

**City of Chicago**  
**Department of Business Affairs and Consumer Protection**  
**Local Liquor Control Commission**

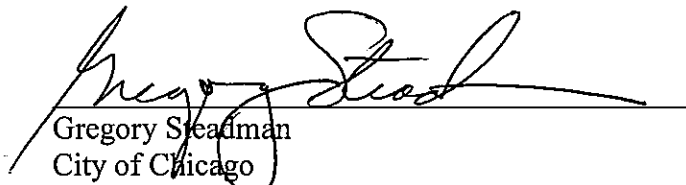
**RULES AND REGULATIONS**  
**for**  
**DELETERIOUS IMPACT/PUBLIC NUISANCE ORDINANCE**

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**Gregory Steadman**  
**City of Chicago**  
**Local Liquor Control Commissioner**

BY AUTHORITY VESTED IN THE LOCAL LIQUOR CONTROL COMMISSIONER  
PURSUANT TO SECTION 4-60-205 OF THE MUNICIPAL CODE OF CHICAGO, THE  
FOLLOWING RULES AND REGULATIONS REGARDING THE DELETERIOUS  
IMPACT/PUBLIC NUISANCE ORDINANCE FOUND AT 4-60-190 AND 4-60-195 OF THE  
MUNICIPAL CODE OF CHICAGO.

By Order:

  
Gregory Steadman  
City of Chicago  
Local Liquor Control Commissioner

11/17/11  
Date

Effective: 7/1/11

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**CITY OF CHICAGO  
DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION  
LOCAL LIQUOR CONTROL COMMISSION**

**RULES AND REGULATIONS  
for  
DELETERIOUS IMPACT/PUBLIC NUISANCE ORDINANCE**

**As promulgated by the Department of Business Affairs and  
Consumer Protection/Local Liquor  
Control Commissioner pursuant to the provisions of  
Chapter 4-60 and Section 4-60-205 of the  
Municipal Code of the City of Chicago**

***ARTICLE I. DENIAL OF NEW LIQUOR LICENSE APPLICATIONS  
ON DELETERIOUS IMPACT GROUNDS***

- Rule No. 1.** An application shall be deemed to constitute a “new” application for a liquor license if: (1) no liquor license activity is ongoing at the premises identified in the license application at the time the application for such license is submitted to the department; or (2) the entity applying for the liquor license is separate and distinct from the entity currently holding a liquor license at the premises identified in the license application; or (3) the applicant for the liquor license is seeking a change of ownership or officers in a moratorium area subject to the requirements of section 4-60-024(e); *or* (4) the applicant for the liquor license failed to disclose a change of ownership or officers in accordance with the requirements of section 4-60-060(c)(3); or (5) the applicant is applying for any accessory liquor license, including, but not limited to, a late-hour license or an outdoor patio license.
- Rule No. 2.** Information concerning the status of any application for a new liquor license, including any plan of operation submitted by the license applicant, shall be available on the City of Chicago website for a period of at least 120 days after the license application is denied, approved or approved pursuant to a plan of operation.
- Rule No. 3.** An application for a new liquor license may be denied on deleterious impact grounds if, within the two-year period preceding the date on which the license application is submitted, a significant number of arrests, as documented in official police reports and calls for service, have occurred within 500 feet of the premises identified in the license application. If, after review of the above information, BACP/LLCC determines that a deleterious impact on the surrounding community may exist, the application for a new liquor license may be denied, unless a written plan of operation meeting the requirements of Rule No. 11 is submitted by the applicant and approved by BACP/LLCC.

