

The process begins with the Applicant obtaining state and city forms from the Licensing Clerk. These forms can be obtained by stopping by the City Manager's office at 1777 Broadway, Municipal Building, 2nd Floor (SW corner of Canyon & Broadway) or by downloading forms from city's website listed herein.

Obtaining a liquor license can be a time consuming process, and generally takes between three to four months or longer to complete. It is vital for Applicants to contact the Licensing Clerk well in advance of their business opening. In general, the Licensing Clerk is prohibited from accepting a license application for a location that is closer than 500 feet from a school or where such business is prohibited by local zoning laws so the Applicant is well advised to research these aspects of their proposed location before possession.

Application forms require background information from the Applicant to enable the city, through its departments (Licensing, Police, Planning, Building Services, Code Enforcement, and Fire) to research license application details. This information is also important so that the Authority can make a determination, pursuant to state law, as to whether the Applicant is eligible to hold the responsibility and privilege of a liquor license.

In addition to other information, the application requires information on the Applicant's criminal history (if any), their financial backing, and their other connections to the liquor industry including all other licenses held, prior suspended, or relinquished. The existence of a criminal record does not necessarily preclude a person from obtaining a license. However, Applicants with criminal records or negative histories should provide evidence of rehabilitation or they may risk license denial.

The Applicant must also supply detailed floor plans of the business so that the Authority can evaluate the size of the business, the general operating characteristics of the proposed establishment, and the number of potential patrons. For a complete list of information necessary for an application, refer to the checklist of required documents, the application forms, and contact the Licensing Clerk. In order to be considered for a liquor license, all completed applications and fees (both state and city) must be submitted directly to

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so that the Clerk can make agenda item materials available to Parties In Interest and so that materials to be offered by Parties In Interest can be provided to the Applicant and vice versa. It is strongly recommended that if Applicants or Parties In Interest wish to submit written exhibits to the Authority, that they bring seven copies to the hearing (one copy for each of the five Authority members, one copy for the file of the Licensing Clerk, and one copy for the other party). The Licensing Clerk will mark each submitted written document as an agenda exhibit so that it may be accepted into the hearing record.

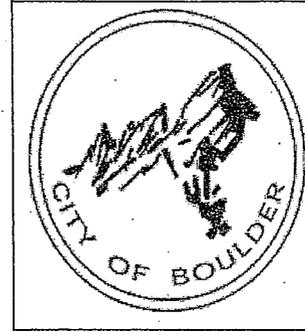
Formal hearing rules of procedure are usually read at the start of each agenda item, but can be waived by the Applicant or their attorney if so desired. A Party in Interest may also request to have the procedures read so that all those present will understand the rules.

The Applicant proceeds first by presenting evidence to the Authority as to why they believe a license should be granted. The Applicant and the Applicant's witnesses may be cross-examined by the Authority members, by Parties in Interest, by Parties in Interest's attorney, by the City Attorney representing the Authority, or by Boulder Police representatives.

Following the conclusion of Applicant's presentation, Parties in Interest are provided an opportunity to present any testimony or evidence in support of, or in opposition to, the license application. The Parties in Interest and their witnesses may also be subject to cross-examination by Authority members, by the Applicant, by Applicant's attorney, by the City Attorney representing the Authority, or by Boulder Police representatives.

The Authority may limit, or consolidate duplicative testimony or evidence in the interest of proceeding efficiency. At the Authority's discretion, the Applicant may be allowed to provide rebuttal evidence and testimony upon conclusion of the Party in Interest case presentation. All parties will then be allowed to provide closing statements. The Authority will then: i) close participation to allow for deliberations by Authority members only; ii) determine if a continuance is required for additional research or to gather more evidence and determine whether there is good cause to grant such a continuance; iii) publicly discuss and consider all submitted testimony and evidence; and iv) by motion and quorum, vote to either approve or deny the license.

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Guide to the Liquor Licensing Process of the City of Boulder

Helpful Telephone Numbers

- Licensing Clerk Office- 303-441-3090 & 3010.
- Boulder Police Department (BPD)-303-441-3300.
- State Liquor Enforcement- 303-205-2300, then dial "1" for liquor & "1" for retail licenses

This pamphlet is intended as a brief overview of the liquor licensing process with a focus on new license applications. It is not intended and should not be used as a substitute for legal advice. You should consult with an attorney regarding any specific legal problems or questions.

