witnesses. The Board may also accept petitions signed by patrons of the proposed establishment.

- c. All parties in interest presenting evidence shall sign in at the podium and state their name and residence or business address for the record prior to their presentation. The Board reserves the right to limit repetitive and cumulative evidence and cross-examination.
- d. The Sheriff or other County staff shall have the opportunity to present a summary of the results (including any exhibits tendered for admission into the record) of the County's investigation of both the applicant and the location of the proposed licensed premises, including violation of any building and land use requirements.
- e. Applicants shall then have the opportunity to present testimony and/or evidence in support of the license application. Initially, the applicant has the burden of making a *prima facie* case showing that:

- (1) The reasonable requirements of the neighborhood establish a need for the issuance of the particular license. The primary factor is whether the needs of the neighborhood with respect to the type of beverage proposed to be sold are being met by existing licenses. If there are a number of licensed outlets in the area, then the applicant must show their inadequacy, if any, to serve the needs of the neighborhood. Signatures by residents of the affected neighborhood on petitions for or against the application represent some evidence of the requirements of the neighborhood, although the number of persons signing is not determinative of the issue. Other types of evidence to show the needs of the neighborhood might include neighborhood population, traffic counts on nearby streets, and number of similar outlets in the neighborhood.
- (2) The desires of the inhabitants dictate issuance of the license. A majority of the people in a locality is not required to favor issuance of the license, and the fact that more signatures on a petition favor issuance of the license than

oppose it is not dispositive. The number of persons signing for or against a license is not wholly determinative of the desires of the inhabitants. Finally, testimony or arguments against the issuance of a license that are rooted solely in a basic abhorrence to fermented malt/alcoholic beverages and opposition to granting any beer or liquor license are irrelevant and shall not be considered by the Board.

- f. The Board and parties in interest may then ask questions of the applicant.
- g. Parties in interest supporting the application may then present testimony and/or evidence.
- h. The Board, applicant, and other parties in interest may then ask questions of the supporting parties.
- i. Parties in interest who oppose the application may then present testimony and/or evidence.
- j. The Board, applicant, and other parties in interest may then ask questions of the opposing parties.
- k. The Applicant then has the opportunity to present rebuttal evidence.
- l. The taking of testimony and evidence will then be concluded. The Board, by and through the Chair or Chair's designee, may rule on matters concerning the admission of exhibits into the record, taking into consideration any noted objections. The strict application of the Colorado Rules of Evidence shall not apply.
- m. The public hearing shall then be closed.

#### **4. Decision of the Board.**

- a. Before entering any decision approving or denying the application, the Board must consider the following:
  - 1. The reasonable requirements of the neighborhood for the type of license for which application has been made, unless the application is for a club liquor license;
  - 2. The desires of the adult inhabitants, as evidenced by petitions, protests, or otherwise;
  - 3. The number, type, and availability of beer or liquor outlets located in or near the neighborhood under consideration;
  - 4. Whether the application meets or complies with all provisions of the Liquor Code;



5. Any other pertinent matters affecting the qualifications of the applicant for conducting the proposed business.
  6. For any applicant who currently holds a hotel and restaurant liquor license, what effect granting a new license would have on competition.
- b. Decisions of the Board to deny an application shall only be made for "good cause," as defined by C.R.S. 44-3-103(19).
  - c. An Art Gallery shall not be denied an Art Gallery Permit based solely on the Art Gallery's proximity to any public or private school or the principal campus of a college, university, or seminary C.R.S. 44-3-424(3).
5. **Appeal of Board's Decision.** Pursuant to C.R.S. 44-3-312(1), the decision of the Board is subject to judicial review.

**C. Transfer License Hearing.**

1. **Purpose of Hearing.** The Board must determine whether the applicant/proposed transferee is qualified to hold a liquor license pursuant to C.R.S. 44-3-307.
2. **Hearing Process.**
  - a. The Chair, Chair's designee, or the County Attorney, shall swear in all parties interested in testifying with the following oath:
    - (1) "Do you solemnly swear or affirm that the testimony that you are about to give before this Board shall be the truth, the whole truth, and nothing but the truth?"
  - b. All persons presenting evidence or testimony shall sign in at the podium and state their name for the record prior to their presentation. The Board reserves the right to limit repetitive and cumulative evidence and cross-examination.
  - c. The Sheriff or designated Assistant County Attorney may present evidence and/or testimony concerning the applicant's age or moral character, pursuant to C.R.S. 44-3-307(1)(a), including any exhibits tendered for admission into the record, based upon the Sheriff's investigation of the applicant.

- d. The Applicant may then present evidence and/or testimony in support of the transfer application. Applicant has the burden of making a *prima facie* showing that they are of proper age and moral character to hold such license.
  - e. The Board may then ask questions of the applicant.
  - f. The Sheriff or designated Assistant County Attorney may present rebuttal testimony.
  - g. Taking of testimony and evidence shall be concluded, and the Board shall take formal action concerning the admission of exhibits into the record, taking into consideration any noted objections.
  - h. The public hearing shall be closed.
3. **Decision of the Board.** Before entering any decision approving or denying the application, the Board must consider evidence from the record of the following matters:
- a. Whether the applicant meets or complies with all provisions of the Liquor Code;
  - b. Whether applicant is of good moral character;
  - c. Whether applicant's character, record, and reputation are satisfactory to the Board; and
  - d. Whether applicant is at least twenty-one (21) years of age.

Consideration of the above factors shall be made as provided for in C.R.S. 44-3-307 and C.R.S. 24-5-101.

4. **Revocation of Temporary Permit.** If the Board denies a transfer of license, any temporary permit issued for the subject premises is automatically revoked as of the date of the denial by the Board.

**D. Renewal License Hearing.**

- 1. **Purpose of Hearing.** The Board must determine whether good cause exists to refuse to renew any liquor license, as defined by C.R.S. 44-3-103(19)(a), (b), and (d).
- 2. **Hearing Procedures.**
  - a. The Chair, Chair's designee, or the County Attorney, shall swear in all parties interested in testifying with the following oath:



- (1) "Do you solemnly swear or affirm that the testimony that you are about to give before this Board shall be the truth, the whole truth, and nothing but the truth?"
  - b. All persons presenting evidence or testimony shall sign in at the podium and state their name for the record prior to their presentation. The Board reserves the right to limit repetitive and cumulative evidence and cross-examination.
  - c. The Sheriff or designated Assistant County Attorney may present evidence and/or testimony indicating good cause for denial of a renewal of the subject license, including any exhibits tendered for admission into the record, based upon the Sheriff's investigation of the licensee.
  - d. Licensee may then present evidence and/or testimony in support of the renewal application. Licensee has the initial burden of making a *prima facie* showing that no good cause to refuse or deny the renewal of any license exists.
  - e. The Board may then ask questions of the licensee.
  - f. The Sheriff may present rebuttal testimony.
  - g. Taking of testimony and evidence shall be concluded, and the Board shall take formal action concerning the admission of exhibits into the record, taking into consideration any noted objections.
  - h. The public hearing shall be closed.
3. **Decision of the Board.** Before entering any decision approving or denying the license renewal, the Board must consider evidence from the record of the following matters:
  - a. Whether the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Liquor Code;
  - b. Whether the licensee has failed to comply with any special terms or conditions placed on its license in prior disciplinary proceedings or those which arose in the context of potential disciplinary proceedings; and
  - c. Whether the licensed premises have been operated in a manner adversely affecting the public health, welfare, or safety of the immediate neighborhood in which the establishment is located. Good cause is not shown under this subsection unless evidence is presented establishing a continuing pattern of fights, violent

activity, or disorderly conduct as defined in C.R.S. 18-9-106.