- Rule No. 4.** An application for a new liquor license may be denied on deleterious impact grounds if, within the two-year period preceding the date on which the license application is submitted, another liquor license application, from the same or different person, is denied by BACP/LLCC at the same location on deleterious impact grounds. In such case, a deleterious impact on the surrounding community will be presumed to exist and the application for a new liquor license will be denied, unless a written plan of operation meeting the requirements of Rule No. 11 is submitted by the applicant and approved by BACP/LLCC.
- Rule No. 5.** An application for a new liquor license may be denied on deleterious impact grounds if community members including, but not limited to, the local alderman and local law enforcement officials, object in writing to the issuance of the license at the premises identified in the license application on the grounds that such issuance will (1) have an adverse affect on the value of any property in the surrounding community, or (2) result in an increased risk of violations of law in the surrounding community, or (3) result in a substantial increase in noise, litter or vehicular congestion in the surrounding community, unless a written plan of operation meeting the requirements of Rule No. 11 is submitted by the applicant and approved by BACP/LLCC.
- Rule No. 6.** Upon receipt of payment for a new liquor license application, BACP/LLCC shall notify, in writing, all registered voters residing within 250 feet of the premises identified in the license application of the fact that a new liquor license application has been submitted to BACP/LLCC. Such public notice shall contain the following information: (1) the date of application for the license; (2) the applicant's name, residence address and business address; (3) the type of liquor license requested; (4) the registered voter's right to object to the issuance of such license; (5) the name and address of the person to whom written objections to the issuance of such license should be directed; (6) the date by which all written objections to the issuance of such license must be received by BACP/LLCC; (7) the fact that persons submitting written objections may be required to provide testimony in person to support their objection; and (8) the City of Chicago website address where further information may be found.
- Rule No. 7.** Within five days of receipt of payment for a new liquor license application, BACP/LLCC shall publish on its website the fact that a new liquor license application has been received by BACP/LLCC. In addition, such notice shall be (1) posted by the applicant at the situs of the premises identified in the liquor license application; (2) sent by BACP/LLCC to the local alderman; and (3) sent by BACP/LLCC to the local police district commander.

**Rule No. 8.** Objections to the issuance of a new liquor license on the grounds that liquor establishments are undesirable or not wanted in a community are not legally sufficient by themselves to deny the issuance of a new liquor license on deleterious impact grounds. Greater evidentiary weight will be afforded to objections which state and explain, with specificity, precisely how and why the issuance of a new liquor license at the premises identified in the license application will have a deleterious impact on the quality of life in the surrounding community, and the explanation provided must be reasonable as determined by the local liquor control commissioner.

**Rule No. 9.** Relevant factors which BACP/LLCC may consider when determining whether the issuance of a new liquor license at the premises identified in the license application will have a deleterious impact on the surrounding community include, but are not limited to, assertions that the issuance of such license will promote or increase:

- (1) Parking congestion;
- (2) Traffic congestion;
- (3) Loitering;
- (4) Panhandling;
- (5) Excessive late-night noise;
- (6) Public fighting;
- (7) Excessive liquor-related littering;
- (8) Public urination;
- (9) Public sex acts;
- (10) Prostitution/solicitation;
- (11) Gang violence;
- (12) Narcotics trafficking and usage;
- (13) Overflowing dumpsters;
- (14) Rodent infestation.

Other factors that BACP/LLCC may consider when determining whether a new liquor establishment will have a deleterious impact on the surrounding community include, but are not limited to, whether:

- (15) A prior liquor license at the same location within the preceding two years created problems of the type described in these rules;
- (16) The applicant has a past history of bad ownership practices resulting in the occurrence, at the same or different location, of any of the problems described in these rules;
- (17) The police department reasonably believes that the issuance of a new liquor license at the premises identified in the license application will lead to an increase in crime in the surrounding community, create problems of the type described in these rules, or unduly burden police resources by concentrating too many liquor establishments in too small of an area or for any other reason.

**Rule No. 10.** When assessing the degree of opposition within a community to the issuance of a new liquor license on deleterious impact grounds and the concomitant legal weight to be afforded to any written objections received from community members, BACP/LLCC shall take into account factors which include, but are not limited to, the following:

- (1) The volume of responses received from community members in relation to the number of community members notified pursuant to Rule No. 6 of these rules;
- (2) Whether the person writing in opposition to the issuance of the new liquor license represents himself only or a larger group of people. If the latter, the number of individuals comprising the larger group and the authority of the person writing in behalf of the larger group to speak authoritatively on behalf of the larger group;
- (3) Whether or not the person writing in opposition to the issuance of the new liquor license lives in close proximity to the premises identified in the license application;
- (4) Whether the written objections submitted by community members meet the requirements of these rules.

