

**LOCAL LICENSING AUTHORITY
CITY OF GOLDEN, COLORADO
RULES OF PROCEDURE
AUGUST 2018**

RULE I. APPLICABILITY.

In addition to any other applicable law, including Chapter 2.35 of the Golden Municipal Code, the Golden Home Rule Charter and the Colorado Beer, Liquor and Special Event Codes and the applicable rules promulgated thereunder (collectively, the "Colorado Liquor Code"), these Rules of Procedure (the "Rules") shall govern all proceedings before the City of Golden Local Licensing Authority (the "Authority").

RULE II. DUTIES OF HEARING OFFICER.

- A. The Hearing Officer shall preside at all meetings of the Authority, shall ensure that all meetings are conducted in an open and fair manner, and shall maintain decorum during all meetings. The Hearing Officer shall have the right to eject, after reasonable warning, any person disrupting a meeting.
- B. The Hearing Officer shall attend meetings with the Mayor and City Council periodically to communicate about goals and policies of the Authority.
- C. The Hearing Officer may not take action upon any question when in violation of Chapter 2.32, (Code of Ethics) of the Golden Municipal Code. Should recusal of the Hearing Officer be required, due to a conflict of interests, or due to any other requirement of Chapter 2.32 of the Golden Municipal Code, the Hearing Officer shall disclose the reason for the recusal to the City Council in accordance with Section 2.32.060(a), and request that the City Council appoint a Special Hearing Officer to hear the matter.
- D. If the Hearing Officer is not following these Rules, the City Clerk shall notify the City Manager who will forward the issue to the City Council.

RULE III. MEETINGS.

- A. **REGULAR MEETINGS.** Regular meetings of the Authority shall be held on the third Tuesday of each month at 2:30 p.m., in the City Council Chambers. A meeting may be canceled by the City Clerk no later than 24 hours prior to the meeting if there is no business to transact, and the City Clerk shall so notify the Authority.
- B. **SPECIAL MEETINGS.** Special meetings shall be held as necessary, as scheduled by the Authority or upon call of the City Clerk, who shall notify the Authority of such meeting. Cancellation procedures for special meetings shall be the same as for regular meetings.

C. ORDER OF BUSINESS. The following shall be the order of business for meetings, provided that the Authority may change the order as the Authority deems necessary:

1. Call to Order.
2. Approval of Agenda.
3. Consent Agenda.
4. Action Items/Public Hearings.
5. Other Matters/New Business.
6. Adjournment.

D. PROCEDURE.

1. The City Clerk will prepare, or cause to have prepared, the meeting room and provide public hearing sign-up sheets to be placed in the lobby or Council Chambers prior to the meeting for the benefit of those persons wishing to speak on those matters on the agenda.

2. Not later than 72 hours prior to any meeting, the City Clerk shall prepare an agenda with the order of business, copies of communications, resolutions, if applicable, with supporting documents, and other related items, and make the same available for the Authority.

E. MINUTES/RECORDING.

1. The City Clerk shall prepare and keep, or cause the preparation of and retention of, the minutes of all regular and special meetings of the Authority. The minutes shall not be a verbatim transcript of the proceedings, provided that recordings of all proceedings are retained by the City Clerk's office in accordance with the City's retention schedule.

2. The following shall be included in the minutes:

- a. Type of meeting (regular, special), date of meeting, staff present.
- b. A record of the Authority's actions.
- c. A record of the applicant(s) and witnesses in attendance and the purpose of their presence.
- d. Whether previous minutes were approved.

3. A court reporter may be in attendance for the purpose of transcribing the proceedings, provided that anyone requesting a court reporter is responsible for paying the full cost thereof.

4. Video or audio recording of a hearing by persons other than City employees is at the sole discretion of the Authority and in no event shall any recording interfere or impede a meeting or hearing.

F. SUPPORT SERVICES. The City Clerk or designee shall serve as the secretary and records custodian for the Authority and perform the functions that a corresponding secretary and recording secretary usually perform. Additionally, the City Clerk shall be responsible for overseeing the publication concerning public hearings and other required notifications.

RULE IV. DELEGATION OF AUTHORITY TO CITY CLERK.

