



DENVER
THE MILE HIGH CITY

Excise and Licenses

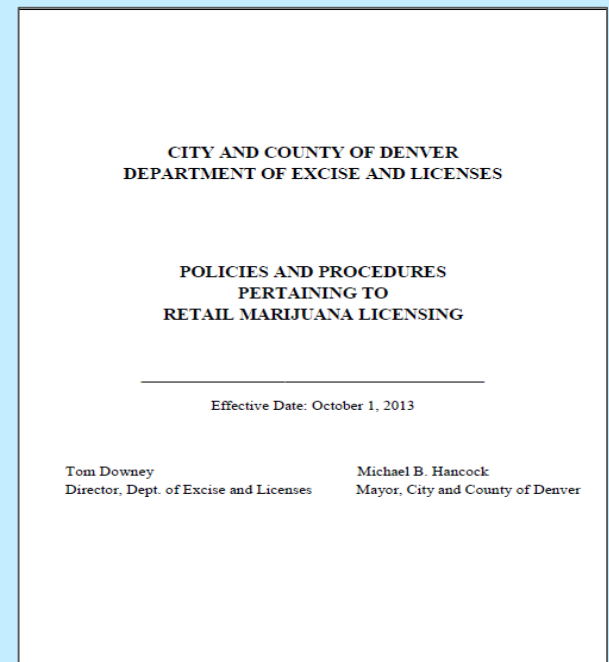
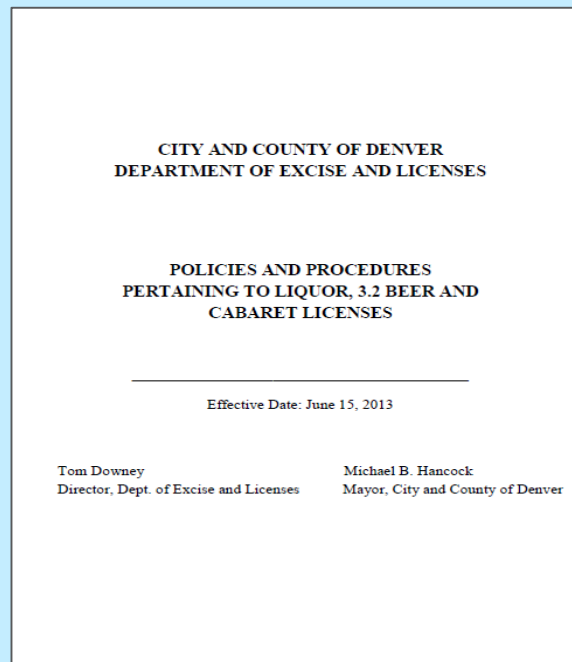
Hearing Policies &

Procedures

Proposal

➤ General guidelines for how EXL conducts hearing procedures, decisions and other steps within overall licensing process:

- Haven't been updated since adoption in 2013
- Recent ordinance changes make HPP outdated/antiquated
- Reside in two different documents, sometimes confusing to navigate



- Current documents can be found online at EXL website:
www.denvergov.org/businesslicensing

➤ Local Liquor Licenses:

- 3.2 Percent Beer License
- Arts Liquor License
- Beer and Wine License
- Brew Pub
- Club License
- Liquor Licensed Drug Store
- Hotel and Restaurant
- Hotel and Restaurant with Optional Premises
- Retail Liquor Store
- Tavern
- Vintner's Restaurant License
- All transfer of location applications for any liquor license