4. **Appeal of Board's Decision.** Pursuant to C.R.S. 44-3-302(1), the decision of the Board is subject to judicial review.
5. **Surrender of License.** Any license not renewed shall be surrendered to the Sheriff and then provided to the County Clerk.

## **VI. Release of Approved New License**

- A. No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture and equipment in place as is necessary to comply with the applicable provisions of article 3 and article 4 of title 44, Colorado Revised Statutes, as amended, and applicable Code of Colorado Regulations, as amended, and then only after inspection of the premises has been made to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.
  1. **Inspection Process:** Upon receipt of the approved State and County licenses the Clerk's office shall physically inspect each premise for all new, transfer, and change of location licenses. The Clerk's office will ensure the following:
    - a. Premises match the diagram provided at the time of initial application.
    - b. Certificate of occupancy is posted, or applicant has provided written confirmation from the Pikes Peak Regional Building Department that the certificate of occupancy is not required.
    - c. Health inspection has been completed, if required (posted sign).
    - e. Sales Tax documentation is posted.

## **VII. Late and Expired License Renewal Applications (C.R.S. 44-3-302)**

- A. Applications for renewal of an existing license shall be made to the local licensing authority not less than forty-five (45) days prior to the date of expiration. The local licensing authority, for good cause, may waive the forty-five (45) day requirement (C.R.S. 44-3-302(1)).



- B. A licensee whose license has been expired for not more than ninety (90) days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars (\$500) each to the State and local licensing authorities. (C.R.S. 44-3-302(2).
- C. Any licensee whose license has been expired for more than ninety (90) days, but less than one hundred eighty (180) days, must apply for a new license pursuant to C.R.S. 44-3-311, or for a reissued license.
- D. The Board has the sole discretion to determine whether to allow for a licensee subject to Section VII(C) to apply for a reissued license. If the Board does not allow the application for a reissued license, then the licensee must apply for a new license pursuant to C.R.S. 44-3-311. If the Board allows the application for a reissued license, then the licensee must submit the information required in C.R.S. 44-3-302(2)(d)(III), and if approved, must pay applicable fees as set forth in C.R.S. 44-3-402(2).

**VIII. Suspension and Revocation Hearings for Liquor Code Violations; Issuance of Warning Letter**

- A. **Procedures; Purpose.** All suspension and revocation hearings shall be conducted utilizing the following Hearing Guidelines and Procedures. No matter shall be scheduled for a hearing unless the County Attorney's Office has determined that there is probable cause to believe a violation of the Liquor Code or of the terms or conditions of the license has occurred. The purposes of these hearing guidelines and procedures are to ensure an orderly hearing process; to provide all interested parties with a fair and reasonable opportunity to be heard; to ascertain all relevant facts so that the Board may make an informed decision; and to ensure an impartial hearing for the licensee.
- B. **Stipulations.** Any recommended stipulations or agreements between the licensee and the Sheriff shall be presented to the Board at the public hearing. Such stipulations shall require the licensee to admit to the alleged violation and may include a cap on the suspension period, an agreement regarding the number of days to be served and the number to be held in abeyance, and a proposed fine in lieu of liquor license suspension if applicable. The Board, in its discretion may:
  - 1. Accept such stipulations or agreements and dispense with the formal hearing;

2. Allow limited testimony and evidence, and based thereon, accept such stipulations or agreements without a formal hearing; or
3. Reject the stipulation and require a formal hearing.

**C. Hearing Guidelines and Procedures.**

1. The Board Chair, the Chair's designee, or the County Attorney, shall swear in all persons desiring to testify as follows:
  - a. "Do you solemnly swear or affirm that the testimony that you are about to give before this Board shall be the truth, the whole truth, and nothing but the truth?"
2. The order of proceeding upon hearing is as follows:
  - a. The Sheriff or designated Assistant County Attorney shall present evidence supporting the alleged violations of the Liquor Code or license terms or conditions in the form of oral and written statements, testimony, and written documentation.
  - b. The licensee and/or its representative(s) shall be given the opportunity to cross-examine, and to otherwise present evidence, through oral and written statements, testimony, and written documentation, in defense and explanation of the allegations, including evidence in mitigation of the charges.
  - c. The Sheriff or designated Assistant County Attorney shall be given the opportunity to present any rebuttal testimony or evidence, and any closing statement.
  - d. The licensee and/or its representatives shall be given the opportunity to present any final rebuttal and closing statements.
  - e. The public hearing shall be closed.
3. All documents referenced and/or submitted as evidence at the hearing shall be automatically admitted and accepted as exhibits, unless either specific objections are raised, or Board direction is otherwise provided. The Board shall have the right, in its discretion, to exclude irrelevant, unreliable, and incompetent evidence. Unless specifically objected to, the following documents shall be deemed admitted as respective exhibits within the Board's record of proceedings:



- a. The Notice of Hearing and Order to Show Cause, along with any attached exhibits, including the relevant portion(s) of this Liquor and Beer Enforcement Policy.
  - b. Certified published legal notice of hearing.
  - c. Affidavit of posting of the subject licensed premises.
  - d. The Board's Agenda Item Summary and Background information.
  - e. Related correspondence from the County Attorney's Office.
4. The Board shall have the right, in its discretion, to limit the presentation of evidence and cross-examination so as to prevent repetitive or cumulative evidence or examination.
5. Rules of evidence shall not be strictly applied unless otherwise determined by the Board, in its discretion.
6. The Board shall have the right to continue the hearing to a date and time certain, without further requirement for public notice or publication, and to call a recess at any time during the hearing process.
7. Upon formally concluding the hearing, the Board shall not receive nor otherwise consider any further evidence, unless such evidence is:
  - a. Specifically requested by the Board, with copies of any applicable documents provided to the Sheriff and the licensee, and/or its representatives; or
  - b. In support of aggravation or mitigation of the offense(s), with right of cross-examination, based upon the Board finding that the licensee committed some or all of the alleged violation(s).
8. The Board's final decision, *i.e.*, order, and reasons therefore shall be pronounced in a written Resolution. In the event the licensee is not represented by counsel, the County Clerk shall mail a certified copy of the decision by certified mail, return receipt requested, to the licensee within thirty (30) days after the date of final Board action. If the licensee is represented by counsel, the County Clerk shall mail the decision to the licensee at the mailing address on record and e-mail a copy of the decision per the preference of counsel. In instances where license revocation is ordered, upon receiving notification as discussed herein, the licensee shall forthwith physically surrender the subject license to the Sheriff.