**Rule No. 11.** If an applicant is denied, or may be denied, a liquor license on deleterious impact grounds, the applicant may, at the applicant's option, propose a written plan of operation to address the specific concerns that resulted in denial of the liquor license application or in objections to the liquor license application on deleterious impact grounds. If the applicant chooses to exercise this option, the applicant must submit to BACP/LLCC, no later than 20 calendar days after the date on which the license application was denied or the applicant was given written notice that it may be denied, an acceptable written plan of operation for the premises identified in the license application. Such plan must: (1) adequately address all of the concerns raised on deleterious impact grounds; and (2) provide reasonable assurance that if the plan is implemented, the issuance of the liquor license will not have a deleterious impact on the surrounding community. If a plan of operation is submitted pursuant to this rule, the local liquor control commissioner shall have 35 days after the 20-day submission deadline has expired to deny the application or to approve the application subject to the plan of operation.

For purposes of this rule, an "acceptable written plan" means conduct, actions, steps or the acceptance of conditions reasonably calculated to prevent a deleterious impact on the surrounding community. The elements of such a plan may include, but are not limited to, the following: (1) installing lighting and/or video cameras at the establishment or on adjacent property to improve security; (2) hiring licensed and insured security personnel; (3) installing metal detectors to screen patrons before entry; (4) adopting a plan to enforce the premises' occupancy limits; (5) adopting a policy prohibiting admission or readmission to the establishment of intoxicated persons; (6) requiring patrons to produce identification upon entry; (7) utilizing equipment to scan and image identification

cards; (8) requiring security staff to wear readily visible identification; (9) maintaining an internal log or incident reporting system documenting the licensee's response to specific incidents of unlawful activity on the premises; (10) displaying signage; (11) restricting hours of operation; (12) providing trash pick-up services; (13) providing for alternative parking or valet parking to prevent traffic or parking congestion; (14) installing soundproofing insulation to control noise; and (15) other reasonable and warranted nuisance abatement restrictions on the applicant's business practices. An implementation schedule shall be included for each element of the proposed plan of operation. The burden shall be on the applicant to prove that if the written plan submitted pursuant to this rule is implemented at the premises identified in the license application, the deleterious impact on the surrounding community will be substantially reduced or eliminated in its entirety.

If the applicant fails to submit a written plan of operation in a timely manner in accordance with the requirements of this rule, no liquor license shall be issued for the premises identified in the license application, and the denial of the license application on deleterious impact grounds shall be deemed to be final 20 calendar days after the date on which the license application was denied. Such final decision may be appealed by the applicant to the License Appeal Commission.

If the applicant submits a written plan of operation in a timely manner in accordance with the requirements of this rule, but BACP/LLCC does not approve the plan, no liquor license shall be issued for the premises identified in the license application, and the denial of the license application on deleterious impact grounds shall be deemed to be final. Such final decision may be appealed by the applicant to the License Appeal Commission.

If the applicant submits a written plan of operation in a timely manner in accordance with the requirements of this rule, and such plan is approved by BACP/LLCC, BACP/LLCC shall approve the liquor license application subject to such plan of operation. The approved plan of operation shall become a condition of the license. The licensee, all principal officers of the licensee and any person with a 5% or more ownership interest in the licensee shall be bound by the terms of the approved plan of operation, until such time that the approved plan of operation is modified by the local liquor control commissioner. A licensee's failure to adhere to an approved plan of operation shall constitute legal grounds to initiate license disciplinary proceedings against such licensee including, but not limited to, license suspension or revocation, in addition to any other legal action permitted under these rules or the Municipal Code of the City of Chicago.

