

PROPOSED AMENDMENTS TO:
SECTION 2.3.2
HEARINGS – ENFORCEMENT – SUSPENSION – REVOCATION – APPEALS

(a) Purpose and Authority. The purpose of this section is to establish uniform procedures governing the enforcement of liquor license regulations, the assessment of fines and points, and the consideration of suspension or revocation of liquor licenses, in a manner consistent with W.S. § 12-4-104 and applicable provisions of the Wyoming Administrative Procedure Act, W.S. § 16-3-101 et seq.

Nothing herein shall be construed to authorize the City to suspend or revoke a liquor license except through petition to and order of the district court as required by W.S. § 12-4-104.

(b) Definitions. For purposes of this section:

(1) Independent Hearing Officer means an attorney licensed to practice law in the State of Wyoming, or other qualified individual appointed by the Governing Body, who is not an employee of the City and who has not participated in the investigation or prosecution of the matter under consideration. The Independent Hearing Officer shall conduct hearings under this section and issue written findings of fact, conclusions of law, and recommendations to the Governing Body.

(c) Initiation of Violation Proceedings.

(1) Proceedings for assessment of fines and points shall be initiated by issuance of a written Notice of Violation by the City Clerk, Chief of Police, or their designee.

(2) The Notice of Violation shall include:

- (A) A citation to the ordinance or statute allegedly violated;
- (B) A concise statement of the factual basis for the alleged violation;
- (C) The fine amount, if applicable;
- (D) The number of points proposed to be assessed;
- (E) Notice of the licensee's right to request a hearing; and
- (F) A statement that failure to request a hearing within fifteen (15) business days shall constitute admission of the violation.

(3) Service of the Notice shall be made personally or by certified mail to the address listed on the licensee's most recent liquor license application.

(d) Resolution Without Hearing.

(1) A licensee may resolve a Notice of Violation by admitting the violation and remitting payment of any fine within fifteen (15) business days of service.

(2) If no written request for hearing is received within fifteen (15) business days, the violation, fine, and points shall be deemed admitted and final.

(e) Request for Hearing.

- (1) A licensee contesting a Notice of Violation must submit a written request for hearing within fifteen (15) business days of service.
- (2) Failure to timely request a hearing constitutes waiver of the right to contest the violation, fine, or assessment of points.

(f) Scheduling and Notice of Hearing.

- (1) Upon receipt of a timely request for hearing, the City shall appoint an Independent Hearing Officer.
- (2) The hearing shall be scheduled within fourteen (14) days of the request. Continuances shall be granted only upon written motion demonstrating good cause and shall be documented in the record.
- (3) Written notice of hearing shall be provided at least ten (10) business days prior to the hearing and shall state:
 - (A) The time and place of hearing;
 - (B) The legal authority and jurisdiction under which the hearing is to be held;
 - (C) The issues to be determined; and
 - (D) The potential consequences.

(g) Hearing Procedure.

- (1) Hearings conducted under this section shall be contested case proceedings consistent with principles of due process.
- (2) The licensee shall have the right to:
 - (A) Appear personally and/or through counsel;
 - (B) Present testimony and documentary evidence;
 - (C) Cross-examine witnesses;
 - (D) Make argument; and
 - (E) Submit proposed findings of fact and conclusions of law.
- (3) The City shall bear the burden of proving the alleged violation by a preponderance of the evidence.
- (4) The Independent Hearing Officer may administer oaths and rule on evidentiary matters.
- (5) The formal rules of evidence shall not apply; however:
 - (A) Evidence must be of a type reasonably relied upon by prudent persons in serious affairs;
 - (B) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(6) The Independent Hearing Officer may issue subpoenas for witnesses or documents upon written request and for good cause shown.

(7) A complete record of the proceedings shall be maintained, including all notices, admitted evidence, objections, rulings, and written submissions.

(h) Decision of Independent Hearing Officer.

(1) Within ten (10) business days following conclusion of the hearing, the Independent Hearing Officer shall issue a written decision containing:

- (A) Findings of fact;
- (B) based exclusively upon the evidence admitted into the record;
- (C) Conclusions of law;
- (D) Determination of whether a violation occurred; and
- (E) Assessment of fines and points, if applicable.

(2) The decision shall be served upon the licensee and provided to the Governing Body.

(i) Accrual of Suspension or Revocation Threshold.

(1) Upon accumulation of twenty-one (21) or more points within the applicable period established in Section 2.3.1, the City Clerk shall notify the Governing Body.

(2) The Governing Body shall direct that a suspension or revocation threshold hearing be scheduled before an Independent Hearing Officer.

(3) Written notice shall be provided at least ten (10) business days prior to the hearing and shall include:

- (A) The total number of points accrued;
- (B) The violations forming the basis of the points;
- (C) Notice that suspension or revocation proceedings may be recommended; and
- (D) Notice that the Governing Body may authorize a petition to district court pursuant to W.S. § 12-4-104.

(j) Suspension or Revocation Threshold Hearing.

(1) The purpose of the threshold hearing is to determine:

- (A) Whether points were properly assessed; and
- (B) Whether grounds exist to recommend that the Governing Body authorize initiation of district court proceedings for suspension or revocation.
- (C) Whether the record establishes statutory grounds for suspension or revocation pursuant to W.S. § 12-4-104 and other applicable provisions of W.S. Title 12.

(2) The procedures set forth in subsection (g) shall apply.

(3) The licensee may present mitigating evidence relevant to corrective measures and compliance efforts.

(4) Accumulation of points shall not constitute automatic revocation or suspension but shall serve as prima facie evidence of repeated violations. The Governing Body shall determine, based exclusively upon the record, whether statutory grounds for suspension or revocation exist under W.S. Title 12.

(k) Recommendation and Governing Body Action.

(1) Following the threshold hearing, the Independent Hearing Officer shall issue written findings and a recommendation to the Governing Body.

(2) The Governing Body shall review the matter based upon the record established before the Independent Hearing Officer and shall not receive new evidence unless the matter is remanded for additional findings.

(2) The Governing Body shall review the record at a public meeting and may:

- (A) Adopt the recommendation;
- (B) Modify the recommendation based upon the record;
- (C) Reject the recommendation; or
- (D) Remand for additional findings.

(3) Any member of the Governing Body with a conflict of interest or bias regarding the matter shall recuse themselves.

(4) Any decision authorizing initiation of district court proceedings shall be supported by written findings of fact and conclusions of law.

(5) If authorized, the City Attorney shall file a petition in district court pursuant to W.S. § 12-4-104.

(l) Emergency Authority.

Nothing herein shall limit the authority of the Governing Body to seek immediate judicial relief or emergency suspension from the district court where necessary to protect public health, safety, or welfare.

(m) Judicial Review.

(1) Decisions assessing fines or points shall constitute final agency action subject to judicial review under W.S. § 16-3-114.

(2) Suspension or revocation shall occur only upon order of the district court as provided by W.S. § 12-4-104.

(n) Ex Parte Communications. The Independent Hearing Officer and members of the Governing Body shall not engage in ex parte communications concerning the merits of any pending matter under this section. Any improper communication shall be disclosed on the record.