

IMPOSING BUSINESS OPERATING CONDITIONS

Standard Operating Procedure

February 6, 2013

The City Council is considering text amendments that would allow for the imposition of conditions on a business after a documented violation and or on a new business if the application review provides documentation that the proposed activity would likely disturb the public peace or fail to protect and promote good order, livability and security. The standard operating procedure described here has been reviewed by the City Attorney and has been deemed to offer sufficient due process that protects the City and the business community. This standard operating procedure is recommended for approval by the City Council at the time of the consideration of the text amendment.

Process for Imposing Business Operating Conditions:

- 1) Licenses and Consumer Services (staff) issues notices (violation orders and/or citations) when a business has had a documented violation of the law. The business has the right to admit to the violation or request an appeal. An appeal hearing is scheduled and a hearing officer rules on the merits of the case presented by both parties.
- 2) Staff may schedule a license settlement conference with the licensee or the applicant in an effort to negotiate voluntary agreement on conditions that will be placed on the license in an effort to prevent future violations. When there is agreement on the facts, conclusions and recommendations, staff and the licensee will sign the document. The findings of the license settlement conference will be presented to the Regulatory, Energy & Environment Committee and the City Council for approval.
- 3) A quasi-judicial hearing will be scheduled before the Regulatory, Energy & Environment Committee in the event that an agreement on conditions cannot be reached between staff and the licensee. Staff will prepare findings of fact, conclusions, and recommendations. The licensee will be notified at least 10 days in advance of the date and time of the quasi-judicial hearing.
 - a) Staff or licensee may refer the matter to an administrative law judge for a hearing and recommendation when there are significant disputed facts.
 - b) If an administrative law judge has heard the matter and made findings, conclusions, and recommendations, staff will then present the matter to the Regulatory, Energy & Environment Committee and the licensee may present evidence on behalf of the business. The Regulatory, Energy & Environment Committee will vote on the recommended imposition of the conditions and forward their decision to the full City Council.
- 4) The City Council action imposing conditions would be appealable to the Minnesota State Court of Appeals.