

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

MEMORANDUM

TO: All parties in interest for Excise and Licenses hearings
FROM: Dominic Vaiana, Deputy Director of Operations, Excise and Licenses



DATE: May 1, 2020

RE: Temporary modifications to the Department's Hearing Policies and Procedures

In support of the City's Stay at Home Order and subsequent public health orders to slow the spread of COVID-19, the following sections of the Department's Hearing Policies and Procedures shall be temporarily modified as follows, and will remain in effect until revoked or modified by the Director. These provisions have been modified in an attempt to allow for the facilitation of electronic and remote participation in Department hearings and increased flexibility for parties in interest who may wish to testify.

New language is shown below using a double underscore and omitted language is shown below using a ~~strikethrough~~.

1. In section **1.6.2 Use of Cameras at Hearing**, the following subsection shall be added:

1.6.2.4 Use of Cameras to Facilitate Remote Hearings - The Director or Hearing Officer, in their discretion, may allow for the use of cameras to record, stream, or otherwise enable remote participation at any licensing hearing or proceeding initiated by the Department.

2. In section **1.6.3 General Pre-Hearing Procedures**, the following subsection shall be added:

1.6.3.1.1 Remote Participation Authorized – Unless otherwise ordered by the Director or Hearing Officer, remote participation in licensing hearings or proceedings is permitted.

3. In section **1.6.3 General Pre-Hearing Procedures**, the following subsection shall be added:

1.6.3.10 Pre-filed Exhibits – Required for Remote Hearings. All documents, exhibits, electronically stored information, and tangible things that a party intends to introduce as evidence which are not included in the licensing file shall be filed with the Department at least seven (7) days prior to the date of the hearing. At the discretion of the Director or Hearing Officer, any documents filed after the deadline may be excluded from consideration.

4. In section **1.6.4 General Hearing Procedures**, the following language shall be modified:

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

5. In section **1.6.3 General Pre-Hearing Procedures**, the following language shall be modified:

1.6.3.8 Request for Interpreter Services – Any Applicant, Licensee, Party in Interest, or City Attorney may request a foreign language interpreter for any hearing. Such requests must be made in writing per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3 no later than ~~ten (10)~~ five (5) days before the scheduled hearing date. Requests must include the name of the person who requires interpreter services, the address that qualifies the person as a Party in Interest (if applicable), the Business File Number, the language for which an interpreter is needed, and whether the Recommended and Final Decisions need to be translated.

6. In section **1.6.3 General Pre-Hearing Procedures**, the following language shall be modified:

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

7. In section **2.1.1 Designated Area**, the following language shall be modified:

2.1.1.3 Modification of the Designated Area – Upon Request – Any Party in Interest may request, in writing per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3 that the Director modify an established Designated Area. The request must explain the reason(s) for the request and must be filed no later than ~~ten (10)~~ five (5) days after the date that notice posting commences. The decision to grant or deny such a request shall be within the sole discretion of the Director.

8. In section **2.1.6 Posting Signs and Notice**, the following language shall be modified:

2.1.6.2 Posting Sign Requirements

(v) The sign must inform the public that ~~petitions~~ requests for evening hearings must be

~~filed fifteen (15)~~ submitted in writing at least five (5) days before the scheduled hearing date.

9. In section **2.2.2 Requesting an Evening Hearing**, the following language shall be modified:

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

- (i) Be submitted at least ~~fifteen (15)~~ five (5) days prior to the scheduled hearing date or rescheduled hearing date; and
- (ii) Be made in writing per the guidelines outlined in sections 1.6.1.2 and 1.6.1.3 using a form provided by the Department; ~~and~~
- ~~(iii) Contain at least fifteen (15) valid signatures of Parties in Interest, along with each individual's address and phone number.~~

10. In section **3.4.1 Posting Requirements**, the following language shall be modified:

The Applicant must post notice of the public hearing at the proposed location for a minimum of ~~twenty (20)~~ ten (10) days or as otherwise provided in the Application Letter and/or Order.

11. In section **3.5.1 Presentation of Evidence and Testimony**, the following language shall be modified:

3.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.

12. In section **4.4.1 Posting Requirements**, the following language shall be modified:

The Applicant must post notice of the public hearing at the proposed location for a minimum of ~~twenty (20)~~ ten (10) days or as otherwise provided in the Application Letter and/or Order.

13. In section **4.5.1 Presentation of Evidence and Testimony**, the following language shall be modified:

4.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.

14. In section **7.4.1 Posting Requirements**, the following language shall be modified:

The Applicant must post notice of the public hearing at the proposed location for a minimum of ~~twenty (20)~~ ten (10) days or as otherwise provided in the Application Letter and/or Order.

15. In section **7.5.1 Presentation of Evidence and Testimony**, the following language shall be modified:

7.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.

16. In section **9.5.1 Presentation of Evidence and Testimony**, the following language shall be modified:

9.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.

17. In section **10.5.1 Presentation of Evidence and Testimony**, the following language shall be modified:

10.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.

18. In section **13.5.1 Presentation of Evidence and Testimony**, the following language shall be modified:

13.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.

19. In section **14.2.2 Posting Requirements**, the following language shall be modified:

The Applicant must post notice of the public hearing at the proposed location for a minimum of ~~twenty (20)~~ ten (10) days or as otherwise provided in the Application Letter and/or Order.

20. In section **14.3.3 Presentation of Evidence and Testimony**, the following language shall be modified:

7.5.1.1 Qualified to Testify

(ii)(a) The Applicant must present at least one Neighborhood Witness (other than the Applicant) to provide testimony establishing the need and desire of the neighborhood for the license to issue. If authorized by the Department, Neighborhood Witness(es) may participate remotely through the use of a pre-filed affidavit, telephonic testimony, or virtual appearance facilitated by the Department.