

**RULES OF PROCEDURE FOR THE PUEBLO COUNTY  
LIQUOR AND MARIJUANA LICENSING BOARD  
(Effective October 16, 2017; Amended April 14, 2020)**

**Part 1. General Provisions**

**1.1. Authorization - Scope.** These Rules are authorized pursuant to Section 5.16.040(A) of the Pueblo County Code. They apply to all meetings of the Board and to the conduct of its Members, except that Part 11 of these Rules applies only to the Hearing Officer.

**1.2. Purpose.** These Rules are designed to supplement the provisions of Title 5 and seek to effectuate the principles of fairness, certainty and efficiency. They are intended to provide predictability and order to proceedings of the Board and to clarify the rights and duties of its Members.

**1.3. Definitions.** As used in these Rules, the following terms shall have the following meanings:

- a. "Board" means the Pueblo County Liquor and Marijuana Licensing Board.
- b. "BOCC" means the Pueblo County Board of County Commissioners.
- c. "County Attorney" means the Pueblo County Attorney or his or her designee.
- d. "Department" means the Pueblo County Department of Planning and Development.
- e. "Director" means the Director of the Pueblo County Department of Planning and Development or her or his designee.
- f. "Enforcement Division" means Pueblo County acting in an enforcement capacity and represented by conflicts counsel in the County Attorney's Office.
- g. "Hearing Officer" means the hearing officer established and appointed under Section 5.16.030 of the Pueblo County.
- h. "Member" means a member of the Pueblo County Liquor and Marijuana Licensing Board.
- i. "Rules" means the Rules of Procedure for the Pueblo County Liquor and Marijuana Licensing Board.
- j. "Title 5" means Title 5 of the Pueblo County Code.

**1.4. Construction.** These Rules shall be construed in a manner consistent with Rule 1.2 and that best accomplishes the goals of Title 5, the Medical Marijuana Code, the Retail Marijuana Code or the Liquor Code, as applicable. In the event of a conflict between those sources of law and these Rules, those sources shall control. These Rules are not intended to limit the Board's power.

**1.5. Robert's Rules Adopted as Default.** Where these Rules or Title 5 are silent as to procedures at meetings, Robert's Rules of Order shall apply.

## **Part 2. Meetings.**

**2.1. Meeting Required.** All actions of the Board must take place at a meeting held pursuant to C.R.S. § 24-6-401, et seq., except nothing shall prevent the Chairperson, Vice Chair, Director or other agent of the Board from taking specific actions on behalf of the Board where authorized to do so either by the Board or by these Rules, Title 5, or any other law.

**2.2. Venue.** Unless otherwise required, all meetings of the Board shall be held at the Commissioners' Chambers, Pueblo County Courthouse, 215 West Tenth Street, Pueblo, Colorado 81003. The Director may change the venue of any meeting if: (1) the Chambers are unavailable due to maintenance or the meeting of another body or (2) the anticipated attendance at a meeting might exceed the capacity of the Chambers. Before changing venue, the Director shall attempt to consult with the Board at its prior meeting and in all cases shall provide the Members at least twenty-four (24) hours' advance notice.

**2.3. Cancellation - Rescheduling.** The Board may cancel and reschedule future meetings, but it shall not move a meeting to an earlier date without giving at least forty (40) days' notice in advance of the meeting's original date; except that a work session or, with the written consent of the licensee, a violation hearing may be moved to an earlier date if otherwise permitted. The Director may cancel any meeting where no items are scheduled.

**2.4. Quorum in General.** No meeting of the Board may take place unless a quorum of the Members is present. In the event a quorum is not present, the Director shall so inform the public gathered at the time and place of the meeting and all applications, hearings, and other matters scheduled for that meeting shall be automatically continued to the next scheduled meeting of the Board without the need to post and publish notice of hearings a second time.

**2.5. Quorum and Recusals.** A recusal from a particular hearing or other item alters the composition of the quorum for that item, but an abstention from voting does not. In the event a recusal would destroy the quorum for a single item, the Board should continue the item to another meeting to ensure a quorum.