After two years of operation, the licensee may request the local liquor control commissioner modify the approved plan of operation. Upon such request, the local liquor control commissioner is authorized to modify any element of the approved plan of operation, if the licensee submits a petition to BACP/LLCC,

signed and dated by at least a majority of the legal voters residing within 500-feet of the licensed premises, consenting to the proposed modification(s) to such element(s) of the plan. Provided, however, that no such petition shall be deemed to be valid by BACP/LLCC, unless all of the signatures needed to meet the majority threshold requirement have been obtained 60 or fewer days prior to the date on which the petition is filed with BACP/LLCC.

No modification to any element of an approved plan of operation shall be implemented by the licensee, unless the licensee has first obtained written permission from the local liquor control commissioner to implement the modification. If the local liquor control commissioner grants such written permission, the licensee shall post the modified approved plan of operation at the licensed establishment in accordance with the requirements of Rule No. 31.

- Rule No. 12.** If a written plan of operation is approved by BACP/LLCC, such plan shall be posted by the licensee immediately next to, and on the same wall as, the licensee's liquor license. Such plan shall be made available, upon request, for inspection by any city official charged with responsibility for enforcing Chapter 4-60 of the Chicago Municipal Code.

## **ARTICLE II. REVOCATION OF EXISTING LIQUOR LICENSES ON PUBLIC NUISANCE GROUNDS**

- Rule No. 13.** In order for a complaint submitted pursuant to Section 4-60-190 to trigger the community meeting process described in subsection (b) of that section, such complaint must: (1) be in writing; (2) identify the complainant's full name and address; (3) identify the name and address of the licensed premises against which the complaint is being filed; and (4) set forth the facts giving rise to the complaint. Such complaint may take the form of a letter, e-mail or other written communication to BACP/LLCC.

- Rule No. 14.** If a complaint meeting the requirements of Rule No. 13 is filed with the local liquor control commissioner and the commissioner exercises his discretion under Section 4-60-190(b) to notify the licensee to appear before him to define, discuss and seek resolution of the problem(s) giving rise to the complaint, the local liquor control commissioner shall, within 365 days of receipt of such a complaint, hold at least three community meetings, at any interval the commissioner deems fit, to try to resolve the problem(s) giving rise to the complaint. Licensees for which the local liquor control commissioner has held a series of community meetings under Section 4-60-190 may have fewer than three meetings under any subsequent series of community meetings; furthermore, the subsequent series may concern reasonable steps and objectionable conditions discussed during any prior series of meetings.



**Rule No. 15.** After the date on which the community meeting process is officially terminated by the local liquor control commissioner, BACP/LLCC shall notify within 30 days, the following persons of the fact that the community meeting process has been terminated: (1) the licensee; (2) the complainants; (3) the alderman of the ward in which the licensed premises are located; and (4) all meeting participants identified on the meeting sign-in sheet(s) maintained by BACP/LLCC.

Failure of any party entitled to notice under this rule to receive such notice shall not affect the validity of any Public Nuisance Petition. For purposes of this rule, notification shall be deemed to have occurred on the date that notification is mailed or otherwise provided by BACP/LLCC.

**Rule No. 16.** If any part of a building or building address falls within a 500-foot radius of the licensed premises, the entire building shall be counted for purposes of determining the name and number of legal voters residing within such 500-foot radius.

**Rule No. 17.** The minimum number of signatures required on a Public Nuisance Petition shall be reduced by BACP/LLCC if: (i) a registered voter has died or no longer resides within 500 feet of the premises; or (ii) a person is registered more than once under an identical or different name; and (iii) the petitioner submits an affidavit, on a form provided by BACP/LLCC, attesting to such fact(s). The local liquor control commissioner will accept and rely upon any affidavit submitted pursuant to this rule, subject to an independent verification by the commissioner of the facts contained therein. The licensee shall have the right at a public nuisance hearing to challenge the veracity of any affidavit submitted by the petitioner and approved by the commissioner pursuant to this rule.

**Rule No. 18.** A person signing a Public Nuisance Petition (“the signatory”) may sign his or her name only, and may not sign for another individual. Any signature obtained in violation of this rule may be subject to challenge for cause by the licensee at a public nuisance hearing.