This pamphlet may be useful to neighbors of and business owners/managers near proposed licensed premises, prospective license applicants, and other Parties in Interest. Persons seeking additional information are also encouraged to thoroughly review the State of Colorado Liquor Code, the Colorado Code of Regulations promulgated by the State Liquor Enforcement Division, the City of Boulder Beverage Licensing Authority's Rules of Procedure, and other materials related to liquor licensing law. A web-link to the State Liquor Code and Regulations and the city's Rules of Procedure can be found on city's website at: www.bouldercolorado.gov, select "Departments", select "City Clerk's Office", and select "Liquor Licensing".

Overview

Because holding any type of liquor license grants legal privileges and rights, as well as imposing considerable responsibilities, proceedings governing the granting and revocation of such licenses can appear to be complex and not easily understood. This brochure is intended to assist citizens in participating more effectively in the liquor licensing process.

In Boulder, liquor licensing decisions are made by the Beverage Licensing Authority (herein, the "Authority"), a quasi-judicial, five-member volunteer community board whose members are appointed by the city of Boulder's city council. The city of Boulder Licensing Clerk is the Authority's agent and handles all administrative matters associated with liquor licensing. Authority rulings may be appealed to Boulder County District Court by Applicants and Parties in Interest within thirty days of a final decision. City council has no jurisdiction and cannot amend Authority decisions.

Applying for a new license

Any person, partnership, joint venture, trust, limited liability company, or corporation (herein, the "Applicant") desiring a license to sell or distribute alcoholic beverages (beer, wine, or spirituous liquor) in the city of Boulder, must first obtain a license to do so from both the State of Colorado and from the city of Boulder.

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the city's Licensing Clerk. Once that is done, the matter will be set for a public hearing before the Authority to determine whether a liquor license should be granted or denied. At the hearing, Authority members will have copies of the application packet. This information is also available to the public. Contents of any completed liquor license applications, and issued license files are public information (with few federally protected information exceptions). This means that once an application is filed, Boulder citizens and others may review the file contents by contacting the Licensing Clerk's office and scheduling an appointment to review the file.

The hearing is an opportunity for the Applicant to present evidence supporting the issuance of a liquor license, to respond to any questions presented by the Authority, and to address any comments provided by a *Party in Interest*. Parties in Interest are invited to participate in liquor license hearings. Parties in Interest may advocate for or against the granting of a license.

Party in Interest

- The Applicant
- An adult resident of the Authority designated neighborhood (21 years of age)
- The owner or manager of a business located in the Authority designated neighborhood
- The principal or representative of any school located within five hundred feet of the premises for which the license is sought.

After the Applicant's presentation to the Authority is complete, Parties in Interest may provide comments in the form of testimony, letters, or petitions within the designated neighborhood. The Authority may accept information in any form so long as the evidence in the opinion of the Authority is relevant, probative, and not duplicative. Parties in Interest may submit such materials by U.S. mail, e-mail, or they may be dropped off at the following addresses:

Boulder Beverage Licensing Authority
P.O. Box 791, Boulder, CO 80306
1777 Broadway, 2nd Floor- Municipal Building
Attn: City Clerk's Office- Liquor Licensing Clerk
Email: cookm@bouldercolorado.gov

Neighborhood Boundaries

Before ruling on an application for a new license, and pursuant to state law, the Authority shall consider among other factors:

- Whether the reasonable requirements of the designated neighborhood establish a need for the type of license for which application has been made.
- The desires of the adult inhabitants of the designated neighborhood for the specific class of liquor license in the proposed location as demonstrated by petitions, remonstrances, or other evidence in the record, such as letters, testimony, relevant statistics/studies, and opposing petitions.
- The number, type, and availability of similar liquor licensed establishments located near or in the designated neighborhood.

Given those considerations, the Authority must define the neighborhood by establishing boundaries based on the proposed location for each new license application (and for other types of applications when previously set neighborhood boundaries are unavailable). Neighborhood boundaries are set by the Authority at a public hearing usually one month prior to the application hearing. Applicants and Parties in Interest may provide verbal and written suggestions as to the designated neighborhood boundaries.