**2.6. Order of Business.** All meetings of the Board, other than special meetings shall proceed as follows:

- a. Roll call and declaration of quorum
- b. Approval of minutes of any prior meeting
- c. Approval of agenda
- d. Chairperson's report
- e. Director's report
- f. Requests for continuances
- g. Call of non-hearing items on consent agenda
- h. Call of hearing items on consent agenda

- i. Regular liquor items, including hearings
- j. Regular marijuana items, including hearings
- k. Unfinished business
- l. New business
- m. Other reports
- n. Adjournment

**2.7. Speaking.** During hearings and other formal discussions, no Member or speaker from staff or the public shall speak until the Chairperson calls on him or her to do so. The Chairperson shall not unreasonably prevent a Member from speaking, and this restriction may be relaxed for informal discussion items or work sessions. In the event a person addressing or testifying before the Board fails to adhere to this Rule, the Chairperson may, after providing a warning, eject the person from the meeting. The following statement shall be read by the Chairperson at meetings:

In order for the business of the Board to be conducted in the most effective and expeditious manner, it is necessary that all persons present maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of your right to remain in attendance and may result in your being asked to leave the meeting by the chairperson or, upon your refusal, being escorted out of the meeting by the proper authority.

### **Part 3. Decisions.**

**3.1. Motions.** All formal actions and decisions shall be made by voting on a motion in the affirmative. A motion may be made by any member of the Board and must be seconded to be voted on by the Board. A motion described in Rule 4.6 must be made and seconded. A motion is adopted by a majority of the Members present voting in favor, with recused and abstaining members excluded from the tally.

**3.2. Effect of Failed Motions.** Except where otherwise provided, if a motion to approve a licensing application or other such item fails, the application or other item shall be deemed denied by the Board.

**3.3. Written Decisions.** Decisions need not be in writing unless required by law. Where no written decision is otherwise required, it shall be presumed that no written decision will issue unless the Board so chooses and states on the record that its vote will be followed by a written decision. Proposed written decisions must be adopted by vote of the Board, except that the Board may authorize the Chairperson to execute a written decision on behalf of the Board consistent with the Board's vote on a particular matter. All written decisions shall be signed by the Chairperson or Vice Chair at any time or place or, if presented at a meeting of the Board, by the acting chair.

**3.4. Summary of Orders to Refer.** A decision or order of the Board to refer a matter to the Hearing Officer need not be in writing, but, if the decision or order is not in writing, the Licensing Agent shall promptly produce a written summary of the order or decision. The summary shall accurately state the

content of the order and summarize relevant findings. The summary shall be signed by the Licensing Agent. Any summary issued pursuant to this Rule 3.4 shall constitute an order of the Board for purposes of Part 11 of these Rules.

**3.5. Finality of Decisions.** If a written decision is not required or elected, the decision is final upon the Board's vote on the motion. Where a written decision is required or elected, the decision shall be final either upon the Board's adoption of the decision or, if the Chairperson has been authorized to execute a decision to be prepared by staff, upon the signing by the Chairperson.

#### **Part 4. Hearings Generally.**

**4.1. Opening the Hearing.** The Chairperson shall open the hearing and may make introductory remarks on jurisdiction or the standard to be applied.

**4.2. Disclosures - Recusals.** Any Member who has an interest in the matter or has had ex parte contacts with any party shall disclose his or her interest or contacts. A Member who chooses to recuse himself or herself from the hearing should announce the recusal at this time and remove himself or herself from the table.

**4.3. Preliminary Matters.** If there are preliminary jurisdictional or other threshold questions, the Board shall address them before the staff report. Where permitted under Section 5.16.030, the Board may at this stage vote to refer a hearing to the Hearing Officer. At contentious or complicated hearings, the Chairperson or staff may suggest special procedures and rules designed to accommodate the special nature of the proceedings. Such rules may deviate from or be in addition to the specific order and restrictions under Parts 4 or 5, of these Rules but such special rules shall be approved by vote of the Board. Special rules may include modified time limits, an advance list of permitted speakers, changes to the order of presentation and cross examination, and other changes.

**4.4. Application and Staff Report.** At the beginning of each hearing, the Chairperson will ask staff to make any initial comments. Staff will ask the Chairperson to acknowledge that the application at issue, staff report and any other relevant documents provided to the Members in advance of the hearing are made part of the record.