**Rule No. 19.** Any person who desires to circulate a petition for a public nuisance hearing (“the petitioner”) must obtain a Public Nuisance Petition promulgated by BACP/LLCC. No petition for a public nuisance hearing shall be accepted by BACP/LLCC unless the Public Nuisance Petition required by this rule is used.

**Rule No. 20.** No later than 30 days after a Public Nuisance Petition is filed with BACP/LLCC, the local liquor control commissioner shall review the petition to determine whether the petition is facially sufficient.

- Rule No. 21.** If, following the local liquor commissioner's review of a Public Nuisance Petition, the commissioner determines that such petition is not facially sufficient, the commissioner shall, no later than 10 business days after making such determination: (1) notify, in writing, the person circulating the petition ("the petitioner") of the fact that the petition is facially insufficient; and (2) identify the reasons why the petition is facially insufficient. For purposes of this rule, notification shall be deemed to have occurred on the date that the notification is mailed or otherwise sent by BACP/LLCC to the petitioner.
- Rule No. 22.** If a facially sufficient Public Nuisance Petition is not filed with BACP/LLCC within 365 or fewer days after the date on which the community meeting process is officially terminated, the local liquor control commissioner shall dismiss the complaint against the licensee identified in the complaint. Any complaint filed against such licensee thereafter shall be filed in accordance with the requirements of Section 4-60-190.
- Rule No. 23.** If a facially sufficient Public Nuisance Petition is filed with BACP/LLCC within 365 or fewer days after the date on which the community meeting process is officially terminated, the local liquor control commissioner shall certify the petition as facially sufficient. Within 10 business days after certification under this rule has occurred, the local liquor control commissioner shall notify, in writing, the person circulating the petition ("the petitioner") of the fact that the petition is facially sufficient. A public nuisance notice of hearing shall issue within 30 business days after certification under this rule has occurred. Such notice of hearing shall be given by the local liquor control commissioner to the licensee, all signatories to the Public Nuisance Petition and the alderman of the ward in which the licensed premises are located, and shall be sent by first class mail. For purposes of this rule, notification shall be deemed to have issued on the date that the notification is mailed to the applicable parties. The public nuisance hearing shall commence no sooner than 30 days, and no later than 60 days, after such notice is issued.
- Rule No. 24.** The purpose of the public nuisance hearing is to determine whether the liquor license of the licensee should be suspended or revoked on the grounds that the sale of liquor at the licensed establishment is a public nuisance. The sale of liquor at a licensed premises is a public nuisance, if the licensee has failed to take reasonable steps to correct objectionable conditions on the licensed premises or on adjacent property during business hours and within one hour before and one hour after such business hours. In addition to objectionable conditions and reasonable steps concerning the pending complaint, the hearing officer may also consider objectionable conditions and reasonable steps outlined in any prior series of community meetings. Furthermore, the hearing officer may consider whether the licensee has a pattern of taking only steps to temporarily correct objectionable conditions.

