

## CHAPTER 24

### ADMINISTRATIVE REVIEW PROCEDURE

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**24.01 REVIEW OF ADMINISTRATIVE DETERMINATIONS.** Any person aggrieved by an administrative determination of the Village Board or a board, commission, committee, agency, official or employee of the Village or an agent acting on its behalf may have such determination reviewed as provided in this chapter. The remedies under this chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

**24.02 DETERMINATIONS REVIEWABLE.** The following determinations are reviewable under this chapter:

(1) The grant or denial in whole or in part, after application, of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.

(2) The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in Section 24.03(4).

(3) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.

(4) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

(5) The suspension or removal of a Village official or employee except as provided in Section 24.03(2) and (7).

(6) The decision of the Building Inspector to require forfeiture of any bond.

**24.03 DETERMINATIONS NOT SUBJECT TO REVIEW.** The following determinations are not reviewable under this chapter:

(1) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Village Board.

(2) Any action subject to administrative or judicial review procedures under State Statutes or other provisions of this Code.

(3) The denial of a tort or contract claim for money required to be filed with the Village under SS 62.25, Wis. Stats.

(4) The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under Chapter 125, Wis. Stats.

(5) Judgements and orders of a court.

(6) Determinations made during municipal labor negotiations.

(7) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

- (8) Determinations made by the Board of Fire Commissioners and/or Board of Fire Appeals.

**24.04 MUNICIPAL AUTHORITY DEFINED.** "Municipal authority" includes the Village Board, commission, committee, agency, official, employee or agent of the Village making a determination under Section 24.01, and every person, committee or agency of the Village authorized to make an independent review under Section 24.08(2).

**24.05 PERSONS AGGRIEVED.** A person aggrieved includes any individual, partnership, corporation, association, public or private organization, and any official, department, board, commission or agency of the Village, whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board, commission, agency, official or employee of the Village who is aggrieved may initiate review under this chapter of a determination of any other department, board, commission, agency, official or employee of the Village, but may respond or intervene in a review proceeding under this chapter initiated by another.

**24.06 REDUCING DETERMINATION TO WRITING.** If a determination subject to this chapter is made orally or, if in writing, does not state the reasons therefore, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within 10 days of notice of such determination, reduce the determination and the reasons therefore to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of this right to have such determination reviewed, shall advise that such review may be taken within 30 days and shall name the office or person to whom a request for review shall be addressed.

**24.07 REQUEST FOR REVIEW OF DETERMINATION.** Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within 30 days of notice of such person or such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the official, employee, agent, agency, committee, board, commission or body who made the determination; but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

**24.08 REVIEW OF DETERMINATION.**

(1) INITIAL DETERMINATION. If a request for review is made under Section 24.07, the determination to be reviewed shall be termed an initial determination.

(2) WHO SHALL MAKE REVIEW. A review under this section may be made by the official, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the Village, appointed by the Village President, without confirmation, shall be provided if practicable.

(3) WHEN TO MAKE REVIEW. The municipal authority shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

(4) RIGHT TO PRESENT EVIDENCE AND ARGUMENT. The person aggrieved may file with

his request for review or within the time agreed with the municipal authority written evidence and argument in support of his position with respect to the initial determination.

(5) **DECISION ON REVIEW.** The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, shall advise that the appeal may be taken within 30 days and shall name the office or person with whom notice of appeal shall be filed.

**24.09 ADMINISTRATIVE APPEAL.** (1) **FROM INITIAL DETERMINATION OR DECISION ON REVIEW.** (a) If a person aggrieved had a hearing substantially in compliance with Section 24.10 when the initial determination was made, he may elect to follow Section 24.06 through 24.08 but is not entitled to a further hearing under Section 24.10 unless granted by the municipal authority. He may, however, seek judicial review under Section 24.12.

(b) If the person aggrieved did not have a hearing substantially in compliance with Section 24.10 when the initial determination was made, he shall follow Section 24.06 through 24.08 and may appeal under this section (Section 24.09) from the decision made under Section 24.08.

(2) **TIME WITHIN WHICH APPEAL MAY BE TAKEN UNDER THIS SECTION.** Appeal from a decision on review under Section 24.08 may be taken within 30 days of notice of such decision.

(3) **HOW APPEAL MAY BE TAKEN.** An appeal under this section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

**24.10 HEARING ON ADMINISTRATIVE APPEAL.** (1) **TIME OF HEARING.** The Village shall provide the appellant a hearing on any appeal under Section 24.09 within 15 days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least 10 days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Village Attorney, who shall forthwith advise the Village President of such appeal.

(2) **CONDUCT OF HEARING.** At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Village President shall appoint, without confirmation, an impartial decision-maker, who may be an official, committee, board or commission of the Village or the Village Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal and who may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Village President to conduct the hearing and report to the decision-maker.

(3) **RECORD OF HEARING.** The person conducting the hearing or a person employed for the purpose of making a record of the hearing shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Village.

(4) **HEARING ON INITIAL DETERMINATION.** Where substantial existing rights are affected

by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making such determination.

**24.11 FINAL DETERMINATION.** (1) Within 20 days of completion of the hearing conducted under Section 24.10 and the filing of briefs, if any, the decision-maker shall mail or deliver to the appellant its written determination, stating the reasons therefore. Such determination shall be a final determination.

(2) A determination following a hearing substantially meeting the requirements of Section 24.10, or a decision on review under Section 24.08 following such hearing, shall be a final determination, judicial review of which may be obtained under Section 24.12.

**24.12 JUDICIAL REVIEW.** (1) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination.

(2) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the Village; and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

**24.13 LEGISLATIVE REVIEW.** (1) Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the Village Board or any of its boards, commissions, committees or agencies which may have jurisdiction.

(2) If, in the course of legislative review under this section, a determination is modified, such modification and any evidence adduced before the Village Board, board, commission, committee or agency shall be made part of the record on review under Section 24.12.

(3) The Village Board, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under Section 24.10.