**D. Miscellaneous Provisions.**

1. Pursuant to C.R.S. 24-5-101, if the Board considers information regarding an applicant's criminal history record, the Board shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between an applicant's last criminal conviction and the consideration of its application for a license.
2. The Board shall have the authority, in its discretion, to deviate, modify, and otherwise vary these hearing guidelines and procedures on a case-by-case basis given distinguishing facts and circumstances.
3. These hearing guidelines and procedures shall be in addition and supplemental to the Liquor Code and any applicable Board resolutions.
4. The Board shall be the final arbiter and interpreter of these hearing guidelines and procedures. In the event of an irreconcilable conflict or inconsistency between these hearing guidelines and procedures and other laws, or in the event these hearing guidelines and procedures are silent with respect to disputed matters, the following shall be utilized in the noted order of priority:
  - a. Colorado Liquor Code, Colorado Beer Code, and Colorado Special Event Code;
  - b. Colorado Department of Revenue liquor, beer, and special event rules and regulations (1 C.C.R. 203-2);
  - c. These Hearing Guidelines and Procedures;
  - d. Other applicable Board resolutions, policies, and rules and regulations; and
  - e. Robert's Rules of Order, Newly Revised, 12<sup>th</sup> Edition.

A copy of the relevant portion of these hearing guidelines and procedures shall be mailed along with the Board's Order to Show Cause and Notice of Hearing, or otherwise made available by similar or more accessible means, to the licensee at least ten (10) days prior to the public hearing. The County Clerk shall coordinate and prepare the Order to Show Cause and Notice of Hearing, pursuant to Board Resolution No. 21-125 attached hereto as Appendix B, including



consideration of a fine in lieu of liquor license suspension if statutorily applicable.

- E. **Suspension, Revocation, or Denial.** In any suspension or revocation hearing where the Board finds the licensee/permittee to be in violation of the Liquor Code or of the terms or conditions of the license, the Board may impose such suspension or revocation as it finds necessary, in its discretion, but in any event, no suspension may be effective for more than six (6) months. Where the Board suspends a license, it may, in its discretion, hold any part, or the entire suspension, in abeyance for a period of up to one year, under any conditions that the Board determines to be appropriate.
- F. **Issuance of Warning Letter.** Where the Sheriff has probable cause to believe that a licensee/permittee has committed a violation of the Liquor Code or of the terms or conditions of the license or permit, the Sheriff may request that the County Attorney's Office through the designated Assistant County Attorney issue a Warning Letter to the licensee/permittee in lieu of formal disciplinary action. In doing so, the Assistant County Attorney shall consult with the Sheriff and Clerk. Factors which may be relevant in considering the issuance of a Warning Letter may include, but are not limited to:
  - 1. Prior disciplinary actions against the licensee/permittee;
  - 2. The severity of the alleged violation; and
  - 3. The willingness and cooperation of the licensee/permittee to take corrective action.

Any Warning Letter issued by the Assistant County Attorney in cooperation with the Sheriff and the Clerk shall be placed within the file of the licensee/permittee at the Clerk's office and may be considered by the Board in any future initial application, renewal, or disciplinary action for that particular licensee/permittee.

#### **IX. Fine in Lieu of Suspension**

- A. The Board hereby accepts and adopts the optional procedures set forth in C.R.S. 44-3-601(3) through (6).
- B. When a decision of the Board which suspends a license or permit becomes final, whether by failure of a licensee to appeal the decision, or by exhaustion of any appeals or judicial review, the licensee may, prior to the operative date of suspension, petition the

Board for permission to pay a fine in lieu of having the licenses suspended, for all or any part of the suspension period.

- C. The Board may stay the proposed suspension, in its discretion, pending review of the petition from the licensee/permittee, and may order the Sheriff to make such investigation as the Board deems desirable. The Board may, in its sole discretion, grant such petition if it makes the following factual findings:
  - 1. That the public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purpose.
  - 2. That the books and records of the licensee are kept in such a manner that the loss of sales of alcoholic beverages that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
  - 3. That the licensee has had no license or permit suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the complaint which resulted in a final decision to suspend the license. The Sheriff shall be responsible for verifying the information in this subparagraph.
  - 4. Any petition filed with the County Clerk shall be scheduled as a regular item for the Board's agenda.
- D. If the petition is granted, the required fine shall be that as calculated under C.R.S. 44-3-601(3)(b) and shall not be less than five hundred (\$500.00) dollars nor more than one hundred thousand (\$100,000.00) dollars. All fines shall be remitted to the County Clerk in the form of a certified check or cashier's check, who shall forward such payment to the County Treasurer to be credited to the County general fund. All fines shall be paid no later than thirty (30) days following the granting of the petition.
- E. Upon payment of the fine, the Board shall issue a permanent stay of suspension or of any portion thereof.
- F. If the Board does not grant the petition, the suspension shall become effective on the date set by the Board at the hearing.



- G. The County Clerk is instructed to report all actions taken to impose fines, suspensions, and revocations to the State Licensing Authority as required by state law.

**X. Summary Suspension**

- A. Where the County Clerk, County Attorney's Office, and Sheriff have reasonable grounds to believe that a licensee/permittee has committed a deliberate and willful violation of the Liquor Code or of the terms or conditions of the license, or where there is reason to believe that the public health, safety, or welfare imperatively requires the emergency action of the Board, the County Clerk shall immediately schedule the matter for consideration at the next available Board meeting, with or without notice to the licensee/permittee.
- B. If the Board finds, based on evidence presented by the Sheriff, that a licensee is guilty of a deliberate and willful violation of the Liquor Code or of the terms or conditions of the license, or that it is imperative to the public health, safety, or welfare that the Board take emergency action against a licensee, the Board may temporarily or summarily suspend the license/permit pending a full Show Cause Hearing for suspension or revocation of license under Section VIII., which shall promptly be instituted and determined.
- C. In no case shall any temporary suspension of a license/permit which was made without proper notice given to the licensee exceed fifteen (15) days in length.

**XI. Temporary Permits**

- A. **Availability.** A temporary permit may be issued to any person or entity who is a proposed transferee of any retail class of liquor license under C.R.S. 44-3-303.
- B. **Assignment of Board Authority.** Pursuant to C.R.S. 44-3-103(27), the Board hereby designates the County Clerk as the Local Licensing Authority for purposes of issuance of temporary permits. The County Clerk shall perform all duties related to temporary permits under C.R.S. 44-3-303 and as specified in this section.
- C. **Standards for Issuance.** The County Clerk shall issue a temporary permit if the premises have been previously licensed and such license was valid at the time an application for transfer of ownership was filed; if the applicant has complied with C.R.S. 44-3-303(3)(b) and (d); if such application was filed no later than thirty (30) days

after the filing of an application for transfer of ownership; and if the filing fee has been paid. The County Clerk shall issue the permit within five (5) working days after receipt of the complete application.