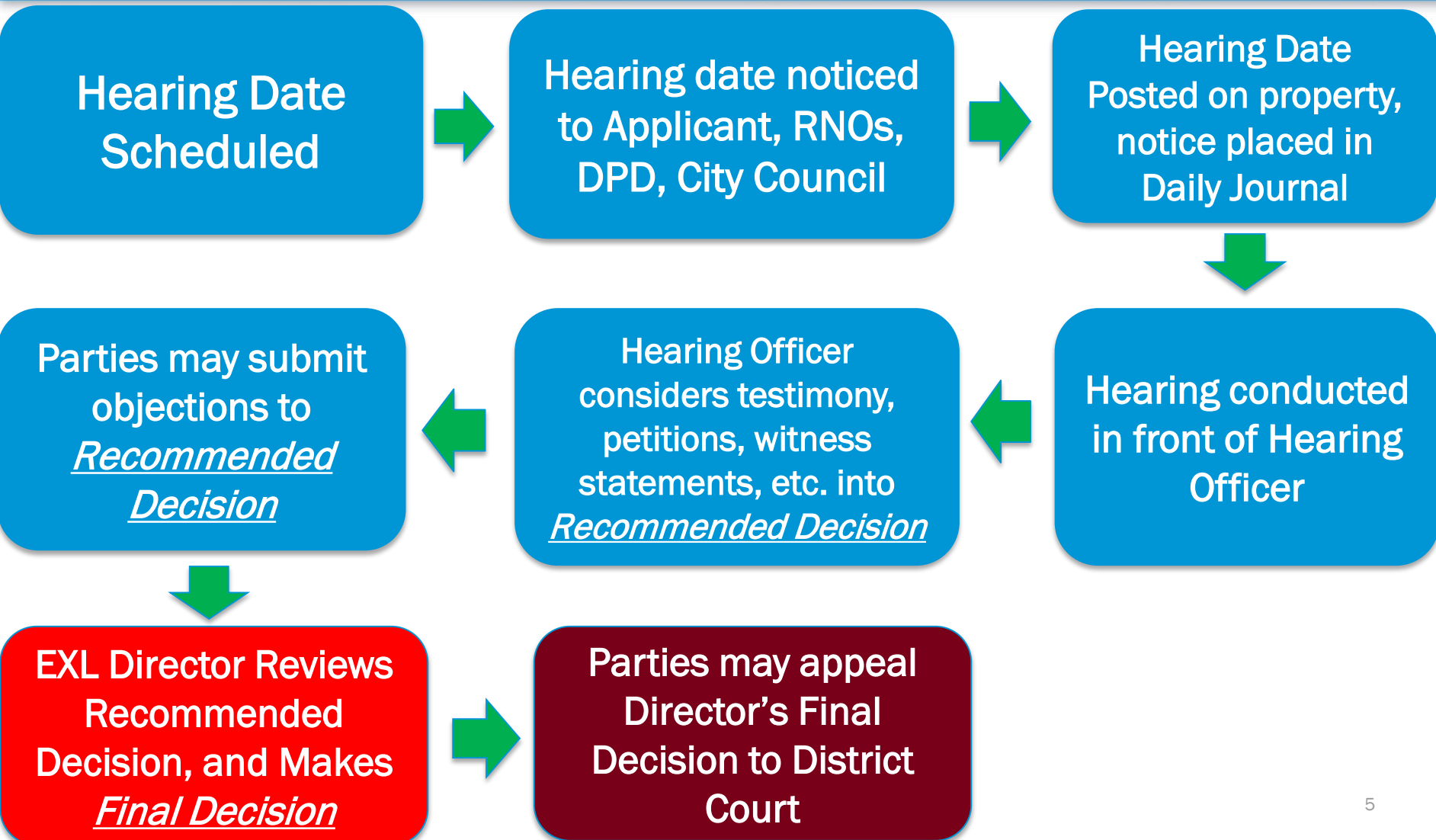
➤ Cabaret Licenses (live music/entertainment)

➤ Marijuana Licenses:

- New RMJ Stores
- New MMJ Centers
- All transfer of location applications for RMJ Stores and MMJ Centers

- **Applicant;**
 - *Individual applying for license*
- **Neighborhood Witnesses;**
 - *Maximum of three parties in interest who can testify at length*
 - *Other parties in interest may testify for against application “en masse” at a hearing*
- **RNOs;**
 - *Registered Neighborhood Organization who’s boundaries encompass designated area*
 - *RNO representative may testify for or against application*
- **City Attorney;**
 - *Represents City during hearing.*
- **Applicant’s Attorney;**
 - *Represents applicant during hearing.*
- **Hearing Officer;**
 - *Professional attorney who conducts overall hearing and procedure. Drafts recommended decision to EXL Director for consideration.*

Current Standard Hearing Process:



➤ Hearing Policies & Procedures (HPP) Working Group Convened in August 2016 to update, revise, and simplify existing HPP documents.

■ HPP Working Group includes:

- ❖ Two representatives from RNO/INC
- ❖ Two industry representatives (applicant representatives)
- ❖ One hearing officer
- ❖ City Attorneys Office
- ❖ Excise and Licenses
- ❖ Office of Marijuana Policy

■ HPP members equipped with legal background – very important for HPP document.

