

## **AMUSEMENT DEVICE LICENSE**

If you would like to apply for an Amusement Device License, please complete the application online, then print and send it with the fee and other applicable documents to Thornton City Clerk's office, 9500 Civic Center Drive, Thornton, CO 80229 for processing. If you have any questions please call 303-538-7230.



# AMUSEMENT DEVICE LICENSE

## Checklist

City Clerk's office 303-538-7230  
 9500 Civic Center Drive  
 Thornton, Colorado 80229-4326

**ALL Documents must be properly executed and correspond with name of applicant exactly.**

**Please type or print legibly in BLACK ink.**

**Clear copies of all other information may be submitted.**

<b>NEW APPLICATION</b>	
	Completed Application.
	City Sales Tax Application - submitted to Sales Tax Division 303-538-7400.
	Zoning Referral Form signed by the City Development Department.
	\$250.00 Initial non-refundable application fee ( <u>or pro-rated amount thereof</u> - Term of license expires on December 31)
	\$35.00 per machine annually.
	Affidavit Stating Establishment is not within 500 feet of School.
	A copy of the deed or lease which shows that the applicant has legal possession of the premises by virtue of ownership or under a lease. If leased, or under contract to purchase or lease, list name and address of landlord and term of lease.
	Contact the Building Inspection Division 303-538-7250 to apply for a Certificate of Occupancy. <ul style="list-style-type: none"> <li>➤ If new construction, submit six sets of plans for review before starting construction.</li> <li>➤ If a development permit is required it must be issued before a Certificate of Occupancy can be issued.</li> <li>➤ <b>The City can not issue the license until the Certificate of Occupancy has been issued.</b></li> </ul>
	Diagram of the premises.
<b>RENEWAL APPLICATION</b>	
	Completed Application.
	\$100.00 renewal fee plus \$35.00 per machine.
	A copy of the lease if changed or extended.
	Diagram of the premises if any changes have been made.
<b>NEW/RENEWAL APPLICATION – LIQUOR/BEER ESTABLISHMENTS ONLY</b>	
	Completed Application (Term shall coincide with alcoholic or fermented malt beverage license)
	\$35.00 per machine.
<b>RELOCATION APPLICATION</b>	
	Completed Relocation Application.
	City Sales Tax Application - submitted to Sales Tax Division 303-538-7400.
	Zoning Referral Form signed by the City Development Department.
	\$150.00 relocation fee, plus \$35.00 per machine for additional devices if applicable.
	Affidavit Stating Establishment is not within 500 feet of School.
	A copy of the deed or lease which shows that the applicant has legal possession of the premises by virtue of ownership or under a lease. If leased, or under contract to purchase or lease, list name and address of landlord and term of lease.
	Diagram of the premises.
<b>OTHER FEE</b>	
	Appeal fee \$100.00 - Section 42-237 (e)



# AMUSEMENT DEVICE LICENSE APPLICATION

## Chapter 42, Article III

City Clerk's office 303-538-7230

9500 Civic Center Drive

Thornton, Colorado 80229-4326

<b>Application Date:</b>	<input type="checkbox"/> New Fees (\$250.00* -or prorated amount thereof- plus \$35.00 per machine *Term of license expires on December 31  <input type="checkbox"/> Renewal Fees (\$100.00 plus \$35.00 per machine)  <input type="checkbox"/> <u>Liquor/Beer Establishment</u> - New/Renewal Fees (\$35.00 per machine):
<b>Number of Amusement Devices:</b>	
<b>Amount Paid:</b>	

<b>Name of Applicant:</b>	
<b>Trade Name of Establishment:</b>	Phone:
Address:	Zip Code:
Are the premises owned or rented?	If rented, by whom?
Colorado Sales Tax Number:	Thornton Sales Tax Number:

<b>Manager of Establishment Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:

<b>Complete one of the following sections (Corporation/Individual/Partnership/LLC):</b>		
<b>Corporation Name:</b>		Phone:
Address:		Zip Code:
<b>President Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
<b>Vice-President Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
<b>Secretary Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
<b>Treasurer Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:



# AMUSEMENT DEVICE LICENSE APPLICATION

City Clerk's office – Page 2

<b>Individual Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:

**If more than two Partners or Members please attach separate sheet**

<b>Partner/Member Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
<b>Partner/Member Name:</b>		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:

Has the applicant or any member of the corporation or partnership ever been convicted of any crime constituting a felony or involving gambling; the sale, dispensing or use of any narcotic drugs or controlled substance; or sex crimes against children?