A. The City Clerk is authorized to act as the Local Licensing Authority on the following:

1. Processing and issuance of special events permits pursuant to Article 48 of Title 12, C.R.S., provided that there are no parties filing a written objection to said permit.

2. Annual Colorado Liquor Code license renewals, provided that the licensee has not violated any provisions of the Colorado Liquor Code during the preceding year.

3. Changes in shareholders, officers, directors or trade names of a licensee, provided that any investigation conducted by the City does not reveal information that may reasonably form the basis of a determination that the applicant is not qualified to hold the respective license.

4. The issuance of temporary permits pursuant to and in compliance with C.R.S. §§ 12-47-302 and 12-47-303. A temporary permit fee of \$100.00 shall be charged in conjunction with the issuance of each temporary permit.

B. The City Clerk may refer any licensing decision authorized under this Rule to the Authority if the City Clerk finds, in his or her discretion, that the matter should be presented to the Authority.

RULE V. PUBLIC HEARING PROCEDURES.

A. GENERAL. The Authority shall have full authority to control the proceedings, to admit or exclude testimony and to rule upon all motions and objections. The Authority shall not be bound by strict rules of evidence, provided that the right of cross-examination shall be preserved. Irrelevant, repetitive and cumulative testimony and evidence will be excluded. Motions may be written. Objections shall be stated orally for the record. All testimony shall be given under oath. All exhibits or other documentary evidence to be admitted shall be marked.

B. BURDEN. For new licenses, transfer of ownership, change of location, modification of premises, change in corporate structure or change in manager applications, the applicant has the burden of persuading the Authority that the application or request

should be granted. For show cause hearings for suspension or revocation, the City has the burden of proof to show, by a preponderance of the evidence, that the license should be suspended or revoked.

C. ORDER OF PROCEEDINGS. The following shall be the order of proceedings, provided that the Authority may change the order as necessary, and the Authority may question any witness at any time:

1. Opening of the public hearing.
2. Preliminary matters, if any.
3. Opening statement by the Applicant.
4. Opening statement by the City.
5. Presentation of the Applicant's evidence and witnesses. Prior to excusing the Applicant's witnesses, cross-examination shall be permitted by the Authority, then the City and then any Party-in-Interest.
6. Presentation of City's evidence and witnesses. Prior to excusing the City's witnesses, cross-examination shall be permitted by the Authority, then the Applicant, and then any Party-in-Interest.
7. Presentation of evidence and witnesses by any Party-in-Interest. Prior to excusing witnesses, cross-examination of Parties-in-Interest and their witnesses shall be permitted by the Applicant and then the City.
8. Applicant's rebuttal evidence, if any.
9. City's rebuttal evidence, if any.
10. Applicant's initial closing statement.
11. City's closing statement.
12. Closing of the public hearing.

D. REOPENING OF HEARING. When a public hearing has been opened and continued to another date, or has been closed and the Authority determines to take additional evidence, the Authority may reopen the public hearing, with any necessary limits on the evidence to be presented.

E. CONTINUANCES.

1. The City Clerk may grant a request to continue a public hearing if: such request is made prior to the time that publication and posting of notice of the public hearing is made; neither the City nor the licensee has been previously granted a continuance in the matter under consideration; and the City and

the licensee both agree to the continuance. Once notice has been given, the matter may be continued only by the Authority upon a showing of good cause.

2. The Authority may, in its discretion, grant or deny a request for a continuance, or it may grant the continuance subject to the payment of costs or other expenses reasonably caused by the request.

F. **DECISION.**

1. It is within the discretion of the Authority whether to make an immediate decision at the conclusion of the public hearing or to prepare a written order within a reasonable time after the public hearing, not to exceed 30 days.
2. The City Clerk shall send the Authority's decision to the applicant/licensee at the address on the application or license via first class United States mail.
3. All decisions of the Authority are final, subject only to appeal to a court of competent jurisdiction.

RULE VI. NEW LICENSES AND TRANSFERS OF OWNERSHIP.