- D. **Duration of Permit.** Any temporary permit granted by the County Clerk shall be effective for one hundred twenty (120) days, or until such time as the transfer application is granted or denied, whichever occurs first. However, if the application for transfer is not granted or denied within one hundred twenty (120) days and transferee demonstrates good cause to the County Clerk, the County Clerk may, in his discretion, extend the permit for an additional period, not to exceed sixty (60) days.
- E. **Revocation of Permit.** A temporary permit may be canceled, revoked, or summarily suspended if the County Clerk determines there is probable cause to believe that the transferee has violated any provision of the Liquor Code or any El Paso County liquor policy or resolution, or has failed to truthfully disclose any required matter pursuant to the application forms required by the State Licensing Authority. A temporary permit is automatically revoked (without further Board or County Clerk action required) when the related transfer license application is denied by the Board.

## **XII. Special Event Permits**

- A. **Availability.** A special event permit may be issued to any qualifying entity authorized by C.R.S. 44-5-102, whether or not such entity is licensed under Articles 3 and 4 of the Beer or Liquor Codes.
  - 1. **Assignment of Board Authority.** Pursuant to C.R.S. 44-5-107(4), the Board hereby designates the County Clerk its administrative officer under the Colorado Special Events Code for purposes of granting or denying applications and assigns the following duties to the County Clerk. The County Clerk shall process and approve or deny all Special Event Permit applications.
  - 2. The County Clerk shall perform these duties in accordance with the Special Events Code (specifically C.R.S. 44-5-107(1 through 3), and Liquor Regulations 47-1000 through 47-1020.
- B. **Rejection of Application.** The County Clerk shall reject all incomplete, incorrect, or ineligible applications without requirement for further action by the Board.



- C. **Licensed Premises.** A special event permit application may be approved notwithstanding the fact that such event will be held on premises licensed pursuant to C.R.S. 44-3-403, 44-3-404, 44-3-413 (3), 44-3-418, 44-3-419 and 44-3-424. The holder of the special event permit shall be responsible for any violation of the Liquor Code.
- D. **Public Streets, Highways, or Byways.** The sale of liquor for which a special event permit has been issued is permitted on closed streets, highways, or public byways. The application shall include written approval of such closure by the appropriate governmental jurisdiction.
- E. **Permit Restrictions.** Pursuant to C.R.S. 44-5-105:
1. Each permit shall be issued for a specific location only and is not valid for any other location.
  2. Liquor sales are permitted only during the following hours:
    - a. Between five a.m. of the day specified until twelve midnight on the same day, for any fermented malt beverage permit.
    - b. Between seven a.m. of the day specified until two a.m. of the day immediately following, for any malt, vinous, and spirituous liquor permit.
  3. No permit may be issued to any entity for more than fifteen (15) days in one calendar year.
  4. Issuance of a special event permit does not require issuance of any subsequent application by an entity.
  5. Sandwiches or other food snacks shall be available during all hours of service of malt, spirituous, or vinous liquors, but prepared meals need not be served.
- F. **Notice Requirements.** The County Clerk shall prepare a public notice of the proposed permit and an affidavit of public posting. The notice, including the procedure for protesting issuance of the permit, shall be conspicuously posted by the applicant at the proposed location for at least ten (10) days before approval of the permit. The completed affidavit shall be provided by the applicant to the County Clerk for retention. Failure by the applicant to comply with the prerequisites shall be grounds for denial or revocation of the subject special events permit.

- G. **Grounds for Denial of Permit.** The County Clerk may deny any application for a special event permit upon the grounds that the issuance would be injurious to the public welfare by reason of the nature of the special event, its location within the community, or failure of the applicant in a past special event to conduct the event in compliance with applicable laws. The County Clerk's decision to deny an application shall be in writing sent to applicant's address, as disclosed on its application. Any applicant who is denied a permit may appeal the County Clerk's decision to the Board by filing written notice with the County Clerk no later than ten (10) days following the date of the County Clerk's decision. The County Clerk shall then schedule the appeal for consideration by the Board at the earliest possible date.
- H. **Protesting Issuance of Permit.** Any person desiring to protest the issuance of any special event permit shall do so in writing addressed to the County Clerk, indicating the specific reasons that either the entity does not qualify for a permit under C.R.S. 44-5-102 or 44-5-103, or the reasons such application should be denied under C.R.S. 44-5-106(1). Upon receipt of a protest, the Sheriff shall investigate the specific grounds provided by the protestor.
- I. **Hearing.** If the Sheriff's investigation finds that sufficient grounds appear to exist for the denial of the application, the County Clerk shall schedule a hearing before the Board to consider the application. Such hearing shall be held at least ten (10) days following public notice of the proposed permit. The County Clerk shall notify the applicant and any person who has filed a protest in writing of the date and time of the scheduled hearing. A hearing held under this section shall be conducted using the procedures for an initial license application, except that the Board shall only consider evidence regarding the grounds for denial indicated in paragraph G, above.
- J. **Forwarding of Application.** The County Clerk shall notify the state Liquor Enforcement Division within ten (10) days of any special event permit issued.
- K. **Posting Requirements.** The issued Special Event permit, along with the required warning sign, shall remain posted on the permitted premises by the permit holder throughout the duration of the event.

### **XIII. Art Gallery Permits**

- A. **Availability.** An art gallery permit may be issued to any person operating an art gallery that offers complimentary malt, vinous or spirituous liquor for consumption only on the premises. Application



procedures shall be the same as for initial licenses as required by the Colorado Liquor Code and referenced herein. Upon initial application, and for each renewal, the applicant shall list each day that alcohol beverages will be served, which days shall not be changed without a minimum of fifteen days written notice to the state and local licensing authority (C.R.S. 44-3-424(b)).

- B. **Investigation, Violation, Survey Methodology, Legal Advisor and Hearing.** References and procedures shall be the same as for initial licenses as required by the Colorado Liquor Code and referenced herein. The local licensing authority may reject the application for an art gallery permit if the applicant fails to establish that the applicant is able to offer complimentary alcohol beverages without violating the Colorado Liquor Code or creating a public safety risk to the neighborhood (C.R.S. 44-3-424(2)(a)). By this reference, the Board hereby establishes an Art Gallery Liquor Permit Application Affidavit to be used for the purposes of fulfilling the hereinabove requirements, including but not limited to preventing the (1) dispensing of alcohol by a person under 21 years of age; (2) service of alcohol to underage patrons; (3) removal of alcoholic beverages from the permitted premises; and (4) the serving of any alcohol beverage to a visibly intoxicated person or to a known habitual drunkard. An Art Gallery shall not be denied an Art Gallery Permit based solely on the Art Gallery's proximity to any public or private school or the principal campus of a college, university, or seminary.
- C. **Unlawful Acts:** An Art Gallery permittee shall not: Directly or indirectly, sell alcohol beverages by the drink, shall not serve alcohol beverages for more than four (4) hours in any one (1) day, and shall not serve alcohol beverages more than fifteen (15) days per year of licensure; Charge an entrance fee or a cover charge in connection with offering complimentary malt, vinous, or spirituous liquors for consumption only on the premises; Intentionally allow more than two hundred fifty (250) people to be on the premises at one time when alcohol is being served.