Yes    No   If yes, state full details:


List Hours of Operation each day <small>(amusement devices can only be operated between 5:00 a.m. and 2:00 a.m. the following day):</small>	Beginning Time:	Ending Time:
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>		
<b>Saturday</b>		
<b>Sunday</b>		

I declare under the penalty of perjury, that this application (including any accompanying statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete. I also declare that I have been given a copy of Chapter 42, Article III of the Thornton City Code pertaining to the operation of Amusement Games and Devices.

<b>Signature of Applicant:</b>	<b>Date:</b>
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# AMUSEMENT RELOCATION APPLICATION

## Chapter 42, Article III

City Clerk's office 303-538-7230

9500 Civic Center Drive

Thornton, Colorado 80229-4326

<b>Application Date:</b>	
Number of Amusement Devices at <u>Current Location</u> :	
Number of Amusement Devices at <u>New Location</u> :	
<b>Total Amount Paid</b> (\$150.00 non-refundable relocation fee <u>excluding liquor/beer licensees</u> ) plus additional \$35.00 per machine if applicable)	

<b>Name of Applicant:</b>	
<b>Trade Name of Establishment:</b>	Phone:
<b>New Address:</b>	Zip Code:
<b>Previous Address</b>	Zip Code:

Are the premises owned or rented?	If rented, by whom?
Colorado Sales Tax Number:	Thornton Sales Tax Number:

List Hours of Operation each day (amusement devices can only be operated between 5:00 a.m. and 2:00 a.m. the following day)	Beginning Time:	Ending Time:
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>		
<b>Saturday</b>		
<b>Sunday</b>		

I declare under the penalty of perjury, that this amended application (including any accompanying statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete. The information included on the original application on file for the above named establishment remains the same, except for the relocation of the business. I also declare that I have been given a copy of Chapter 42, Article III of the Thornton City Code pertaining to the operation of Amusement Games and Devices.	
Signature of Applicant:	Date:



# ZONING REFERRAL

Form 5

City Clerk's office 303-538-7230  
 9500 Civic Center Drive  
 Thornton, Colorado 80229-4326

Applicant - complete the first three questions, check appropriate box, and submit this form with a copy of the site plan of the premises to the City Development Department  
**Return the signed form with your application to the Deputy City Clerk in the City Clerk's office**

**Applicant – Complete this Section Only**

<b>Business Name:</b>			
<b>Business Address:</b>			
<b>Type of License applying for:</b>			
<b>Is the existing building going to be expanded/enlarged?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/> <b>New License</b> <input type="checkbox"/> <b>Change of Location</b> <input type="checkbox"/> <b>Modification of Premises</b>			

**To Be Completed & Signed By City Development / Zoning Division**

Zoning for the property is:		
Is the property zoned for the type of license applied for?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will the Development Review Process be required for this application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If so, what type of Development Permit is required?	<input type="checkbox"/> Major	<input type="checkbox"/> Minor

If a review is scheduled, please indicate the anticipated hearing date for the Development Permits and Appeals Board (DPAB)\*:

Is there sufficient parking for the proposed use?

Comments:

\*If this matter goes to DPAB, please attach the staff report and minutes.

City Development/Zoning Division Signature:	Date:
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ARTICLE III. AMUSEMENT DEVICES  
DIVISION 1. GENERALLY

Sec. 42-201. Purpose.

It is recognized that businesses providing amusement devices as contemplated in this article cater largely to a youthful clientele. The purpose of this article is to promote the public health, safety and welfare by regulating such businesses specifically impacting young persons, and generally to secure lawful and wholesome recreational opportunities available to the citizens of the City pursuant to the exercise of general police powers and the regulation of business contemplated by the Charter.  
(Code 1975, § 12-1; Ord. No. 1848, 4-10-89)

Sec. 42-202. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement device means any machine or device for the playing of which a fee is directly or indirectly charged, or operated by means of the insertion or presentation of a coin, token, slug, ticket or otherwise, and shall include the payment of a general admission charge to facilitate such play. The purpose of an amusement device shall be for the entertainment of the player, or to test skill, either mental or physical, whether or not registering a score, but shall not include specific bowling lanes, vending machines in which are not incorporated amusement device features, coin-operated music devices or rides for small children.

Amusement device business means any place of business where a person maintains five or more amusement devices on the premises of the business at any time; however, it shall exclude a business operated solely as a repair or service business for such devices or any business licensed to sell alcoholic or fermented malt beverages by the drink for consumption on the place where sold.