**4.5. Evidence and Closing the Hearing.** Evidence shall be presented as provided in Parts 5, 6 or 7 of these Rules, as applicable. After evidence has been presented, the hearing, or portion of the hearing, shall be closed and the Chairperson shall entertain a motion. After a motion is made and seconded, the Members may discuss the motion before voting. **4.6. Required Motions.** A motion to decide the matter of a hearing must be made, seconded and voted on. At violation hearings, the matter includes both the alleged violation and, if applicable, the sanction.

**4.7. Continuances.** Any Member may move at any stage of the hearing to stop and continue the hearing to a later date.

**4.8. Other Hearings.** For hearings not described in Part 5 of these Rules, the hearing shall follow as closely as possible those rules most applicable to the subject of the hearing. If necessary, the Chairperson shall explain special rules or exceptions applicable to such hearing.

#### **Part 5. Hearings on Applications.**

**5.1. Enforcement Division.** The Board shall permit the Enforcement Division or Marijuana Code Compliance Inspector to present an advance report or evidence at the hearing relating to the application. Such evidence may, but need not, be included as part of the initial staff report under Rule 4.4.

**5.2. Applicant's Case.** After staff makes its initial presentation, the applicant will have an opportunity to make its case. An agent or representative for an applicant for a license is expected to attend and present evidence at the hearing. If possible, Members should allow each witness or presenter for the applicant a chance to finish before asking any follow-up questions.

**5.3. Public Portion of Case.** In hearings where evidence from neighbors or members of the public is contemplated, testimony by persons in support or opposition to an application shall generally be limited to three (3) minutes per speaker unless specific circumstances justify or require more time. Any request or decision to extend a speaker's time shall be made before the speaker begins presenting evidence. The time taken by Members to ask, and speakers to answer, questions shall not be counted toward the three (3) minutes for testimony.

**5.4. Rebuttal.** In the event persons opposed to the application present evidence, the applicant shall be given an opportunity to rebut, but the applicant shall not be permitted to present new evidence going beyond the scope of the opposition case he or she is rebutting. The applicant should rebut any evidence presented by staff in the report or otherwise, during its case made under Rule 5.3.

**5.5. Burden.** Unless otherwise provide, the applicant bears the burden in demonstrating that it is entitled to a license. Where the staff recommends approval, the application and staff report may be considered prima facie evidence that the applicant's burden has been met.

#### **Part 6: Review of Hearing Officer Decisions**

**6.1 Jurisdiction – Initial Review.** The Board has jurisdiction to review Hearing Officer decisions as provided in Section 5.16.030 of the Pueblo County Code. Once a decision of the Hearing Officer has been issued, the Licensing Agent shall transmit a copy of the decision and any portion of the record as may be necessary to the Board for its review. Once the decision is affirmed by the Board, either by operation of law or by a successful vote, the decision shall be final, and the Board shall have no jurisdiction to consider the decision further.

**6.2. Motion to Affirm.** Unless otherwise stated by a Member, motions on decisions of the Hearing Officer shall be to affirm and the review of such decisions may be placed on the consent agenda to be affirmed by a single motion. If a motion to affirm a Hearing Officer decision fails, the vote shall have no effect on the decision, but any Member may move to reopen the decision as provided in 6.3 below. If no

motion to reopen the decision is made, then the decision shall be deemed affirmed at the close of the meeting.

**6.3. Motion to Reopen.** If a Hearing Officer decision is removed from the consent agenda or otherwise placed individually before the Board, a Member may move to reopen the decision. A failed motion to affirm under 6.2 is not a precondition to a motion to reopen under this section. A motion to reopen under this section shall specify which part or parts of the decision are to be reopened. If the motion does not specify, the entire decision shall be reopened. Any motion made under this section requires a margin of at least two-thirds of the quorum to pass. If such motion fails, the Hearing Officer decision shall be deemed approved and final.