➤ HPP working group identified three principles to help guide formulation of new HPP documents:

1) Clarification – *need to clarify requirements and steps for hearing procedures (more clear definitions and clarity of various procedures and roles).*

2) Communication – *need to clearly and effectively communicate the process and steps required for hearings (posting hearing dates, when signatures are needed, etc.)*

3) Standardization – *need to standardize requirements where possible among different industry types (standardize between RMJ and MMJ, etc.)*



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Proposed Modifications to Hearing Policies & Procedures:

- Green Text = Marijuana license hearing changes (medical & retail)
- Blue Text = Liquor license hearing changes
- Red Text = Cabaret license hearing changes
- Black Text = changes for all license type hearings, or other changes.
- License type hearing changes broken down into three categories:
 - I. Former Hearing Policies & Procedures
 - II. Proposed Hearing Policies & Procedures
 - III. Justification for proposed changes

1) Technical HPP Document Changes

| Former HPP | Proposed HPP | Justification |
|---|--|---|
| Two separate documents prescribing policies and procedures only for retail marijuana in 1 document. Liquor, cabaret, and 3.2 beverages in the other document. | All license types requiring a public hearing now combined into one streamlined document. | Document now more easily-navigable, and includes all license types into one document, avoiding confusion between two different documents. |
| Only outlined policies and procedures for retail marijuana, and not medical marijuana | Policies and procedures now applicable to ALL marijuana hearings (retail and medical). | Provides more consistency in hearing requirements, adequately reflects current ordinance requirements for marijuana. |
| Evening hearing requirements set forth in different document, with inconsistencies among license types. | Evening hearing requirements now streamlined, consistent and same among all license types. | Provide more clarity and direction on how to request an evening hearing regardless of license type. |
| Previous document provided heavy detail on “administration” of applications – details not directly related to actual hearing requirements. | Policies and procedures now limited only to hearing requirements. | Administration procedures on accepting/reviewing applications change over time with ordinance. Policies and procedures should apply only to hearings. |

2) Petition Deadlines and Circulation

| Former HPP | Proposed HPP | Justification |
|---|--|--|
| Filing deadlines for petitions for evening hearing must include 10 valid signatures from Designated Area. | Filing deadline for petitions for evening hearing must contain 25 valid signatures from Designated Area. | Evening hearings are becoming more and more prevalent for EXL, and petition-gatherers are able to obtain well more than 10 signatures. A higher threshold of signatures is needed to raise standard for evening hearing request. |
| No filing deadlines for petitions in support/opposition of application for day hearings (certain requirements for evening hearings). | All petitions in support/opposition must be filed 14 days prior to hearing date for all hearings. | Allows additional time for all parties to review the petitions prior to the hearing. Provides better streamlining of actual hearing process. |
| <p>Liquor petitions may only commence after the second day of notice posting.</p> <p>No petition commence date for marijuana hearings.</p> <p>No petition commence date for cabaret hearings.</p> | All petitions for all types of hearings may commence the day after the Notice Packet is sent. | Allows petition collection to commence sooner and harmonizes rules for all license hearing types. |

3) Hearing Length Provisions

| Former HPP | Proposed HPP | Justification |
|--|--|---|
| No limits or guidance on how long hearings last | All hearings shall not last more than 4 hours before Hearing Officer has discretion to continue hearing to another date. (Sec. 2.03) | Streamlines length of hearing for all parties to more “humane” time frame. Prevents evening hearings from lasting well past midnight. |
| No procedure for requests to continue the hearing to another day | Any party in interest may request the hearing be continued to another day, and hearing officer has full discretion to grant or deny the request. (Sec. 2.02, 2.03) | Provides more clarity and direction on how parties may request continuance of hearing. |

4) Expert Witness Filing

| Former HPP | Proposed HPP | Justification |
|---|---|---|
| No requirements or guidelines on expert witness testimony | Any expert witness must file a brief statement on subject matter expertise, as well as any other information describing their expertise in any particular area. (Sec. 3.03) | Provides all parties with ability to review credibility of expert, as well as to provide advanced notice of expert testimony at hearing to all parties. |

