

**ORDINANCE #2018-3, ANOKA COUNTY ADMINISTRATIVE PROCEDURES
ORDINANCE**

SECTION 1 PURPOSE AND APPLICABILITY

- 1.01 Purpose. It is the purpose of this ordinance to establish a uniform standard for the administration enforcement of the provisions of the Anoka County ordinances.
- 1.02 Applicability. The provisions of this ordinance shall apply to the administration and enforcement of all Anoka County ordinances, unless otherwise expressly provided for in the subject ordinance.

SECTION 2 DEFINITIONS

The following words and phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

- 2.01 “Administrative Hearing” shall mean a department hearing not subject to the procedural requirements of section 5.6 of this ordinance.
- 2.02 “Contested Case” means a proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by a department after an opportunity for a hearing.
- 2.03 “County” shall mean the County of Anoka.
- 2.04 “County Board” shall mean the Anoka County Board of Commissioners.
- 2.05 “Department” shall mean that Commission, Department, Board or officer, other than the County Board or the Courts, authorized by law to administer an Anoka County ordinance.
- 2.06 “Hearing Officer” means an individual appointed to conduct contested cases.
- 2.07 “License” includes the whole or part of any county permit, certificate, approval, registration, or similar form of permission or renewal require by law.
- 2.08 “Licensee” shall mean the person who has been given the authority by the issuance of a license by the County to establish, operate, and/or maintain a facility or activity regulated by Anoka County ordinances.
- 2.09 “Licensing” includes the departmental process respecting the issuance, denial, renewal, revocation, suspension, or amendment of a license.
- 2.10 “Party” means each person or department named or admitted as a party.
- 2.11 “Person” shall mean any individual person, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a Department.

SECTION 3 LICENSE PROVISIONS

- 3.01 License Required. Unless otherwise provided by ordinance, no person shall, within the county, operate any facility, engage in any activity, or permit property under the person’s control to be used for any activity which is regulated by an Anoka County ordinance, without the appropriate license issued by the County permitting such activity.

- 3.02 Application Form. Application for a license or license renewal shall be on forms furnished by the Department administering the subject ordinance. The applicant shall provide such information as may be required by the ordinance under which the license is issued and any further information as the Department may require for the administration and enforcement of said license.
- 3.03 Grounds for Denial. Omission of any information, submission of false information, or an existing violation of County ordinance may constitute grounds for the denial of the license applied for or the suspension or revocation of an issued license.
- 3.04 License Nontransferable.
- 3.04.01 A license obtained pursuant to an Anoka County ordinance shall not be transferable.
- 3.04.02 All licensees, other than an individual or government, shall submit written notice to the Department of any change of name or address of the person designated by the licensee to receive legal process on or before 30 days prior to the effective date of said change.
- 3.05 Licensee Responsibility. The licensee shall:
- 3.05.01 Be responsible for compliance with all applicable provisions of the Anoka County ordinance under which the license is issued.
- 3.05.02 Allow the Department, County Board or their authorized representatives, access to the site or facility subject to the license at any time for the purpose of making such inspections or obtaining such free samples as may be necessary to determine compliance with the requirements of the ordinance under which the license is issued.
- 3.05.03 Allow the Department or their authorized representative access to records concerning the licensed operation.
- 3.06 License Available. The license shall be maintained and available upon request by the Department, or its authorized representative at all times at all facilities or activities licensed under an Anoka County ordinance.
- 3.07 Fee Required.
- 3.07.01 All license and license renewal applications must be accompanied by the appropriate fee. The amount of each license or license renewal fee, or such other fees as may be needed for the Administration of the applicable ordinance, plus the method and time of payment thereof shall be determined by resolution of the County Board.
- 3.07.02 Unless otherwise provided in the ordinance under which a license was issued, license renewal applications received by the Department less than 30 days before commencement of the applicable license year or in the case of seasonal operations, less than 30 days before commencement of the seasonal operation, shall be considered late and shall be assessed a late application fee.
- 3.07.03 Where a license application is for a period less than the applicable license year for the activity or facility being licensed, the fee shall be prorated by the Department on a quarterly basis.

- 3.07.04 Where a licensed facility changes ownership during a license year, a rebate to the prior owner of the license fee shall be prorated on a monthly basis, except that any rebate shall be subject to an administrative processing fee to be set by resolution of the County Board.
- 3.08 Notices. Notices of license denial, license suspension, license revocation, or variance denial may be served on the applicant or licensee personally, or by registered or certified mail sent to the address designated in the application, or by posting on the licensed premises.

SECTION 4 DUTIES OF THE DEPARTMENT

- 4.01 Department Responsibility. The Department administering a subject ordinance, under the general supervision of the County Board, shall be responsible for the administration of this ordinance and the subject ordinances.
- 4.02 Department Duties. The duties of the Department shall include, but not necessarily be limited to, the following:
- 4.02.01 To review and consider all license applications submitted to the County which are regulated by County ordinance and, after consideration to recommend an application disposition to the County Board or issue said license as may be appropriate.
- 4.02.02 To inspect regulated facilities or activities with such frequency as to insure consistency and compliance with the provisions of the ordinance under which the license is issued.
- 4.02.03 To refer, according to Department procedures, information indicating violation(s) of ordinance provisions to the Anoka County Attorney's Office for determination as to whether legal proceedings should be initiated to compel compliance with ordinance provisions.

