

# Chapter 24

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## ADMINISTRATIVE REVIEW PROCEDURE

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**24.01 Review of Administrative Determinations**

Any person aggrieved by an administrative determination of the City Council or a board, commission, committee, agency, official or employee of the City 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 City official or employee, except as provided in Sections 24.03(2) and (7).

**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 City Council.
- (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 City under Wisconsin Statute § 62.25.
- (4) The grant, denial, suspension or revocation of a fermented malt beverage license under Wisconsin Statute § 66.054(13)(b), or intoxicating liquor license under Wisconsin Statutes §§ 176.11 or 176.12.
- (5) Judgments 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.

#### **24.04 Municipal Authority Defined**

"Municipal authority" includes the City Council, commission, committee, agency, official, employee or agent of the City making a determination under Section 24.01, and every person, committee or agency of the City 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 City, 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 City who is aggrieved may initiate review under this chapter of a determination of any other department, board, commission, agency, official or employee of the City, but may respond or intervene in a review proceeding under this chapter initiated by another.

#### **24.06 Reducing Determination to Writing**

If any section or part of this Ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

#### **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 thirty (30) days of notice to such person of 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 City appointed by the Mayor, without confirmation, shall be provided if practicable.

(3) When to Make Review -

The municipal authority shall review the initial determination within fifteen (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 thirty (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 the person aggrieved had a hearing substantially in compliance with Section 24.10 when the initial determination was made, he may elect to follow Sections 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 Sections 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 thirty (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.

(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.

### **24.10 Final Determination**

- (1) Within twenty (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 therefor. 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.

### **24.11 Judicial Review**

- (1) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (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 City; 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.

### **24.12 Legislative Review**

- (1) Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the City Council 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 City Council, board, commission, committee or agency shall be made part of the record on review under Section 24.12.
- (3) The City Council, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under Section 24.10.