#### XIV. Tasting Permits

A. **Definitions.**

1. The terms "retail liquor store," "liquor-licensed drugstore," and "tasting" as used herein shall have the same definitions as those set forth in C.R.S. 44-3-103.

2. "Liquor Code" shall mean the Colorado Beer Code, C.R.S. 44-4-101 *et seq.*, the Colorado Liquor Code, C.R.S. 44-3-101 *et seq.*, and any regulations promulgated thereunder.

**B. Tasting Permit Application.**

1. A retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee wishing to conduct a tasting shall submit an application for a tasting permit on a form prescribed by the County Clerk. The application shall also include the following items:
  - a. The applicable fee as established by the Board.
  - b. Evidence that each licensee or employee of the licensee who has been identified in the application as a person conducting the tasting has completed a server training program that meets the standards established by the Liquor Enforcement Division in the Colorado Department of Revenue.
2. The licensee may submit one application for all of the tastings the licensee wishes to conduct during the current retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer license period.
3. Incomplete or late applications shall not be accepted.
4. The Board hereby designates the County Clerk its administrative officer for purposes of granting or denying applications. The County Clerk shall process and approve or deny all tasting permit applications.
5. The County Clerk shall approve the application if the applicant establishes that he or she is able to conduct tastings without violating the provisions of the Liquor Code and this Resolution without creating a public safety risk to the neighborhood. The County Clerk shall schedule applications for hearing before the Board if any one or more of the following circumstances exist:
  - a. The County Clerk is not satisfied that the applicant is able to conduct tastings without violating the provisions of the Liquor Code and this Policy without creating a public safety risk to the neighborhood.
  - b. One or more complaints have been filed with the County Clerk by any member of the public.



- c. The Sheriff's background investigation reveals relevant criminal history.
  - d. There have been violations of the Liquor Code or this Policy.
  - e. A renewal hearing has been requested by the Sheriff, County Attorney, County Clerk, or a resident of the neighborhood.
- 6. If a tastings application is set for hearing, the Board may deny the application if the applicant fails to establish that he or she is able to conduct tastings without violating the provisions of the Liquor Code or this resolution or without creating a public safety risk to the neighborhood.
- 7. At any time after issuance of a tasting permit, the licensee may file an application seeking to amend certain terms of the permit as provided below.
  - a. The licensee may amend the dates or hours of the tastings so long as the total number of tastings does not exceed that approved in the permit issued by the Board.
  - b. The licensee may amend the list of persons conducting the tastings so long as the requirements of paragraph B(1)(b) above are met.
  - c. An application to amend a tasting permit shall include any applicable fee established by the Board.
  - d. The County Clerk shall process and approve or deny all applications to amend a tasting permit.

**C. Regulations Applicable to Tastings.**

- 1. Tastings shall occur only on a licensee's licensed premises.
- 2. The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, licensed distillery pub, or winery licensed pursuant to C.R.S. 44-3-403 at a cost that is not less than the in-lieu cost of such alcohol.
- 3. The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.
- 4. Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.

5. Tastings may be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11:00 a.m. or later than 9:00 p.m.
6. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
7. The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises, destroy the samples immediately following the completion of the tasting, or store any open containers of unconsumed alcohol beverages in a secure area outside the sales area of the licensed premises for use at a tasting conducted at a later time or date.
8. The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.
9. The licensee shall not serve more than four individual samples to a patron during a tasting.
10. Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
11. Tastings may occur on no more than one hundred fifty-six(156) days per year.
12. No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee bears the financial and all other responsibility for a tasting.

**D. Violations.**

1. A violation of a limitation specified in this section or of C.R.S. 44-3-301(10) or 44-3-801 by a retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee, whether by the licensee's employees, agents, or otherwise, or by a representative, employee, or agent of the licensed wholesaler, brew pub, distillery pub, manufacturer, limited winery, importer, or vintner's restaurant that promoted the alcohol beverages for the tasting, is the responsibility of the retail liquor store, liquor-licensed



drugstore, or fermented malt beverage and wine retailer licensee that conducted the tasting.

2. A retail liquor store, liquor-licensed drugstore, or fermented malt beverage and wine retailer licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.

## **XV. Optional Premises**

- A. **Standards.** The following standards for the issuance of optional premises liquor licenses are hereby adopted pursuant to the provisions of C.R.S. 44-3-310, as amended.

1. **Eligible Facilities.**

- a. An optional premises may only be approved when that premises is located on or adjacent to an outdoor sports and recreational facility as defined in C.R.S. 44-3-103(33).

- b. Optional premises means:

The premises specified in an application for a hotel and restaurant license with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant within which such licensee is authorized to sell or serve malt, vinous or spirituous liquors in accordance with the provisions of the Colorado Beer and Liquor Code and at the discretion of the state and local licensing authorities;

-or-

The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

- c. An "outdoor sports and recreation facility" is defined as a facility that charges a fee for the use of such facility.
- d. "Outdoor sports and recreation" shall be determined at the discretion of the Board and generally includes all outdoor sports and/or recreational activities performed in compliance with all federal, state, and county laws, ordinances, and regulations. (Examples may include, but are not limited to, country club, golf course and driving range, resort, retreat, ice skating, swimming

pool, tennis and volleyball courts and clubs, racetrack, equestrian center, and fairgrounds.

- e. An application for an optional premise license may be submitted by hotels, including resorts/retreats, with less than 50 sleeping rooms, in addition to the hotel and restaurant with optional premises liquor license classification.

## **2. Size of Optional Premises.**

- a. There are no restrictions on the minimum size of the facilities which may be eligible for approval of an optional premises license.
- b. The Board may consider the size of the particular facilities in relationship to the number of requested optional premises.
- c. The Board may deny any optional premises application if it determines the related facility to be too small to require an optional premises license.

## **3. Submittal Requirements. Requests for optional premises liquor licenses shall also include submittal of all required local and state forms, licensing and investigation fees, and fingerprint receipt for background investigation.**

- a. If the optional premises are for a new hotel and restaurant license, the applicant may identify the optional premises location(s) as part of the hotel and restaurant license application.
- b. A map or other drawing illustrating the outdoor sports and recreational facility boundaries and the approximate location of each optional premise requested.
- c. A legal description of the approximate area within which the optional premises shall be located.
- d. A description of the method in which shall be used to identify the boundaries of the optional premises when it is in use.
- e. A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises.
- f. A description of the method which will be used to identify and control the optional premises when it is in use. (For example, the types of signs, fencing or other notices or barriers.