- Rule No. 25.** The burden of proof at a public nuisance hearing is on the community to show, by a preponderance of the evidence, that the sale of liquor at the premises identified in the Public Nuisance Petition is a public nuisance within the meaning of Rule No. 24. Any evidence on which a reasonably prudent person would rely may be considered at such hearing, including, but not limited to, written official reports, affidavits and other business records submitted by police officers, without regard to the formal or technical rules of evidence. The signatories to the Public Nuisance Petition and other interested persons shall have the right to testify at the hearing. The licensee identified in the Public Nuisance Petition shall have the right at the hearing to rebut any evidence introduced at the hearing and to testify in his or her own behalf. For purposes of this rule, the term “community” means the signatories to the Public Nuisance Petition, the alderman of the ward in which the licensed premises are located or other interested persons.
- Rule No. 26.** The public nuisance hearing shall be presided over by a hearing officer designated by the mayor in accordance with the requirements of Section 4-4-280.
- Rule No. 27.** At the conclusion of the public nuisance hearing, the hearing officer shall take the matter under advisement, make findings of fact and recommend appropriate action to the local liquor control commissioner.
- Rule No. 28.** If, based on the hearing officer’s finding(s) and recommendation(s), the local liquor control commissioner determines that the community has not met its evidentiary burden within the meaning of Rule No. 25, the commissioner shall, no later than 60 calendar days after the hearing is taken under advisement by the hearing officer, enter an order dismissing the case against the licensee.
- Rule No. 29.** If, based on the hearing officer’s finding(s) and recommendation(s), the local liquor control commissioner determines that the community has met its evidentiary burden within the meaning of Rule No. 25, the commissioner shall, no later than 60 calendar days after the hearing is taken under advisement by the hearing officer, enter an order suspending or revoking the licensee’s liquor license. Provided, however, that such suspension or revocation order shall be stayed for a period of 20 days in order to enable the licensee to submit to BACP/LLCC, within and no later than 20 days after a suspension or revocation order is entered, a plan of operation meeting the requirements of Rule No. 30.
- Rule No. 30.** A plan of operation means conduct, actions, steps or the acceptance of conditions by the licensee reasonably calculated to prevent the reoccurrence of the public nuisance at the premises identified in the Public Nuisance Petition. Such plan shall be in writing and shall include an implementation schedule for each element of the plan. The elements of such a plan may include, but are not limited to, the following: (1) installing lighting and/or video cameras at the licensed establishment or on adjacent property to improve security; (2) hiring licensed and insured security personnel; (3) installing metal detectors to screen patrons before

entry; (4) adopting a plan to enforce the premises' occupancy limits; (5) adopting a policy prohibiting admission or readmission to the establishment of intoxicated persons; (6) requiring patrons to produce identification upon entry; (7) utilizing equipment to scan and image identification cards; (8) requiring security staff to wear readily visible identification; (9) maintaining an internal log or incident reporting system documenting the licensee's response to specific incidents of unlawful activity on the premises; (10) displaying signage; (11) restricting hours of operation; (12) providing trash pick-up services; (13) providing for alternative parking or valet parking to prevent traffic or parking congestion; (14) installing soundproofing installation to control noise; and (15) other reasonable and warranted nuisance abatement restrictions on the licensee's business practices.

- Rule No. 31.** If a written plan of operation is approved by the local liquor control commissioner, such plan shall be posted by the licensee immediately next to, and on the same wall as, the licensee's liquor license. Such plan shall be made available, upon request, for inspection by any city official charged with responsibility for enforcing Chapter 4-60 of the Chicago Municipal Code.
- Rule No. 32.** If, at the conclusion of a public nuisance hearing, the local liquor control commissioner enters an order suspending or revoking the licensee's liquor license, and such licensee fails to submit a plan of operation to BACP/LLCC in a timely manner within the meaning of Rule No. 29, the stay on the suspension or revocation order shall be lifted, at which time the suspension or revocation order shall be deemed to be a final order. Such final order may be appealed by the licensee to the License Appeal Commission.
- Rule No. 33.** If, following a public nuisance hearing, the local liquor control commissioner enters an order suspending or revoking the licensee's liquor license, and such licensee does submit a plan of operation to BACP/LLCC in a timely manner within the meaning of Rule No. 29, the suspension or revocation order shall be stayed for a period of 35 days, measured from the date the plan of operation is submitted. During this 35-day period, the local liquor control commissioner shall review the plan of operation to determine whether the plan meets the requirements of Rule No. 30.
- Rule No. 34.** If, following the local liquor control commissioner's review of the plan of operation submitted by the licensee, the commissioner determines that the plan fails to meet the requirements of Rule No. 30, the commissioner shall reject the plan and lift the stay on the suspension or revocation order, at which time the suspension or revocation order shall be deemed to be a final order. Such final order may be appealed by the licensee to the License Appeal Commission.
- Rule No. 35.** If, following the local liquor control commissioner's review of the plan of operation submitted by the licensee, the commissioner determines that the plan of operation does meet the requirements of Rule No. 30: (1) the revocation or

suspension order may be stayed for an additional period not to exceed six months, measured from the date the commissioner makes such determination, in order to give the licensee an opportunity to implement the plan; and (2) the public nuisance hearing shall be continued to a date certain. Provided, however, that if the licensee fails to implement the approved plan of operation, the commissioner may, at any time prior to expiration of the six-month period, and following notice and a hearing, enter an order lifting the stay on the suspension or revocation order, at which time the suspension or revocation order shall be deemed to be a final order. Such final order may be appealed by the licensee to the License Appeal Commission.