The boundaries are delineated following street lines, and are no less than ½ mile from the proposed license location. In addition, factors including but not limited to zoning boundaries, land use designations, traffic flow, access roads, demographics, size of establishment, natural and human-made barriers, and consideration of other similar licenses in the area proposed may also be considered by the Authority in determining the neighborhood boundary. The Applicant is advised in writing of Authority's decision on the defined boundary.

Documenting Needs and Desires

As mentioned in the preceding paragraph, one of several factors that the Authority must consider in evaluating a new license is whether the designated neighborhood "needs and desires" the issuance of a new license. Applicants have the burden to establish the neighborhood's need and desire for approval of their liquor license at the proposed location. One of the ways that Applicants typically accomplish this is through petitioning. An Applicant may choose to do their own petitioning or they may hire a petitioning company. After receiving notice of the designated neighborhood boundaries, the Applicant travels door to door within the designated neighborhood, contacting residence owners/renters, and business managers/owners to survey

whether they need or desire a liquor license. Neighborhood resident and business owners/managers are not obligated to sign petitions. Their participation is strictly voluntary. Applicants typically make a sampling survey of many, though rarely all, of the residents in the designated neighborhood. Applicants then provide petition results to the Authority and advocate as to why their license should be granted. Neighborhood residents and business owners responding negatively to an Applicant's petition may be asked to explain their negative response. Responses based on a general abhorrence of alcohol cannot be considered in determining the needs and desires factor. In contrast, negative responses focusing on an overabundance of existing licensed establishments in the neighborhood are generally construed as more persuasive.

If a new license application is denied based on a finding that the reasonable requirements/needs of the neighborhood and the desires of the adult inhabitants are satisfied by the existing outlets, the Licensing Clerk is precluded by law from accepting another application for a 2 year period (1 year for 3.2% beer applications) at the same location or a location within 500 feet of the original location for the same class of license.

Furthermore, the Authority may deny the issuance of a new tavern or retail liquor store license whenever the Authority determines that the issuance of such license would result in or add to an undue concentration of the same class of license and, as a result, require the use of additional law enforcement resources. Denial on this basis must be based on documented evidence and not rooted in speculation.

Posting of Notice

According to city procedures and state law, public notice of the hearing must be posted and published. The Authority's public hearings are noticed no less than ten days prior to the meeting in the following ways:

- A notice sign, issued by the city, but posted by the Applicant, is conspicuously posted at the physical premise location seeking a license in a place plainly visible to the public. The posted notice provides details on the type of license sought, the date, time and location of the hearing where the application will be ruled upon by the Authority, as well as contact information on the license Applicant and where interested parties can acquire more information on the license application.

- The city publishes the same information in the newspaper of record, currently the Boulder Daily Camera on the Sunday which falls closest to ten days prior to the public hearing.
- The information is posted in the 1st floor lobby of the Municipal Building, 1777 Broadway.
- The information is posted on the city's website at: www.bouldercolorado.gov, then select "Departments", select "City Clerk's Office, and then select "Liquor Licensing".

Application Hearings

Authority hearings are quasi-judicial proceedings, as such, the issue of clarity concerning hearing procedures is of utmost importance. A sound recording is made of the hearing and evidence is presented to the Authority much like a court trial. The hearing procedure is designed to offer both the Applicant and Parties in Interest an opportunity to provide the Authority with information. Public comment concerning pending license applications, whether written or verbal, may be provided by anyone, either in person at the public hearing or to the Licensing Clerk prior to the hearing. However, only testimony and evidence provided by Parties in Interest is relevant in Authority deliberations.

Typically Authority hearings begin by the Authority Chair calling the hearing to order, followed by administrative proceedings such as review of the prior month's Authority minutes, hearing conductor assignments, and updates from the Boulder Police Department and the Responsible Hospitality Group.

The Licensing Clerk reads each applicable agenda item into the record and the Hearing Conductor calls each agenda item's hearing to order. When an Applicant's matter is called to order, the Applicant should approach the microphone to be sworn in by the Licensing Clerk, and confirm under oath that the premise was properly posted. The Hearing Conductor will then ask audience members whether anyone desires Party of Interest status. In order to confirm Party in Interest status they must identify themselves by stating their name and address for the record. They are then sworn in by the Licensing Clerk.

If Parties in Interest anticipate attending a hearing, they should contact the Licensing Clerk (preferably before the hearing or before the agenda item is called)