Business hours means that period of time, beginning at the hour of 5:00 a.m. and continuing until the hour of 2:00 a.m. of the following day; however, it shall not include the conduct of any lawful nonamusement device business, provided that, at all times during non-business hours, the use and operation of all amusement devices is discontinued.

Licensee means any person required to have a license pursuant to Division 2 of this article.

Manager means any individual 18 years of age or over who manages, directs, supervises, oversees and administers the acts and transactions of the agents or servants of any amusement device business, or who, through such person's own actions, directs, oversees and administers the affairs of any such establishment.

School means a private, parochial, or public school, elementary through high school grades.

(Code 1975, § 12-2; Ord. No. 1848, 4-10-89; Ord. No. 1894, 8-28-89; Ord. No. 2196, 9-28-92)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 42-203. Violations and penalties; additional actions to secure compliance and damages.

(a) Any person violating the provisions of this article shall, upon conviction, be punished as provided in Section 1-8(b).

(b) In addition to the administrative remedies and penalties set forth in this article, the City Attorney shall be authorized to initiate an action before any court of competent jurisdiction to seek any appropriate remedy available to secure compliance with this article, including injunctive relief, and to secure costs and damages sustained by the City in enforcing this article.

(Code 1975, § 12-16; Ord. No. 1848, 4-10-89)

Secs. 42-204--42-230. Reserved.

DIVISION 2. LICENSE

Sec. 42-231. Required.

No person shall engage in an amusement device business without having obtained a license as provided

in this division. No license shall be issued until it is determined that the proposed location for the amusement device business licensed premises is not within 500 feet of any school. This distance restriction is to be computed by direct measurement from nearest property line of the land used for school purposes to the nearest portion of the building licensed for amusement devices, using a route of direct pedestrian access, measured as a person would walk safely and properly, without trespassing, with right angles at crossings and with the observance of traffic regulations and lights.

(Code 1975, § 12-3; Ord. No. 1848, 4-10-89; Ord. No. 2196, 9-28-92)

#### Sec. 42-232. Application procedure.

(a) Initial application. The initial application procedure for a license required under this division is as follows:

(1) Application for an amusement device business license shall be filed in writing with the City Clerk along with the fees required by this division and shall contain the information set forth as follows. For purposes of this article, the requirements for an initial application shall apply to any application for reinstatement of a previously revoked license or for renewal of the license 90 or more days after the date the license renewal becomes due. The information required is as follows:

a. The name, date of birth, address and social security number of the applicant, and if not a natural person, the principal officers thereof; and

1. If a partnership, the name, date of birth and address of each general partner.

2. If a corporation, the name, date of birth and address of each member of the board of directors and, additionally, such information for each holder of ten percent or more of the corporate stock of any class.

b. The address of the premises where the amusement device business is to be located, together with a description of the character of the business to be conducted thereat.

c. The trade name of the amusement device business.

d. A written finding from the City Development Department and Fire Department that the proposed amusement device facility meets all applicable land use and Code requirements of the City, including the Zoning, Building and Fire Codes.

e. The name, age, social security number and date of birth of any person who will act as manager of the business, whether or not listed as applicant.

f. Any prior conviction of the person identified as applicant under this section or manager as defined in Section 42-202, of any crime constituting a felony or involving gambling, the sale, dispensing or use of any narcotic drugs or controlled substances, or sex crimes against children.

g. The number of amusement devices to be maintained at the business.

(2) The application shall be signed under oath or affirmation of the applicant, stating that the information is true and accurate to the best information and belief of the applicant.

(3) The applicant shall submit, along with the application, a separate affidavit stating that the premises to be licensed is in compliance with the distance restriction contained in Section 42-231.

(b) Amended application. The applicant shall file with the City Clerk, under oath, an amended application statement within ten days of the occurrence of any event which would constitute a change in the information of the original application or any renewal thereof. An amended application is also necessary for a relocation of the business and shall be subject to the same review from the City Development Department and Fire Department as stated in Subsection (a)(1)d of this section.

(c) Annual renewals. Annual renewals shall be due on December 1 of each calendar year and shall be made under oath, stating that no events have occurred which would constitute a change in the original application or any renewal thereof, or setting forth such change.

(d) Application following suspension or revocation of license. Licenses suspended under this division upon the expiration of the suspension period shall be automatically reinstated if any time remains in the underlying license year. Applications for license renewal or reinstatement may be submitted to the City Clerk 30 days prior to the due date for license renewal or eligibility for reapplication of the license following revocation or following suspension in the event that automatic reinstatement does not occur.