**Rule No. 36.** If a public nuisance hearing is continued to a date certain for the reasons identified in Rule No. 35 and the local liquor control commissioner determines at the conclusion of such continued hearing that the suspension or revocation order is no longer necessary to prevent a public nuisance, the commissioner shall vacate the suspension or revocation order. Provided, however, that the approved plan of operation shall become a condition of the license for a minimum period of two years, measured from the date on which the suspension or revocation order is vacated. The licensee, all principal officers of the licensee and any person with a 5% or more ownership interest in the licensee shall be bound by the terms of the approved plan of operation during such two-year period, and thereafter, until such time that the approved plan of operation is modified by the local liquor control commissioner. A licensee's failure to adhere to an approved plan of operation shall constitute legal grounds to initiate license disciplinary proceedings against such licensee, including, but not limited to, license suspension or revocation.

At any time following the expiration of the minimum two-year period provided for by this rule, the licensee may request the local liquor control commissioner to modify the approved plan of operation. Upon such request, the local liquor control commissioner is authorized to modify any element of the approved plan of operation, if the licensee submits a petition to BACP/LLCC, signed and dated by at least a majority of the legal voters residing within 500-feet of the licensed premises, consenting to the proposed modification(s) to such element(s) of the plan. Provided, however, that no such petition shall be deemed to be valid by BACP/LLCC, unless all of the signatures needed to meet the majority threshold requirement have been obtained 60 or fewer days prior to the date on which the petition is filed with BACP/LLCC.

No modification to any element of an approved plan of operation shall be implemented by the licensee, unless the licensee has first obtained written permission from the local liquor control commissioner to implement the modification. If the local liquor control commissioner grants such written permission, the licensee shall post the modified approved plan of operation at the licensed establishment in accordance with the requirements of Rule No. 31.

- Rule No. 37.** If a public nuisance hearing is continued to a date certain for the reasons identified in Rule No. 35 and the local liquor control commissioner determines at the conclusion of such continued hearing that the licensee has failed to implement or adhere to the written plan of operation, the commissioner shall lift the stay on the suspension or revocation order, at which time the suspension or revocation order shall be deemed to be a final order. Such final order may be appealed by the licensee to the License Appeal Commission.
- Rule No. 38.** If a public nuisance hearing is continued to a date certain for the reasons identified in Rule No. 35 and the local liquor control commissioner determines at the conclusion of such continued hearing that: (1) modifications are required to the plan of operation and the licensee agrees to implement the recommended modifications, or (2) more time is needed to evaluate the effectiveness of the plan of operation, the commissioner shall: (i) order the recommended modifications to the plan, if applicable; (ii) extend the stay on the suspension or revocation order for an additional period not to exceed six months; and (iii) continue the public nuisance hearing to a date certain. Provided, however, that if the local liquor control commissioner determines that modifications are required to the plan of operation and the licensee does not implement the recommended modifications, the commissioner shall, after notice and a hearing, lift the stay on the suspension or revocation order, at which time the suspension or revocation order shall be deemed to be a final order. Such final order may be appealed by the licensee to the License Appeal Commission.
- Rule No. 39.** For purposes of Section 4-60-180: If BACP/LLCC determines that a facially sufficient public nuisance petition has been filed against an existing licensee at a given location, no new license to sell liquor at such location shall be granted to any person during the pendency of the public nuisance case.
- Rule No. 40.** All relevant "Rules of Procedure for Contested Hearings Before the Department of Business Affairs and Licensing and Local Liquor Control Commission" shall apply to public nuisance hearings.
- Rule No. 41.** These rules for Deleterious Impact and Public Nuisance procedures shall take effect upon being promulgated and any changes shall apply retroactively to applications or complaint procedures pending on, or filed on or after, July 1, 2011.