**B. Notice and Hearing Procedures.**

1. All applications for an optional premises license as described herein shall be scheduled in the same manner as any other new liquor license application, and posting, publication and hearing requirements of C.R.S. 44-3-311, shall apply.
2. An application for an optional premises for an existing hotel and restaurant liquor license shall be scheduled for public hearing not less than ten (10) days from the date of the application, and public notice shall be given by posting and publishing in accordance with C.R.S. 44-3-311.
3. At public hearing, the Board shall consider the criteria of C.R.S. 44-3-312(2)(a), as amended, applicable provisions of the El Paso County Beer and Liquor Policy, and the within standards, and make findings as to whether the applicant has complied with said criteria and these standards.

**XVI. Standards for Issuance of a Retail Liquor Store License for Premises Sharing an Entrance with Another Business**

- A. Definitions.** Words or phrases defined in the Liquor Code shall have the same meaning in these standards.
- B. Applicability.** The following standards shall apply to the issuance of all retail liquor store licenses for premises that share an entrance with another business or establishment. Premises shall be deemed to share an entrance with another business or establishment when:
1. A customer must pass from outside through a single building entrance before choosing a second entrance to the retail liquor store or a second entrance to the other business or establishment; or
  2. A customer must pass from outside through a single building entrance and then through the premises of the other business or establishment before entering the retail liquor store; or
  3. the retail liquor store and the other business or establishment have separate outside entrances, but any portion of the retail liquor store may be accessed from the interior of the other business or establishment by employees, customers, or the general public.

These standards shall be considered in addition to all other standards applicable to such retail liquor store licenses under the Liquor Code and this Policy.

C. **Standards.** The following requirements must be met in order for the Board to issue a retail liquor store license and must continue to be met through the period for which the license is in effect.

1. The retail liquor store licensee may not sell or offer for sale within the State of Colorado any goods or merchandise other than those expressly permitted by the Liquor Code, pursuant to Regulation 47-416, Colorado Code of Regulations, 1 C.C.R. 203-2.
2. The trade name for the retail liquor store must be different from the trade name used by the other business or establishment.
3. The retail liquor store premises must be completely physically separated from the premises of the other business or establishment by a wall or other similar physical feature.
4. There may be no more than one interior access to the liquor store premises from an adjoining business or establishment, whether for use by the general public, customers, or employees. Such interior access must be capable of being locked.
5. If there is an interior access to the retail liquor store for the use of the general public or customers, such access must be clearly identified as leading to a retail liquor store.
6. The layout of the interior of the building must be such that customers or the general public may enter the other business or establishment without first passing through any portion of the retail liquor store.
7. The goods and merchandise offered for sale at the retail liquor store must be kept entirely physically separate from any goods or merchandise offered for sale at the other business or establishment.
8. Records of sales of the goods and merchandise offered for sale at the retail liquor store must be kept separately from any records of transactions for the other business or establishment, whether through the use of one cash register



only for sales at the retail liquor store, use of a computerized cash register which keeps such records separate, or through some other similar means.

9. No one under the age of twenty-one shall be permitted to engage in the sales of alcohol beverages nor check customer identification for such sales, pursuant to Regulation 47-913, Colorado Code of Regulations, 1 C.C.R. 203-2.
10. No one under the age of eighteen shall be employed by or perform any job-related duties for a retail liquor store, pursuant to Regulation 47-913, Colorado Code of Regulations 1 C.C.R. 203-2.

## **XVII. Bed and Breakfast Establishments**

### **A. Definitions.**

1. "Bed and Breakfast" shall mean any overnight lodging establishment with not more than twenty (20) sleeping rooms that provides at least one (1) meal per day at no charge other than a charge for overnight lodging and does not sell alcoholic beverages by the drink or in sealed containers.
2. Except as otherwise specifically provided for or defined in this Resolution, the terms and phraseology used herein shall be interpreted and defined as set forth in the Code, any regulations promulgated thereunder, and applicable judicial decisions.

### **B. Bed and Breakfast Liquor Permit.**

1. In lieu of a hotel and restaurant liquor license, a person operating a bed and breakfast that offers complimentary alcoholic beverages for consumption only on the premises and only by overnight guests may annually apply for a bed and breakfast liquor permit.
2. An application for a bed and breakfast liquor permit shall be on forms as prescribed by the State and/or the Board.
3. No application for a bed and breakfast liquor permit shall be accepted nor processed until and unless the applicant submits a completed application which fully and truthfully discloses and provides all required information; submits all necessary state and local permit fees; otherwise complies

with all applicable provisions of the Colorado Liquor Code and the state rules and regulations promulgated thereunder; and submits satisfactory evidence that all applicable state and local approvals have been obtained and otherwise complied with including, by way of example only, land use, building, health, and fire district permits and approvals.

**C. Pre-licensing investigation.**

1. Upon receipt of a completed application, the El Paso County Sheriff's Office shall conduct a pre-licensing investigation concerning the character or record of the applicant which may include, in the discretion of the Sheriff's Office, fingerprinting and criminal history checks. Unless deemed necessary by the Sheriff's Office as a result of its preliminary investigation, no further and more extensive background investigation shall be required.

**D. Issuance of Bed and Breakfast Liquor Permits.**

1. Application procedures shall be the same as for initial licenses as required by the Colorado Liquor Code and referenced herein. The provisions of this policy governing hearing procedures for the new liquor license applications shall apply unless otherwise inconsistent with any provisions of this Resolution.
2. The Board expressly waives the requirement of establishing the reasonable requirements of the neighborhood for the issuance of a bed and breakfast liquor permit.
3. The waiver of the 500 feet distance requirement governing the location of a hotel/restaurant liquor license to a public or parochial school or the principal campus of any college, university, or seminary, shall likewise apply to consideration and issuance of a bed and breakfast liquor permit.
4. The permittee of a bed and breakfast liquor permit shall annually apply for each bed and breakfast liquor permit held by the permittee which shall include the payment in advance of all necessary state and local annual permitting fees. Unless complaints have been received concerning the operation of the bed and breakfast establishment and associated liquor permit, or a formal hearing is otherwise requested by the El Paso County Sheriff's Office, the annual bed and breakfast liquor permit may be administratively approved by the Clerk



to the Board. In the event a formal hearing is requested, the provisions of this Policy governing procedures for new liquor license applications shall apply.

- E. **Unlawful Acts.** No permittee of a bed and breakfast liquor permit shall sell alcoholic beverages by the drink or in sealed containers, nor shall the permittee serve alcoholic beverages for more than four (4) hours in any one (1) day.
- F. **Suspension or Revocation.** A bed and breakfast liquor permit may be suspended or revoked by the Board in accordance with 44-3-601 if the permittee violates any provision of the Code, the rules and regulations promulgated thereunder, or this Policy, or fails to truthfully furnish any required information in connection with a bed and breakfast liquor permit application.
- G. **Liquor Code Provisions.** All provisions of the Code and rules and regulations promulgated thereunder, which are not inconsistent with the provisions of this Policy shall in all respects govern and apply.
- H. **Safety Clause.** The Board hereby finds, determines, and declares that this Policy is necessary and proper for the local economy, the tourism industry, and the public health, safety and welfare of the residents and citizens of El Paso County.