A. **EVIDENCE.** The following evidence shall be presented at a public hearing for a new license or transfer of ownership:

1. Evidence concerning whether the Applicant is qualified to hold the type of license applied for, including without limitation: other facilities operated by applicant; training and experience of applicant; familiarity with state and local laws; procedures and policies regarding enforcement of liquor laws; and reputation and particular history of applicant regarding liquor laws.
2. Evidence concerning the reasonable requirements of the neighborhood and whether existing outlets are adequate, including without limitation: number of existing outlets and proximity; testimony from adults residing in the relevant neighborhood; testimony from applicant or applicant's officers; and testimony from the person who circulated the petitions.
3. Evidence concerning the desires of adult residents for existing outlets, including without limitation: testimony from adults residing in the relevant neighborhood; testimony from a manager or business owner in the relevant neighborhood; petitions submitted by the applicant or petition entity; and testimony from applicants.
4. Evidence concerning the nature of the establishment and location; compliance with applicable City codes or ordinances; and any financial interests in the establishment.

B. **ATTENDANCE.** Unless excused by the Authority, the following persons shall be in attendance at the public hearing:

1. If the applicant is an individual, that individual.
 2. If the applicant is a partnership, any managing or general partner or his/her authorized designee.
 3. If the applicant is a corporation, the president of the corporation, an officer or director or such other corporate representative as the president may designate in writing.
 4. If the applicant is a limited liability company, a managing officer or his/her authorized designee.
- C. PARTY-IN-INTEREST. A Party-in-Interest desiring to participate in the hearing must inform the Authority at the start of the public hearing. The Party-in-Interest may cross-examine witnesses and introduce evidence with regard to the following matters:
1. Evidence concerning the reasonable requirements of the neighborhood and the number and type of relevant existing outlets.
 2. Evidence affecting the qualifications of the applicant, including without limitation the applicant's character, record or reputation.
 3. Evidence which would indicate that the building or location proposed for the operation of the license is not suitable for the intended purposes.
 4. Evidence of the desires of the adult inhabitants of the neighborhood.

RULE VII. NON-RENEWALS, SUSPENSIONS AND REVOCATIONS.

- A. GENERAL. Following a properly-noticed public hearing at which the licensee has been afforded an opportunity to be heard, the Authority is authorized to suspend, deny renewal of, or revoke any license issued by the Authority for violations, by a licensee or any of its agents, servants, or employees, of the Colorado Liquor Code.
- B. NOTICE. Suspension and revocation proceedings shall be commenced by the Authority by issuing and causing to be served upon the licensee by first-class mail to the address contained in the license, an Order to Show Cause and Notice of Hearing (the "Notice"). The Notice shall command the licensee to appear and show cause why its license should not be suspended or revoked as it appeared to the Authority that there was probable cause to believe that the licensee or any of the agents, servants or employees violated the Colorado Liquor Code. The Notice shall include the grounds for suspension or revocation and shall be prepared for the Authority by the City.
- C. PUBLIC HEARING. A public hearing on a suspension, revocation, or non-renewal shall be held at a place, day and time designated by the Authority, and for suspensions or revocations, as stated in the Notice. The public hearing shall follow

the order of proceedings set forth in Rule V above, provided that the City shall start and the licensee shall follow, and no Party-in-Interest shall be permitted to participate.

D. DECISION.

1. If the Authority determines that the licensee has not violated any law, rule or regulation, the Authority will dismiss the charges against the licensee. If the Authority determines that the licensee has violated a law, rule or regulation, the Authority may suspend, revoke or refuse to renew the license.
2. Orders of suspension shall indicate the effective date of suspension. For suspensions of 14 days or less, the effective date shall be at least 10 business days after announcement of the suspension unless the Authority makes findings which indicate the need for an earlier effective date.