**6.4. Requests to Affirm or Reopen.** A party to a Hearing Officer decision may submit one written request, not to exceed three pages, to reopen the decision. Such requests may be submitted to Licensing Agent at any time after the Hearing Officer's decision but no later than four calendar days prior to the meeting at which the Board intends to consider the decision. A copy of the request shall be provided to the Enforcement Division and to any other party to the decision in advance of the meeting. The Enforcement Division has the right to respond in writing or at the meeting. The Board, in its discretion, may inquire further, but the requesting party shall have no right to address or to petition the Board further.

**6.5. Hearing on Reopened Decision.** When a decision is reopened in whole or in part, notice in writing of the same shall be transmitted to any affected party and a hearing date before the Board shall be set. The Board shall decide the scope of evidence necessary to rehear the case or the part or parts of the case that have been reopened. The Board may elect to limit its review to the record, to allow new evidence, or to consider both. When a reopened hearing is closed, a proper motion may be made to resolve the case or the part or parts of the case that have been reopened. Such motion requires only a majority of the quorum to pass, and if it passes, a written decision is required. If such motion fails, the decision of the Hearing Officer shall be deemed affirmed.

## **Part 7. Evidence.**

**7.1. In General.** Evidence shall be admitted liberally but repetitive, cumulative or irrelevant evidence may be restricted or excluded. The Chair may limit evidence in accordance with this rule, and any Member may request a point of order to discuss the Chair's decision or a question on evidence. Hearsay is disfavored but is not prohibited and may be considered if there are indications of reliability supporting the evidence. The Board may consider, among other things, the directness or reliability of evidence when evaluating its weight.

**7.2. Staff Documents.** The application, staff report, and any other documents provided by staff shall be considered as evidence and shall automatically be made part of the record when the Chairperson so recognizes.

**7.3. Testimony.** Applicants and other witnesses addressing the Board shall testify under oath at hearings and may be asked to testify under oath when addressing the Board for non-hearing agenda items. The Chairperson shall administer the oath.

**7.4. Other Evidence.** Documents, photographs, or other physical evidence shall be admitted freely into the record so long as the person seeking to admit such evidence authenticates the evidence to the satisfaction of the Board.

**7.5. Subpoenas.** Where otherwise permitted in state law, a party to a hearing may file written motion with the Board seeking the issuance of a subpoena. Such motion shall be specific and narrowly tailored. The Board may deny the motion if the applicable standards for issuance of the subpoena are not met or if the motion is overbroad.

### **Part 8. Members.**

**8.1. Attendance.** Each Member is expected to attend every meeting of the Board.

**8.2. Absences Generally.** Subject to Rule 8.3, if any Member is absent from three (3) consecutive meetings or any five (5) meetings in any twelve (12) month period, the Chairperson shall declare the Member's position vacant and request that the BOCC recognize the vacancy and appoint a new member.

**8.3. Excused Absences.** An excused absence shall be omitted from the absences counted under Rule 8.2. An absence may be excused by the Board at any prior meeting or at the meeting immediately following the absence if the Board finds that the reason for the absence was justifiable. An absence shall be excused if advance notice is given to the Director and the reason for the absence includes one or more of the following:

- a. Death of an immediate family member;
- b. Family commitment;
- c. Personal illness or emergency or the illness or emergency of an immediate family member;
- d. Out-of-town or non-standard business commitment;
- e. Approaching serious deadlines for academic or employment responsibilities; or
- f. Personal travel if the travel was planned before or after the meeting date was set.

**8.4. Recusals.** A Member may recuse himself or herself from consideration of a hearing or the item if necessary under Part 10 of these Rules. A recused Member should leave the table until the hearing or other item has concluded.

### **Part 9. Officers.**

**9.1. Officers Recognized.** The officers of the Board shall consist of the Chairperson and Vice Chair.

**9.2. Term and Elections.** The term for each officer is one year. At the expiration of an officer's term, the Board shall vote on the position. Nothing prevents a Member from holding the same officer position for multiple consecutive years.

**9.3. Duties of Chairperson.** The Chairperson shall include:

- a. Supervising the affairs of the Board;
- b. Presiding and regulating conduct at all meetings of the Board;
- c. Recognizing speakers at the meetings of the Board;
- d. Administering oaths;
- e. Making decisions regarding and enforcing the provisions of Part 7 of these Rules; and
- f. Taking specific actions on behalf of the Board where authorized.

