



Request for City Council Committee Action from Licenses and Consumer Services

Date: November 18, 2014

To: Council Member Lisa Goodman, Chair
Community Development and Regulatory Services Committee

Subject: Ordinance Amendment related to Administrative Hearings

Recommendation: That the Community Development and Regulatory Services Committee approves amending Chapter 259 of the Minneapolis Code of Ordinances related to administrative hearings for business licenses.

Previous Directives: This issue was introduced to the Minneapolis City Council on October 17, 2014.

Department Information

Prepared by: Grant Wilson, Manager of Business Licenses, 673-3902

Approved by:

Cathy Polasky, Director of Economic Policy and Development

Grant Wilson, Manager of Business Licenses

Presenters in Committee: Grant Wilson

Financial

- No financial impact

Community Impact

- Neighborhood Notification: Public Hearing Notices were electronically sent to all neighborhood organizations, business associations, licensed businesses and posted on the Business Licenses' website.
- City Goals:
A City That Works: City government runs well and connects to the community it serves.
Building Public Trust: All have access to services and information. We work in an open, ethical and transparent manner.

Supporting Information

Minneapolis licenses over 8,000 businesses. The majority of the license holders meet the requirements associated with their specific license which include, for example, safe food handling practices, assigned hours of operation, and defined patron capacity, to name a few.

License holders who fail to meet the minimum requirements are subject to progressive enforcement including warning notices, fines, suspensions, operating conditions, and in the rare case, license revocation. Progressive enforcement is intended to serve both the business and the community. Compliance is the intended result. This system is successful for the majority of license holders in Minneapolis.

A small percentage of license holders fail to meet this standard. Those with chronic, flagrant, and/or safety related issues, unresponsive to progressive enforcement, have several choices: withdrawal or downgrade of license, non-renewal, or adverse license action which imposes mandatory operating restrictions and/or license revocation.

Currently, businesses which are subject to adverse license actions are entitled to a hearing by a State of Minnesota Administrative Law Judge. The facts and recommendations are presented to the City Council for a binding decision. This system is intended to provide due process to the license holder. However, in the past several years, hearings have taken months to schedule (up to 14 months for a hearing held in 2013) and represent a significant expense (\$20,000 - \$40,000 per hearing).

Currently Minneapolis Housing staff prepares cases for administrative hearing officers or the appropriate committee of the City Council to determine if rental dwelling licenses should be suspended or revoked. Business Licenses staff is recommending using administrative hearing officers or the appropriate committee of the City Council, in addition to administrative law judges, to improve timeliness and cost effectiveness without compromising due process of adverse license actions for business licenses. The attached ordinance amendment outlines the hearing procedures.

2014-Or-___

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By: Goodman

Amending Title 13, Chapter 259 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: In General.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Chapter 259 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 259.255 to read as follows:

259.255. Adverse license action evidentiary hearings authorized. Upon a determination by the licensing official to recommend adverse license action against a license or permit issued or applied for pursuant to Titles 10, 11, 12, 13 or 14, the licensing official may refer the matter to an administrative hearing officer pursuant to Title 1, Chapter 2 of this Code, to an administrative law judge or directly to an appropriate committee of the city council. All such evidentiary hearings conducted by an administrative hearing officer shall be for the purpose of developing a record and providing a recommendation to the city council and shall conform to the following procedures:

- (1) The hearing officer shall hear all relevant evidence and argument;
- (2) The hearing officer may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs;
- (3) The hearing shall be audio recorded and a record kept of documentary evidence submitted;
- (4) The hearing officer shall render a decision in writing within thirty (30) days after the close of the hearing which shall include findings of fact, conclusions of law and a recommendation regarding whether and what adverse license action is appropriate;
- (5) A copy of the hearing officer's recommendation shall be mailed to the license or permit holder or applicant and the recommendation and record shall be referred to the city council, which shall have final authority to impose any appropriate adverse license action;
- (6) The recommendation of the hearing officer shall be considered by the appropriate committee of the city council which may hear argument from the parties, but shall take no further evidence;
- (7) The final decision of the city council shall be mailed to the license or permit holder or applicant.