(Code 1975, § 12-4; Ord. No. 1848, 4-10-89; Ord. No. 2044, § 1, 1-28-91; Ord. No. 2196, 9-28-92; Ord. No. 2656, § 28, 2-12-01)

Sec. 42-233. Application review.

(a) Any initial or amended application or application for renewal of a license required under this division shall be filed in triplicate with the City Clerk. One copy shall be referred to the Chief of Police, one copy to the Chief Building Official and one copy retained by the City Clerk. An amended application for relocation of the business shall be filed in duplicate with one copy referred to the Chief Building Official and one copy retained by the City Clerk.

(b) Upon submission of the application, the Chief of Police shall cause an investigation to be conducted, as may be required, to obtain, confirm and verify information deemed necessary and appropriate in the decision to grant or deny the license, or to constitute cause for its non-renewal, suspension or revocation as provided in this division, including the moral character of the applicant and any principals of the applicant identified in the application, and any manager of the business. Factors to be considered in determining moral character shall include but not be limited to:

(1) The prior conviction in any jurisdiction of a felony, or of a crime which, if committed in this State, would constitute a felony.

(2) The prior conviction of any offense relating to the unlawful sale, dispensing, use or possession of any narcotic drug or controlled substance.

(3) Conviction of any offense involving sexual crimes committed against children or involving the exploitation of children through pornographic or obscene materials.

(4) The conviction of any gambling offense.

(c) Upon submission of an initial, amended or renewal application involving any relocation of the business or modification of the premises requiring a building permit, the Chief Building Official shall cause the site to be inspected and the City's land use standards to be reviewed to determine compliance of the premises and its location with applicable City standards.

(d) The Chief of Police and Chief Building Official shall complete their respective investigations within 30 days of the filing of any application under this division; however, either official may obtain upon written request, filed with the City Clerk and a copy furnished to the applicant, an extension for additional time not exceeding 30 days, if reasonably required to complete the investigation.

(Code 1975, § 12-5; Ord. No. 1848, 4-10-89; Ord. No. 2044, § 2, 1-28-91; Ord. No. 2196, 9-28-92)

Sec. 42-234. Issuance; grounds for refusal.

(a) No license required under this division shall be issued, renewed or reinstated to any applicant unless approved by the City Clerk. Issuance or denial of a license shall occur within ten business days from the date of completion of the investigations of the Chief of Police and Chief Building Official.

(b) The City Clerk shall not issue or renew the license required by this division upon the return of the investigation report of either the Chief of Police or Chief Building Official, as may be applicable, if a finding is made that:

(1) Any manager is under the age of 18 years.

(2) The application contains any materially false statement.

(3) The applicant, manager or any of the principals of any partnership, association or corporation as set forth in the application are not of good moral character.

(4) The applicant, or principal of the applicant, has an interest in an amusement device business which is currently under denial, revocation or suspension in the City or that the license has been revoked by the City within the immediately preceding 12 months.

(5) The site or facility of the proposed amusement device business fails to conform to the land use or building, fire or other applicable code standards of the City.

(Code 1975, § 12-6; Ord. No. 1848, 4-10-89; Ord. No. 2196, 9-28-92)

Sec. 42-235. Notice of denial.

(a) In the event that the City Clerk denies issuance of a license application under this division, the City Clerk shall provide the applicant with written notice of such denial, which notice shall contain a copy of the investigation report setting forth the basis of disqualification.

(b) In the event that the applicant wishes to pursue the license application further, the applicant shall do either of the following:

(1) Within ten days of mailing of notice of denial, mailed to applicant at the address set forth in the

application, the applicant shall file an amended application setting forth the changes proposed to permit eligibility for issuance of license. Upon receipt of the amended application, the City Clerk shall furnish copies to the Chief of Police and/or the Chief Building Official, as may be appropriate, for a supplemental investigation. The same review procedures, to the extent required to review the amended application, shall be conducted as set forth at Sections 42-233 and 42-234. Only one amended application shall be permitted under this subsection.

(2) Within ten days of mailing of the initial denial of the application, or within ten days following denial to issue a license following consideration of an amended application, the applicant may file with the City Clerk a written notice of appeal, with a copy to be furnished to the City Attorney and with the applicable appeal fee, specifying the basis alleged to constitute error in the denial of the license.

(Code 1975, § 12-7; Ord. No. 1848, 4-10-89; Ord. No. 2196, 9-28-92)

#### Sec. 42-236. Term.

All licenses granted pursuant to this division shall be for a term of one calendar year beginning January 1 and ending December 31 of each year, except for the first calendar year in which the license is issued.

