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Administration of Business License Appeals

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Business License Appeals

- Statutory framework for the assessment process is available in S.C. Code § 6-1-410.
- The statute is silent on appeals of other decisions by the business license official including denials or suspensions and revocations.
 - § 6-1-410 can serve as a model
- The model ordinance develops a framework.
- The novelty of Act 176 results in a lack of institutional knowledge and helpful precedent.



Initial Decision

- The model ordinance provides that notice of the denial or suspension or revocation shall be provided in writing.
 - The notice shall include the reason for the denial or suspension or revocation
- Suspensions and revocations are subject to a hearing determining whether the decision should be upheld. The notice shall provide the time and place for the hearing.
 - Due process standards—denials are not automatically granted a hearing



Appeal of the Decision

- In the event of a denial, the applicant has ten days after the notice is postmarked or personally served to request an appeal of the determination of the license official
- Appeal shall be heard by council or its designee
 - Consider situations where a member of council may be called as a witness
- Rules of evidence should be provided to the individual appealing the decision
 - Adoption of rules in advance of the hearing



Initial Hearing

- Right to counsel
 - Should counsel represent the license official?
- Notice
- Order of the proceedings and burden of proof
- Due process concerns
 - When are objections appropriate?
- Confidentiality issues
 - Are in-camera reviews appropriate? Executive Session?
- How should deliberation occur?
- How does council reach a decision?
 - What findings of fact are relevant?
 - Provision of a written order



Appeal to Circuit Court

- How long shall the appellant have to appeal their decision to circuit court?
- SCRPC Rule 74 and Rule 75
- *Gay v. City of Beaufort*
 - Court should not disturb the action of City Council unless such action is "arbitrary, unreasonable, or an obvious abuse of its discretion."
 - findings of the city council, concurred in by a circuit judge, will not be disturbed on appeal "unless they are without evidentiary support or against the clear preponderance of the evidence."