SECTION 5 PROCEDURES FOR PROCESSING LICENSE APPLICATIONS, RENEWALS, SUSPENSIONS, AND REVOCATIONS

- 5.01 Application Review. The following provisions shall apply to the Department review of initial license applications.
- 5.01.01 Unless otherwise provided in the ordinance under which a license is issued, the Department shall have 30 days to issue or deny the license. Failure by the Department to act on an application within the 30 days shall constitute a denial without prejudice to the applicant's right to file a further application.
- 5.01.02 Once the Department has decided on the disposition of the license application or renewal application, the applicant shall be notified in writing of its decision.
- 5.01.03 Where a license is denied, the Department shall state the factual basis for its decision and notice of its decision shall be served on the applicant or licensee as provided in Section 3.98. The applicant shall have ten days, exclusive of the day of service, to request a hearing. The request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth day following service. If the applicant fails to request an appeal within the specified time period, any opportunity for a hearing is forfeited. After receipt of an appeal request, the Department shall set a time and

place for the hearing. The hearing shall be conducted pursuant to Section 5.6 of this ordinance concerning contested cases.

5.02 Suspension.

5.02.01 Any license required under an Anoka County ordinance may be suspended by the Department for violation of any provision of the ordinance under which the license was issued. Upon written notice to the County Administrator and the County Attorney's Office said license may be suspended by the Department for a period not longer than 60 days or until the violation is corrected.

5.02.02 Such suspension shall not occur earlier than ten calendar days after written notice of suspension has been served on the licensee as provided in Section 3.08 or, if a hearing is requested, until written notice of the County Board action has been served on the licensee as provided in Section 3.08. Such written notice shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the licensee desires to appeal, the licensee must within ten days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth day following service. Following receipt of a request for a hearing, the Department shall set a time and a place for the hearing. The hearing shall be conducted pursuant to Section 5.6 of this ordinance concerning contested cases.

5.02.03 If said suspension is upheld and the licensee has not demonstrated within the sixty (60) days period that the provisions of the ordinance have been complied with and that such compliance will be continued, the Department may serve notice of continued suspension for up to sixty (60) days or initiate revocation procedures as provided for in Section 5.5 of this ordinance.

5.03 Summary Suspension.

5.03.01 If the Department finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the Department upon notification of the County Attorney's Office and the County Administrator. Written notice of such summary suspension shall be served on the licensee as provided in Section 3.08.

5.03.02 The written notice of summary suspension shall state the effective date of the suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations has occurred and a statement that if the licensee desires to appeal, the licensee must, within ten days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth day following service. Following receipt of a request for an appeal, the Department shall set a time and a place for the hearing. The hearing shall be conducted pursuant to Section 5.6 of this ordinance concerning contested cases.

- 5.03.03 At any time the licensee may request the Department Head to conduct an informal review on the Departmental action.
- 5.03.04 The Summary Suspension shall not be stayed pending an appeal or informal review by the Department Head, but shall be subject to disposition of re-inspection pursuant to the provisions of Sections 5.3.3, 5.6.5, or 5.4 of this ordinance.
- 5.04 Suspension, Re-inspection. Upon written notification from the licensee that all the violations for which a suspension or summary suspension was invoked have been corrected, the Department shall re-inspect the facility of activity within a reasonable length of time, but in no case more than three county working days after receipt of the notice from the licensee and payment of the reinspection fees. If the Department finds upon such a re-inspection that the violations constituting immediately terminate the suspension by written notice to the licensee, the County Attorney's Office, and the County Administrator.
- 5.05 Revocation.
 - 5.05.01 Any license granted pursuant to an Anoka County ordinance may be revoked by the Department for violation of any provision of said ordinance, upon written notice to the County Administrator and the County Attorney's Office.
 - 5.05.02 Revocation shall not occur earlier than ten days from the time that written notice of revocation is served on the licensee as provided in Section 3.08, or if a hearing is requested, until the written findings of the hearing have been served on the licensee as provided in Section 3.08. Such written notice shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations has occurred, and a statement that if the licensee desires to appeal, the licensee must, within ten days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Department by midnight of the tenth day following service. Following receipt of a request for a hearing, the Department shall set a time and a place for the hearing. The hearing shall be conducted pursuant to Section 5.6 of this ordinance concerning contested cases.
- 5.06 Contested Cases.
 - 5.06.01 The Hearing Officer in a contested case shall be appointed at least annually by resolution of the County Board. The Hearing Officer may be an employee of the County.
 - 5.06.02 In a contested case, all parties shall be afforded an opportunity for a hearing after reasonable notice.
 - 5.06.03 The notice shall include:
 - 5.06.03.1 A statement of the time, place, and nature of the hearing;
 - 5.06.03.2 A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 5.06.03.3 A reference to the particular section of the ordinance and rules involved;
 - 5.06.03.4 A short and plain statement supporting the Departmental action.