#### **XVIII. Modification of Premises**

- A. **FMB Off-Premises Licenses:** Regulation 47-302(A)(2) requires a modification request if any remodeling either expands or reduces the existing area designed for the display or sale of alcohol beverage products. Therefore, if an FMB off-premises licensee changes the existing plan currently on file with the local and state licensing authority to modify their premises accordingly, a request must be submitted and then approved by both the local and state licensing authorities.

#### **XIX. Severance; Authority**

- A. **Severance.** Should any portion of this Policy be determined to be unenforceable or invalid, such holding shall not affect the validity of the remaining portions of this Policy.
- B. **Authority.** This Policy is promulgated pursuant to the Board's authority as the Local Licensing Authority under the Liquor Code, and under specific statutes and regulations as enumerated below:

1. Colorado Beer Code, C.R.S. 44-4-101 *et seq.*, as may be amended.
2. Colorado Liquor Code, C.R.S. 44-3-101 *et seq.*, as may be amended.
3. Colorado Special Events Code, C.R.S. 44-5-101 *et seq.*, as may be amended.
4. Colorado Code of Regulations, 1 C.C.R. 203-2, Regulation 47-002 *et seq.*, as may be amended.
5. C.R.S. 24-5-101, as may be amended.





## Digital, Strategy & Technology Department

**Jeff Eckhart, Chief Information Officer**  
719-520-6484  
Technical Support Building  
325 S. Cascade Avenue  
Colorado Springs, CO 80903  
www.ElPasoCo.com

**Board of County Commissioners**  
Holly Williams, District 1  
Carrie Geitner, District 2  
Stan VanderWerf, District 3  
Longinos Gonzalez, Jr., District 4  
Cami Bremer, District 5

### Memorandum of Understanding

#### El Paso County Liquor License Survey Process

##### 1. INTRODUCTION

- 1.1. Purpose: Define the responsibilities and business processes related to requesting and completing liquor license surveys, while establishing and maintaining the integrity of working agreements between the El Paso County Clerk to the Board, Planning & Community Development Department, Assessor's Office, and Digital Strategy and Technology Department.
- 1.2. Mission: At the request of the El Paso County Clerk to the Board, Digital, Strategy & Technology Department – GIS Services will create and/or procure from other sources, the necessary survey material to support public liquor license requests for BOCC consideration. These maps and analysis will be completed in a timely and professional manner to maintain a high level of customer service.
- 1.3. Previous Documentation: None, this process has previously been undocumented.

##### 2. RESPONSIBILITIES

- 2.1. Clerk & Recorder – Clerk to the Board: Request liquor license survey information while notifying other departments of request. Provide pertinent information to begin creating survey maps. Compile returned survey information and prepare for BOCC agendas.
- 2.2. Planning and Community Development: Provide planning related support for liquor license survey information and confirm details as needed.
- 2.3. Assessor's Office: Provide residence counts and vacant property lists in a support role for liquor license survey requests.
- 2.4. Digital, Strategy & Technology Department – GIS Services: Create survey maps with supporting descriptions and distances. Coordinate with other departments as needed to complete survey information and return material to Clerk to the Board for processing.

## Digital, Strategy & Technology Department

### 3. BUSINESS PROCESS

#### 3.1. Clerk & Recorder – Clerk to the Board:

- 3.1.1. Process or maintain "Colorado Liquor Retail License Application" material for eventual submittal. This application should include details describing establishment name, address, and liquor license type. Aside from its official nature, the intent of this file is to eliminate or significantly reduce questions related to the survey creation.
- 3.1.2. Notify designated individuals from each department of the pending liquor license survey via email. Include the related "Colorado Liquor Retail License Application" for reference as well as deadline dates. Those departments include the following:
  - Planning & Community Development Department – Planner of the Day
  - Assessor's Office
  - Digital, Strategy, & Technology Department – GIS Services
- 3.1.3. Place a "GIS Map Request" with Digital, Strategy & Technology Department via service portal. To facilitate a more efficient update, it is recommended to request a non-public map that the "Colorado Liquor Retail License Application" can be attached. Additionally, include deadline dates and identified walking distances that will need to be researched.
- 3.1.4. Compile completed survey map PDF, boundary descriptions, and walking distance estimates provided by Digital, Strategy, & Technology – GIS Services. Prepare for BOCC agenda.

#### 3.2. Planning & Community Development Department:

- 3.2.1. Review in-progress map provided by assigned GIS Specialist from Digital, Strategy, and Technology – GIS Services. Check for geographic location accuracy as well as correctness of any other pertinent map and case elements.
- 3.2.2. Provide feedback and/or accuracy approval via email to Digital, Strategy, and Technology – GIS Services for use in final products to be provided to the Clerk to the Board.

#### 3.3. Assessor's Office:

- 3.3.1. Perform analysis of GIS parcel layer to determine residential counts and vacant properties within the identified feature layer provided by the GIS Specialist from Digital, Strategy, and Technology Department – GIS Services.
- 3.3.2. Provide the residential count number via email to the assigned GIS Specialist from Digital, Strategy, and Technology Department – GIS Services. This will be used to complete the survey mapping product for the Clerk to the Board.
- 3.3.3. Provide the list of vacant properties via email to the Clerk & Recorder – Clerk to the Board



## Digital, Strategy & Technology Department

designee.

### 3.4. Digital, Strategy & Technology Department – GIS Services:

3.4.1. GIS Specialist assigned to request will review submitted license application material and contact Clerk to the Board staff with any questions.

3.4.2. Create standard 8.5"x11" map with the following features:

- Informational road map with liquor license location address labeled.
- ½ mile buffer from liquor license location.
- Feature boundary made from ½ mile buffer that follows logical map elements such as properties, roads, and natural features.
- Identify nearby public and private schools with distances labeled
- Title header that includes:
  - Name, address, and liquor type of applicant
  - Nearest school with name, address, and distance
  - Zoning
  - Residential count

3.4.3. Forward in progress map to Planning and Community Development – Planner of the Day ([dsd-pod@elpasoco.com](mailto:dsd-pod@elpasoco.com)) for conditional approval of geographic location for license applicant and to double check other relevant map and case elements before proceeding.

3.4.4. Create GIS parcel layer from ½ mile feature boundary and forward to the Assessor's Office designated representative for analysis of residential counts and vacant properties within area.

3.4.5. Place Assessor's estimate of residential property count into map product for Clerk to the Board.

3.4.6. Create geographic description of ½ mile feature boundary geospatial data environments.

3.4.7. Measure logical walking distances (in feet) to similar neighboring businesses as identified by the Clerk to the Board.

3.4.8. Forward completed map PDF, boundary description, and walking distance estimates via email to the Clerk to the Board for BOCC agenda preparation.

# EL PASO COUNTY

COLORADO

## Digital, Strategy & Technology Department

### 4. OPERATIONAL GUIDELINES

4.1. Performance: Depending on the volume of requests and availability of other departments, reasonable efforts will be made to complete liquor license survey material within 5 to 7 business days upon receipt of the survey request. Submitting requests approximately 10 business days in advance is recommended since multiple requests, blackout periods, and/or competing projects may also conflict with timelines.