(Code 1975, § 12-8; Ord. No. 1848, 4-10-89; Ord. No. 2606, § 5, 4-10-00)

#### Sec. 42-237. Fees; expiration of licenses.

(a) Initial application fee. A nonrefundable fee for initial application for an amusement device business license, application for license after revocation or for license renewal 90 days or more after license renewal has become due shall be as established by resolution of the City Council. An additional amusement device fee, as established by resolution of the City Council, shall be paid for each amusement device maintained on the licensed premises.

(b) Renewal fee. Except as provided in Subsection 42-238(a), every applicant for renewal of an amusement device business license shall pay an annual license renewal fee, as established by resolution of the City Council. An additional amusement device fee, as established by resolution of the City Council, shall be paid for each amusement device maintained on the licensed premises. The renewal license fee and per-device amusement device fee shall be due December 1 for the calendar year immediately following the year of the issuance of the initial license and shall be due for each succeeding calendar year.

(c) Amended application fee; relocation. A nonrefundable fee for an amended application due to relocation of the business shall be as established by resolution of the City Council.

(d) Amusement device fee. If additional amusement devices are obtained for the premises during the term of a license under this division, the additional amusement device fee, as established by resolution of the City Council, per amusement device added shall be submitted in conjunction with the amended application disclosing such change, as set forth in Subsection 42-232(b).

(e) Appeal fee. An applicant for a license or a licensee appealing the denial of the City to renew or issue a license or appealing an order of revocation pursuant to the procedures set forth in this division shall, in conjunction with filing the appeal, pay an appeal fee in an amount established by resolution of the City Council.

(f) Each license shall expire on December 31 of each year with the license fee for the initial year prorated.

(Code 1975, § 12-9; Ord. No. 1848, 4-10-89; Ord. No. 2044, § 3, 1-28-91; Ord. No. 2196, 9-28-92; Ord. No. 2606, § 6, 4-10-00)

#### Sec. 42-238. Amusement device fee for liquor-licensed businesses.

(a) Any liquor-licensed business maintaining five or more amusement devices on the licensed premises is exempt from the fee requirements contained in Subsections 42-237(a) through (c), with the exception that such licensed businesses shall nevertheless pay to the City Clerk an annual amusement device fee, as established by resolution of the City Council, per amusement device maintained on the business premises. All other provisions of this article will still apply.

(b) Each amusement device license shall have an annual term coinciding with the term of the alcoholic or fermented malt beverage license issued to the business.

(Code 1975, § 12-9.1; Ord. No. 1894, 8-28-89; Ord. No. 2196, 9-28-92; Ord. No. 2606, § 7, 4-10-00)

Sec. 42-239. Display of license.

The amusement device business license required in this division shall at all times be conspicuously displayed upon the business premises licensed, and shall list the number of amusement devices maintained upon the licensed premises.

(Code 1975, § 12-10; Ord. No. 1848, 4-10-89; Ord. No. 2606, § 8, 4-10-00)

Sec. 42-240. Transferability.

A license issued under this division shall not be transferable, and any sale or transfer of an amusement device business shall require an application for a new license under this division with payment of the initial application fee.

(Code 1975, § 12-11; Ord. No. 1848, 4-10-89)

Sec. 42-241. Revocation.

(a) The City Clerk shall revoke any license issued pursuant to this division, refuse to issue a renewal of such license or deny the issuance of a license upon application, though otherwise eligible for such issuance pursuant to Section 42-233 or 42-234, upon the written finding of one or more of the following made by the Chief of Police:

(1) Any of the amusement devices maintained upon the premises are being used for gambling purposes as proscribed by C.R.S. § 18-10-101 et seq., or that an award of any money or prize of any money is given by the licensee for the use or play of an amusement device.

(2) Repeated disturbances of the public peace, as prohibited in C.R.S. § 18-9-101 et seq., have been occurring within the licensed establishment, or upon any parking areas, sidewalks, accessways or grounds immediately adjacent to the licensed establishment which are under the control of the licensee involving patrons, employees or the holder of the license of the establishment.

(3) The operation of the establishment results in a public nuisance of any class as contemplated by C.R.S. § 16-13-301 et seq.

(4) The holder of the license or any employees thereof are illegally offering for sale or illegally allowing to be consumed upon the licensed premises, or upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises, controlled substances or malt, vinous or alcoholic beverages.