- 5.06.04 Opportunity shall be afforded all parties to respond and present evidence, cross examination and argument on all issues involved.
- 5.06.05 Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
- 5.06.06 The record in a contested case shall include:
 - 5.06.06.01 Evidence received or considered;
 - 5.06.06.02 Any decision, opinion, or report by the officer presiding at the hearing;
 - 5.06.06.03 All staff memoranda or data submitted to the hearing officer or members of the Department in connection with their consideration of the case.
- 5.06.07 The hearing shall be recorded. A copy of the recording may be obtained upon the request of any party at the cost of the party so requesting.
- 5.06.08 Findings of Fact shall be based exclusively on the evidence and matters officially noticed.
- 5.06.09 The County Board shall review the Hearing Officer's decision and notify the applicant or licensee in writing as to its decision. The County Board may, at its discretion, consult with the Department or Hearing Officer on any part of the proceedings.
- 5.07 Rules of Evidence; Official Notice.
 - 5.07.01 Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Evidence may be received (except where precluded by law) if it is of a type commonly relied upon by reasonably prudent persons the conduct of their affairs. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.
 - 5.07.02 Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given an opportunity to compare the copy with the original;
 - 5.07.03 A party, or a party through their counsel, may conduct cross-examinations required for a full and true disclosure of the facts;
 - 5.07.04 Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed or being requested to be noticed, including any staff memoranda, and they shall be afforded an opportunity to contest the material so noticed. The Department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- 5.08 Hearing Officer Recommendation.
 - 5.08.01 The final recommendation of the Hearing Officer in a contested case shall be in writing. The final recommendation shall include Findings of Fact and Conclusions, separately stated. Findings of Fact, including any statutory language, shall be

accompanied by a concise and explicit statement of the underlying facts supporting the findings.

- 5.08.02 The Hearing Officer's final recommendation, including Findings of Fact and Conclusions, shall be forwarded to the County Board for action. The Hearing Officer's final recommendation, including Findings of Fact and Conclusions, shall also be forwarded to the parties and their attorney of record.
- 5.09 Failure to Appear. If the license applicant or licensee fails to appear at the hearing, the licensee or applicant shall forfeit any opportunity for a hearing on their appeal.

SECTION 6 VARIANCE

- 6.1 Variance Permitted. In any case where, upon applications to the Department, it appears by reason of exceptional circumstances, the strict enforcement of any provision of the standards of an Anoka County ordinance would cause unnecessary hardship, or that strict conformity with the standards would be unreasonable, and impractical, or not feasible under the circumstances, the Department may permit a variance therefrom upon such conditions as it may prescribe for management consistent with the general purposes and intent of the applicable ordinance and of all other applicable state and local regulations and law.
- 6.2 Variance Conditions. A variance may be granted provided that:
- 6.2.1 The conditions causing the hardship are unique to the property, applicant, or licensee.
- 6.2.2 The variance is proved necessary in order to secure for the applicant right or rights that are enjoyed by other persons in the same area or district.
- 6.2.3 Granting of the variance will not be contrary to public interest or damaging to the rights of other persons or of properties in the same area or district.
- 6.2.4 The granting of the variance will not be contrary to the policy and intent of the ordinance or detrimental to the public health, safety, and welfare.
- 6.2.5 No variance shall be granted simply because there are no objections, because those who do not object outnumber those who do, or for any reason other than a proved hardship.
- 6.3 Administrative Hearing on Variance Application; Notice. Unless otherwise provided, the Department shall conduct an administrative hearing on all applications for variance. Notice of such hearing specifying the time, place, and matters to be considered shall be published in the official newspaper of the County at least ten (10) days in advance of such hearing.
- 6.4 Request for a Formal Hearing. Any party aggrieved by the decision of the Department may request a formal hearing on said variance. The request shall be in writing stating the grounds upon which the request is based and served personally or by registered or certified mail on the Department by midnight of the fifth county working day following said Department decision. Following receipt of a request for a formal hearing, the Department shall set a time and a place for the hearing. The hearing shall be conducted pursuant to Section 5.6 of this ordinance concerning contested cases.

SECTION 7 SEVERABILITY

If any provision of an Anoka County ordinance or the application thereof to any person or circumstances is held invalid, said invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of all Anoka County ordinances are severable.

SECTION 8 PROVISIONS ACCUMULATIVE

The provisions of all Anoka County ordinances are cumulative and are additional limitations upon all other laws and ordinances heretofore passed covering any subject matter.

SECTION 9 NO CONSENT

Nothing contained in any Anoka County ordinance shall be deemed to be consent, license, or permit to locate, construct, or maintain any site, facility, or operation or to carry on any activity.

SECTION 10 AMENDING & REPEALING PRIOR ORDINANCES; EFFECTIVE DATE

This ordinance amends and restates all previous ordinances relating to administrative procedures, thereby repealing said prior ordinances, and shall be in full force and effect from and after the time of its passage by the Anoka County Board of Commissioners and publication as required by law.

Ordinance #79-1 approved May 22, 1979

Ordinance #98-4 approved August 25, 1998

Adopted by the Board of Commissioners of Anoka County, Minnesota, the 9th day of October, 2018.