**9.4. Duties of Vice Chair.** - The Vice Chair shall perform all the duties and exercise all the powers of the Chairperson if the Chairperson is absent or present but otherwise unable to perform his or her duties.

**9.5. Acting Chair.** In the event the Chairperson and Vice Chair are both absent from a meeting or otherwise unable to preside, the Board shall vote at the beginning of the meeting to appoint an acting chair to preside at the meeting. At such meeting, the acting chair shall perform all the duties and exercise all the powers of the Chairperson.

**9.6. Signing Documents.** The Chairperson and Vice Chair are both authorized to sign all orders, resolutions, letters, licenses and other documents approved by the Board. The Chairperson or Vice Chair are not required to sign such documents at a meeting of the Board but may coordinate individually with the Director to arrange a time and place to sign.

#### **Part 10. Standards of Conduct.**

**10.1. General Expectations.** As members of a formally constituted body exercising decision-making power delegated from the BOCC and Colorado General Assembly, all Members hold a position of authority and respect and are expected to live up to the standards of such a body. All Members shall:

- a. Conduct themselves with decorum and honesty at all times both during and outside of meetings.
- b. Come to each meeting prepared to discuss and consider the items on the agenda.
- c. Refrain from speaking on behalf of the Board as a whole outside of meetings without first obtaining the Board's permission to do so.

**10.2. Personal Interests.** No Member shall participate in a matter when the Member believes he or she will not be able to hear and decide the matter in a fair and impartial manner. In addition, no Member



shall participate in a matter where the Member has a family connection or financial interest in the matter or business before the Board. Any interest or bias arising under this Rule shall be disclosed as provided in Rule 4.2. For purposes of this Part 10, "family connection" means a connection by virtue of an immediate family member, including a spouse, sibling, parent or child, who is employed by, managers or holds a financial interest in a business appearing before the Board.

**10.3. Ex Parte Communications.** Members should attempt to refrain from all ex parte communications with an applicant or other party in advance of a hearing, especially when those communications concern the subject of the forthcoming hearing. Any Member who has had ex parte communications with an applicant or other party shall disclose such communications as provided in Rule 4.2 and evaluated the seriousness and effect of the contact.

**10.4. Specific Standards of Conduct Adopted.** This Board is subject to the provisions of C.R.S. § 24-18-104, -105, and -109. To the extent applicable, those provisions are adopted by this reference.

**10.5. Disclosure.** Every Member shall submit a signed disclosure statement to the Director upon that Member's appointment to the Board. The statement shall list any family connections or financial interests in businesses holding liquor or marijuana licenses within unincorporated Pueblo County. In addition, the disclosure shall include any other interest in such businesses that the Member believes could reasonably appear to affect his or her ability to hear impartially a matter involving one or more such businesses.

**10.6. Violations.** Any violation under this Part 10 shall be grounds for removal from the Board. Where a Member or staff believes another Member is in violation of any provision of this Part 10, a discussion may be scheduled by the Board, Chairperson or Director to consider such alleged violation.

### **Part 11. Hearing Officer Rules**

**11.1. Scope.** This Part 11 applies to all matters before the Hearing Officer established under Section 5.16.030 of the Code. The Hearing Officer is not subject to any other Part of these Rules unless explicitly noted. In the event of a conflict between this Part 11 and any other section of these Rules, the provisions in this Part 11 shall control.

**11.2. Filing Statement or Order.** A case before the Hearing Officer shall be initiated upon:

- a. The Enforcement Division, Licensing Agent, or Board filing a statement or order for a hearing on alleged violations;
- b. The Enforcement Division, Licensing Agent, or Board filing a statement or order for a license renewal hearing; or
- c. The Licensing Agent filing of an order of the Board referring another matter under 5.16.030(C) of the Code.

After a case is initiated, the Licensing Agent shall assign a case number, which shall be included in the Notice under Rule 11.3 and shall then be used to identify all future pleadings, orders, or other filings.