(5) A manager is not upon the licensed premises during all hours of business operation.

(6) The business hours of the licensed establishment are outside the "business hours" as defined in Section 42-202.

(7) The licensee permits any child to remain within the licensed establishment beyond the hours set forth in Subsection 38-208(b) relating to curfew.

(8) The licensed establishment is in violation of other provisions of this article.

(b) The City Clerk shall mail the notice of revocation setting forth the grounds for such revocation and issued pursuant to this section to the address of the licensee. No such order of revocation shall become effective until the expiration of ten days following the mailing of such notice or the final disposition of any appeal, if filed under this division. The licensee may file with the City Clerk, along with a copy to the City Attorney, a written notice of appeal of the notice of revocation and the applicable appeal fee within the ten days following the mailing of the notice of revocation, stating with particularity the basis of appeal.

(c) Any revocation issued under this section shall be effective for a period of 12 months following the effective date thereof.

(Code 1975, § 12-12; Ord. No. 1848, 4-10-89)

Sec. 42-242. Appeal procedure.

(a) Upon receipt of an appeal by the City Clerk as set forth pursuant to Subsection 42-235(b) based on a denial to issue a license, or Subsection 42-241(b) based on revocation of license, the City Manager shall designate a hearing officer to hear and determine the issues presented. The hearing officer, based on the standards of this article, may:

(1) Sustain or reverse the decision of the City to deny issuance, reissuance or reinstatement of a license under this division.

(2) Sustain, modify or reverse the revocation of a license. In the event that the hearing officer finds that cause for revocation as set forth at Section 42-241 has been established, however, mitigating circumstances are found, the hearing officer may, in lieu of revocation:

a. Order the license suspended for a period not exceeding 90 days.

b. Impose reasonable conditions on the license, or any renewal thereof, to secure compliance with the standards of this article. A probationary license, if granted, shall be effective for a period of one year from the effective date thereof; however, it shall be subject to the requirements of license renewal set forth in Sections 42-236 and 42-237(b).

(b) Mitigating factors which may be considered shall be:

(1) The absence of any prior violations of this article.

(2) That the violation was not willful and that appropriate steps have been taken to avoid recurrence.

(3) That the violation did not involve a breach of the criminal laws of the State or ordinances of the City, and that no serious personal injuries or damages to property have resulted from such violation.

(c) Any appeal presented pursuant to this article shall be conducted in conformance with standards of procedural due process applicable to administrative hearings, including the right to present testimony and to confront witnesses.

(d) The hearing officer shall apply the standard for review whether the City, through the order of revocation, abused its discretion, acted arbitrarily or acted in excess of its authority under this division. Additionally, the appellant shall have the burden to show by a preponderance of the evidence why the revocation or denial of license, or renewal thereof, was improper under this standard. It shall also be the burden of the licensee to establish mitigation in contesting any order of revocation.

(e) The hearing officer shall conduct the hearing within 30 days of the filing of the notice of appeal and shall enter written findings of fact and conclusions of law.

(Code 1975, § 12-13; Ord. No. 1848, 4-10-89; Ord. No. 2196, 9-28-92)

Sec. 42-243. Emergency order of suspension.

(a) Notwithstanding the provisions set forth in Section 42-241 relating to the revocation of license, if the City Manager determines that the operation of any amusement device business constitutes an immediate threat to the public health, safety and welfare, and that the continuing operation of the business would result in irreparable public harm, the City Manager may issue a notice of forthwith suspension of the license immediately suspending the amusement device business license, setting forth the basis for such immediate suspension, and providing that, upon written request of the licensee, an emergency hearing on the issue of the emergency suspension shall be conducted before a hearing officer within 48 hours of the notice. The hearing office shall continue the emergency interim suspension only upon a finding that the City has shown by clear and convincing evidence that probable cause exists under this article justifying the revocation of the license and that the continuation of the amusement device business will likely result in irreparable harm to the public health, safety and welfare.

(b) If the hearing officer finds that grounds for immediate suspension have not been established by the City, the order of forthwith suspension shall be dissolved, and the matter shall proceed without prejudice to either party in accordance with the appeal procedures established in Section 42-242.

(c) If the order of forthwith suspension is sustained, or no appeal thereof is made, the amusement device business shall remain suspended pending application of the appeal procedures established in Section 42-242; however, upon request of the licensee, the date for hearing thereunder shall be scheduled within the shortest period of time permitting each party to reasonably prepare for the hearing.

(Code 1975, § 12-14; Ord. No. 1848, 4-10-89)