5) Scheduling Orders and Applicant Letters

| Former HPP | Proposed HPP | Justification |
|---|--|--|
| <p>Only alluded to general requirements for petitions and signatures of ALL hearings. No tool to tell parties exact dates of filing requirements, petitions, etc.</p> | <p>Scheduling orders or Applicant Letters will now be sent to all parties in interest with exact hearing requirements, including exact deadlines for filing petitions, signatures, expert witness, standards of issuance, etc.</p> | <p>Provides all parties with consistent, clear requirements in advance of the hearing. Avoids confusion with separate parties operating under separate sets of requirements.</p> |

6) Standards of Issuance (scope of public hearing)

| Former HPP | Proposed HPP | Justification |
|---|---|--|
| Marijuana standards of issuance for license only referred to “good cause” of application, i.e., failure to comply with State law, evidence the public health, safety, welfare of public would be adversely affected, etc. | Marijuana hearings now include “good cause” evidence <i>plus</i> “needs and desires of adults inhabitants” as a part of the hearing standards of issuance (Sec. 5.03) | Language now adequately reflects hearing requirements for marijuana applications set forth in the Denver Revised Municipal Code. |
| Liquor standards of issuance only based on “needs and desires of adult inhabitants of the community. | No changes; still based on needs and desires standards of issuance (Sec 4.03) | Current language reflects requirements set forth in Colorado Revised Statutes. |
| Cabaret standards of issuance mirrors that of liquor standards of issuance | No changes; still mirrors liquor standards of issuance. | No changes necessary. |

7) Special Event Hearing Requests

| Former HPP | Proposed HPP | Justification |
|--|---|---|
| <p>No direction or procedures on how Special Event Hearings (triggered on request) are conducted, or standard of issuance (scope) of public hearing.</p> | <p>Outlines policies and procedures of how Special Event Hearings are conducted. Also sets specific time-window of when hearings can be requested before date of special event. (Sec. 7.02)</p> | <p>Now provides structure and clarity on policies and procedures for conduction special event hearings. Also provides clear direction to parties on timeline to request hearing before special event takes place, avoiding late or last minute hearings before time and effort has been put into special event.</p> |

8) Conditions on the Face of License

| Former HPP | Proposed HPP | Justification |
|---|---|---|
| <p>Only allowed for a maximum of 4 conditions to be placed on the face of a license from negotiations and deliberation of hearing. Conditions can be pulled from Good Neighborhood Agreement provided they are legal and enforceable.</p> | <p>Removes 4 condition limit on the face of the license and allows any conditions to be put on license provided the conditions are legal and enforceable.</p> | <p>Current practice allows more than just 4 conditions on a license. New HPP reflect current practice. Additionally, conditions sometimes get “squeezed” into 4 sentences, or bullet points on face of license – making 4 condition limit arbitrary. New proposal allows whatever conditions both parties agree to be put on face of license provided the conditions are legal and enforceable.</p> |

Proposed Minor Changes to HPP

- Designated Area (Sec 3.02(c)):
 - *More clarification on which sides of streets to include in Designated Area.*

- En-Masse testimony (Sec 3.03(b)):
 - *Clarification on eligibility and limits for en-masse testimony (parties-in-interest only, cannot be cross-examined on testimony)*

- Communication procedures w/ Department (Sec 2.02):
 - *More clarification on instructions for email/letter correspondence related to hearings, as well as ex-parte communication limits.*

Proposed Minor changes to HPP Cont...

- Post Hearing Procedures (Sec 2.02):
 - *Outlines timelines required to submit protests, additional evidence, etc.*
- Parties-in-Interest:
 - *More clear definitions of parties-in-interest and who's eligible to testify at hearings.*
- Process for Obtaining Hearing File (Sec 3.03(b)):
 - *Provides instructions on how to obtain hearing file for all parties in advance of hearing.*
- Elected Official's Role in Hearings:
 - *Clarifies ordinance requirements that elected officials can be designated as parties in interest if their district overlaps any part of the Designated Area in marijuana hearings only. (Sec. 5.02)*
 - *Elected official can be party in interest for liquor and cabaret hearings if they live in the designated area (per statute requirements). (Secs. 4.02; 6.02)*

- Public hearing for adoption tentatively scheduled for May 2nd.
- Review draft HPP and presentation at Excise and Licenses website at denvergov.org/businesslicensing.
- Effective date applicable to all license applications - including those still waiting to be scheduled for a hearing.
 - *Scheduling Order or Applicant Letter will be attached to each application outlining specific hearing requirements.*



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Questions?