**11.3. Notice of Hearing or Return.** Upon the filing of a statement or order under Rule 11.2(a) or Rule 11.2(b), the Licensing Agent, after coordinating with the Hearing Officer, shall schedule the hearing or a first return and shall:

- a. Issue a notice, which directs the approved business or other party to appear to answer the charges set forth in the statement or order at the date, time, and location of the hearing or first return;
- b. Include within any notice issued for a proceeding under Rule 11.2(b) a disclaimer providing that even if neighborhood concerns relating to C.R.S. § 44-3-103(19)(d) or Section 5.12.110(C)(3) of the Code are not specifically alleged in the statement or order, nothing prevents third parties with an appropriate interest in the proceedings from raising such concerns at the hearing;
- c. Serve the notice on the approved business or other party to the action along with a copy of the statement or order;
- d. Ensure that any notice, hearing or first return complies with the timing requirements of the Code or state law;
- e. If required, post or advertise a copy of the notice on the premises of the approved business and take any other preliminary steps necessary to comply with the Code or state law.

**11.4. Service and Filing.**

a. Filing. Filing is accomplished by mailing or hand delivering the document to the offices of the Licensing Agent. Filing may also be accomplished electronically as directed by the Licensing Agent. Filings shall be marked with the case number and, if mailed or hand delivered, addressed with the notation “c/o Hearing Officer for Licensing.”

b. Service. Unless otherwise ordered by the Hearing Officer, service shall be accomplished by sending the document by certified mail to the other party. In the case of the Enforcement Division, service shall be made at the office of the Pueblo County Attorney, and in the case of an approved business, service shall be made at the address on file with the Licensing Agent for the establishment subject to the action.

c. Waiver. Parties may waive service of any document or agree to service by email.

d. Service of Filings and Orders. All documents filed shall be served on all other parties. All written orders and decisions shall be served on all parties, but service of an order or decision on the Licensing Agent or Enforcement Division may be accomplished by email.

**11.5. Amending Statement or Order.** The Hearing Officer may grant the Licensing Agent or Enforcement Division leave to amend a statement or to seek modification of an order from the Board. Once filed, any amended statement or order shall be noticed again under Rule 11.3 in the same manner as an initial statement or order. The hearing may be continued on the record or in the second notice as necessary to comply with any legal requirements.

**11.6. Summary Suspension.** When permitted in the Code, the Enforcement Division may file a motion for summary suspension. The Hearing Officer may conduct an ex parte hearing, in person or by telephone, or may decide the motion based on the content of attached affidavits, if any. An order for summary suspension shall be in writing.

**11.7. Stay or Continuance of Proceedings.**

a. Discretionary. Upon the motion of a party or upon his or her own motion, the Hearing Officer may stay or continue proceedings where it would promote justice or aid in the efficient resolution of the matter.

b. Mandatory. The Enforcement Division shall file a notice with the Hearing Officer, and the Hearing Officer shall stay the proceedings, if the parties have agreed upon a proposed settlement to be presented to the Board.

**11.8. Motions.** Oral motions are permitted at the hearing or at other appearances. Written motions are not permitted unless otherwise ordered by the Hearing Officer, except that written motions under Rules 11.7 and 11.5 are permitted.

**11.9. Entry of Appearance.** An attorney for an approved business or other party shall enter his or her appearance by filing notice of the same. If an attorney for the Enforcement Division or Licensing Agent has signed the statement initiating the action, that attorney shall be deemed to have entered his or her appearance and there shall be no need for any further filing.

**11.10. Case Management.** The Hearing Officer may manage the case in his or her discretion so as to encourage the efficient resolution of the matter. The Hearing Officer may issue standard or customized case management orders to the extent necessary. For cases initiated pursuant to Section 11.2(c) above, a case management order shall be issued.

**11.11. Discovery – Subpoenas.**

a. No formal discovery is contemplated under these rules and none shall occur without an order of the Hearing Officer, except that the Enforcement Division or Licensing Agent shall provide, if requested, any reports related to the allegations in the statement or order.

b. If otherwise permitted under Colorado law, a party may move for, and the Hearing Officer may order, the issuance of a subpoena if the moving party demonstrates that the subpoena is necessary for the case.