E. DISPOSITIONS.

1. All proposed dispositions shall be in the form of joint stipulations and shall be submitted in writing to the City Clerk at least 10 days prior to the scheduled public hearing date. The City Clerk shall provide the Authority with a copy of the proposed disposition prior to the hearing, if possible.
2. The Authority shall, at the time of the scheduled hearing, consider the proposed disposition. If the Authority rejects the proposed disposition, the Authority shall identify the reasons for such rejection, which may include without limitation the seriousness of the violation, aggravating or mitigating circumstances, the history of the subject establishment, corrective actions taken, likelihood of reoccurrence, and any other relevant matters impacting the public health, safety and welfare.
3. If the Authority significantly changes the proposed disposition, either the City or the licensee may object, and in such case, the hearing shall be continued to the next available meeting of the Authority at least 10 days after the original hearing, unless both parties agree to proceed immediately.
4. If the Authority rejects a proposed disposition, and the issues are rescheduled for hearing on the merits, and an amended proposed disposition is submitted, the City and the licensee must nevertheless be prepared to proceed on the merits of the case at the rescheduled hearing. If the Authority rejects a proposed disposition, neither the City nor the licensee shall suffer any detrimental presumption or inference as a result of such rejection.

- F. SUMMARY SUSPENSION. If the Authority has probable cause to believe a licensee is guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action, the Authority may temporarily or summarily suspend the license

for a period not to exceed 15 days pending a hearing on the suspension or revocation, which hearing shall be promptly set. Any finding by the Authority that a temporary summary suspension is appropriate must be documented by specific written findings of a willful violation or immediate threat to the public health, safety or welfare must be made and entered in the record and incorporated into any suspension or revocation order.

- G. FEES. In the event of revocation, suspension or summary suspension, no portion of the license fee shall be refunded.

RULE VIII. PETITIONS FOR FINE IN LIEU OF SUSPENSION.

- A. FILING. A licensee wishing to petition the Authority to pay a fine-in-lieu of a suspension (a "Fine-in-Lieu") must submit a written petition to the City Clerk at least 5 days prior to the effective date of the suspension. The City Clerk shall not accept for filing a late petition for payment of a Fine-in-Lieu.
- B. INFORMATION. The petition for payment of a Fine-in-Lieu shall include all information and documentation that the licensee would like the Authority to consider when acting on the petition, including without limitation information indicating the licensee's eligibility for the payment of a Fine-in-Lieu under the Colorado Liquor Code, as well as a calculation of the proposed fine with sufficient financial documentation so as to permit the Authority to substantiate the amount of the proposed fine.
- C. STAY. Upon the acceptance of filing of a petition for payment of a Fine-in-Lieu, the suspension of the license shall be temporarily stayed until such time as the Authority acts upon the petition for payment of a Fine-in-Lieu. The petition shall be presented to the Authority at the next available regular meeting of the Authority following the filing of the petition.
- D. DENIAL. If the Authority denies the petition for payment of a Fine-in-Lieu, the suspension shall be reinstated and the Authority shall indicate the effective date of the suspension.
- E. PAYMENT. If the petition for payment of a Fine is granted, the granting of the petition shall be deemed to be conditioned upon the payment of the Fine-in-Lieu within 10 days.

RULE IX. PETITIONS.

- A. FILING. Petitions circulated by an applicant and any protestants or their agents shall be submitted to the City Clerk not later than 10 days prior to the public hearing.
- B. CIRCULATION. Petitions shall be circulated within the designated neighborhood and signed by residents, business owners, or managers within the neighborhood. All signers of petitions for or against the issuance of a fermented malt beverage or malt, vinous or spirituous liquor license must be 21 years of age or older.

- C. **SIGNATURES.** Petitions must be signed with the full given name. No signatures will be accepted if a wife or husband has signed for both unless accompanied by a proper and sufficient power of attorney for the non-signing spouse. All signatures shall be identifiable with a residence or business address listed on the petition, together with the age of the person signing the petition and the date signed. Each individual signing a petition shall indicate his/her relationship to the relevant neighborhood (*e.g.* resident, business owner, employee, business manager). Signatures will not be accepted if it is not clear whether the signatory is a business owner or manager or a resident of the designated area.
- D. **AFFIDAVIT.** Each petition shall contain an affidavit signed by the circulator of the petition that the circulator personally witnessed each signature appearing on the petition, that each signature thereon is the signature of the person whose name it purports to be, that the address given opposite that person's name is the true business or residence address of the person signing the petition and that the applicable requirements of these rules have been satisfied.