4.2. Request Initialization: Any liquor license survey request will require the appropriate information via a memo to all involved parties as well as a submitted request to Digital, Strategy & Technology Department – Customer Support to start the formal process.

4.3. Digital, Strategy & Technology Department - GIS Services Hours: 8:00 am – 5:00 pm, Monday thru Friday.

On behalf of the Clerk & Recorder – Clerk to the Board, I agree to these procedures for necessary the preparation of liquor license survey material to be used for public hearings.

Name:

Date:

1.25.2022

On behalf of the Planning and Community Development Department, I agree to these procedures for the necessary preparation of liquor license survey material to be used for public hearings.

Name:

Date:

2/1/2022

On behalf of the Assessor's Office, I agree to these procedures for the necessary preparation of liquor license survey material to be used for public hearings.

Name:

Date:

1/27/2022

On behalf of the Digital, Strategy & Technology Department, I agree to these procedures for the necessary preparation of liquor license survey material to be used for public hearings.

Name:

Date:

Jeff Eckhart

1/25/2022



RESOLUTION NO. 21-125

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION TO AMEND RESOLUTION 98-305, LIQUOR-21 WHICH PROVIDES  
AUTHORITY FOR THE CLERK TO THE BOARD DEPARTMENT TO ISSUE SHOW  
CAUSE ORDERS FOR LIQUOR HEARINGS; AND DEFINE 1<sup>ST</sup> THROUGH 4<sup>TH</sup>  
OFFENSE SCHEDULE**

WHEREAS, both the Colorado Beer Code and Colorado Liquor Code have been amended since adoption of Resolution 98-305 Liquor-21, and it is now necessary to update Resolution 98-305; and

WHEREAS, pursuant to C.R.S., §§ 44-3-103(27) and 44-4-103(4), of the Colorado Beer and Liquor Codes define the "local licensing authority" as the governing body of a municipality or city and county, the board of county commissioner of a county, or any authority designated by municipal or county charter, municipal ordinance, or county resolution; and

WHEREAS, in accordance with Colorado Department of Revenue Regulation No. 47-600, Complaints against licensees – Suspension, Revocation, and Fining of Licenses, B., if it appears there is probable cause to believe a licensee has violated any law, rule or regulation adopted by the State Licensing Authority, the licensing authority shall issue and cause to be served upon such licensee a notice of hearing and order to show cause why its license should not be suspended or revoked; and

WHEREAS, in accordance with Colorado Department of Revenue Regulation No. 47-600.C. requires a hearing for suspension and revocation of licenses to be held at a place and time designated by the licensing authority on the day stated in the notice, or upon such other day as may be set for good cause shown; and

WHEREAS, pursuant to 44-3-302(c) and 44-3-303(1)(c)(III), the local licensing authority may also cause hearings on license renewal and transfer of ownership applications subject to statutory requirements for public notice; and

WHEREAS, the El Paso County Clerk to the Board is the office charged with the responsibility of accepting, reviewing and processing license applications, prescribed by the Colorado Liquor and Beer Codes, to the Board of County Commissioner, as the County's Local Licensing Authority; and

WHEREAS, the Board desires to reduce the processing time for scheduling and issuing notices and orders for its show cause hearings while providing adequate and proper notice to all affected and interested parties in addition to consistency with consequences of violations;

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El Paso County, CO



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NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, as the Local Licensing Authority, hereby adopts and approves the amended Resolution 89-305 Liquor-21 which finds, determines and declares it would be in the best interest of the County to designate and authorize the El Paso County Clerk to the Board as the office responsible to administratively schedule and issue notices and orders to show cause for renewal and transfer of ownership application, as well as suspension and/or revocation hearings for liquor and beer licenses conditioned upon the following:

1. Any suspected violation(s) of a licensee shall be reported to and investigated by the County's liquor enforcement officer as designated by the El Paso County Sheriff. In the event of any conflict between the officer and the reporting party, the matter shall be formally scheduled before the Board to determine if there is probable cause to believe a violation has occurred.
2. The liquor enforcement officer/counsel shall provide a written request for a show cause hearing, with all pertinent information and reports attached thereto, with a recommended hearing date. As part of the pre-hearing process, an attempt will be made to coordinate a mutually acceptable hearing date between liquor enforcement and the licensee/counsel.
3. The Clerk to the Board shall administratively coordinate the recommended hearing date with the Board members and the parties in writing.
4. The Clerk to the Board or its designees shall prepare and execute the notice and order to show cause on behalf of the local licensing authority, which shall be approved to form by the County Attorney's Office.
5. Not less than ten (10) days prior to the scheduled hearing the Clerk to the Board shall:
  - a. Mail the order to show cause by certified mail to the licensee at the mailing address of the premises and to licensee's counsel when know; and
  - b. Cause a notice of hearing to be posted conspicuously on the licensed premises and published in the County's designated legal newspaper.
6. The Clerk to the Board shall make available said notice and order, as well as all published and written notices, to the Board at the hearing for consideration and acceptance into the record as evidence.
7. In cases where unforeseen circumstances warrant a request for continuance of hearing, as provided to and determined by the Clerk to the Board, public notice shall be deemed fulfilled upon completion of the following:



- a. The listing of the item on the Board's agenda on the date previously published;
- b. Written notice to the licensee and counsel with copies to the Board, County Attorney and liquor enforcement/counsel;
- c. Revision to the posted sign to reflect the new hearing date; and
- d. Rescheduling of the hearing on the agenda.

BE IT FURTHER RESOLVED, the Board of County Commissioners of El Paso County, Colorado, as the Local Licensing Authority, hereby adopts the following as a loose offense schedule for violations:

1. First Offense: Five (5) day suspension held in abeyance for one (1) year provided the violator does not have a subsequent infraction during that year.
2. Second Offense (within two (2) years of the first offense): Twenty-five (25) day suspension (eight (8) days held in abeyance for one (1) year, seven (7) days eligible for fee in lieu of suspension at 20% of sales for those seven (7) days).
3. Third Offense (within two (2) years of the first offense): Twenty-five (25) day suspension - fee in lieu should not be considered but could be considered dependent on circumstances.
4. Fourth Offense (within two (2) years of first offense): Revocation of license.

BE IT FURTHER RESOLVED that Stan VanderWerf, Chair of the Board of County Commissioners, or Cami Bremer, Vice Chair of the Board of County Commissioners, on behalf of the Board, are hereby authorized to execute any and all documents necessary to carry out the intent of the Board as described herein.

AND BE IT FURTHER RESOLVED the provisions contained herein shall be effective upon adoption and shall remain in full force and effect unless otherwise amended or repealed by the Board.

DONE THIS 6<sup>th</sup> day of April, 2021, at Colorado Springs, Colorado.

ATTEST:

By:

Chuck Bremer  
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By:

Chair

Stan VanderWerf