**11.12. Scope of Case Limited – Exceptions.** The scope of any case or hearing initiated under Rule 11.2(a) and 11.2(b) shall be as follows:

a. Except as provided in paragraph (c) below, the alleged violations or instances of noncompliance at issue shall be limited to those set forth in the original or amended statement or order, whichever is applicable.

b. Specific neighborhood-related concerns that would be relevant for a renewal application under C.R.S. § 44-3-103(19)(d) or Section 5.12.110(C)(3) of the Code shall be noted in the original or amended statement or order if known to the Licensing Agent, Enforcement Division or Board at the time of filing. Later receiving knowledge of such concerns, however, shall not be sufficient to require the Enforcement Division or Licensing Agent to seek leave to amend under Rule 11.5.

c. Third parties with a relevant interest in the proceedings shall be permitted to raise neighborhood-related concerns under C.R.S. § 44-3-103(19)(d) or Section 5.12.110(C)(3) of the Code at a renewal hearing without providing prior notice. The hearing may be continued if necessary to allow the approved business to prepare adequately to address those concerns.

**11.13. Default Order of Hearings.** Unless otherwise ordered, hearings under 11.2(a) and 11.2(b) shall proceed as follows:

a. The Enforcement Division or Licensing Agent shall first present the case to prove alleged violations or other noncompliance with the Code or state law. Then, the approved business shall be entitled to present evidence in its defense, and finally the Enforcement Division or Licensing Agent may rebut.

b. At the close of the case on violations or noncompliance, the Hearing Officer shall make his or her findings on whether one or more violations or instance of noncompliance occurred. If necessary, the Hearing Officer may recess or continue proceedings to consider his or her decision.

c. If the Hearing Officer sustains one or more alleged violations or instances of noncompliance, the sanctions stage of proceedings shall commence. The Enforcement Division or Licensing Agent shall present a case for specific sanctions, nonrenewal, or conditions on renewal. Then, the approved business shall be permitted to present evidence in its defense, and finally the Enforcement Division or Licensing Agent shall be permitted to rebut.

d. At the close of this stage of the proceedings, the Hearing Officer shall make his or her findings. If necessary, the Hearing Officer may recess or continue proceedings to consider his or her decision. A final decision shall then be issued.

**11.14. Proceedings in General.** For all hearings under this Part 11, unless otherwise provided by law, the following shall apply:

a. Hearings are open to the public.

b. In general, hearsay is disfavored and the Colorado Rules of Evidence should be followed, but strict adherence is not necessary where evidence is relevant and otherwise reliable.

c. If any party fails to appear or to respond after being served or otherwise provided with adequate notice, the Hearing Officer may issue a default decision finding in favor of the party appearing at the hearing or other appearance.

d. If any party invokes his or her right against self-incrimination, the Hearing Officer is entitled to make an adverse inference against the party.

e. The Hearing Officer may allow recesses or continue hearings as needed and is further permitted to issue orders or to make decisions not specifically contemplated in these Rules but which are necessary to effectuate the purpose of these Rules, the Code, state law, or the interest of the parties or the specific matter at issue.

f. The Enforcement Division, Licensing Agent, third parties with an interest in the proceedings, or other party petitioning the Hearing Officer for a decision shall bear the burden to prove the elements of the case by a preponderance of evidence.

g. Any decision fully resolving the matter before the Hearing Officer shall be in writing and shall be transmitted to the Board by the Licensing Agent.

**11.15. Record.** The Licensing Agent or his or her designee shall record the audio and take written minutes of the proceedings, except for those under Rule 11.6 above. The minutes, recording, filings, orders, decisions, applications, staff exhibits and any other exhibits specifically admitted shall constitute the record of proceedings before the Hearing Officer and shall be maintained by the Licensing Agent. The Licensing Agent shall transmit all final decisions and any portion of the record as may be necessary or helpful to the Board for its review.

## **Part 12. Miscellaneous.**

**12.1. Office of Board.** The office and mailing address of the Board shall be the office of Department.

**12.2. Records.** Records of the Board are subject to the Colorado Open Records Act ("CORA"). The Director shall serve as the custodian of records for the Board and is authorized to make all decisions contemplated under CORA on the Board's behalf.

**12.3. Amendment.** To amend these Rules, the Board must adopt a motion accepting a written proposed amendment, which, upon approval, shall be forwarded to the BOCC. Such amendment shall only take effect upon its approval by the BOCC.

