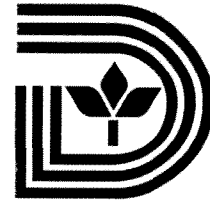


MEMORANDUM



CITY OF DALLAS

DATE January 5, 2012

TO Honorable Mayor and Members of the City Council

SUBJECT **2011 Annual Report for Permit and License Appeal Board**

The members of the Permit & License Appeal Board are pleased to submit to the City Council the Annual Report of activities for 2011.

We appreciate the opportunity to serve on this very important Board and welcome an opportunity to discuss the report with individual Councilmembers or the entire City Council.

A handwritten signature in cursive script that reads "Roland Anderson".

Roland Anderson, Chair
Permit and License Appeal Board

c: Mary Suhm, City Manager
Rosa A. Rios, Acting City Secretary

PERMIT AND LICENSE APPEAL BOARD



ANNUAL REPORT 2011

TABLE OF CONTENTS

<u>SECTION</u>	<u>TABS</u>
BOARD MEMBERS	1
STAFF	2
MISSION STATEMENT	3
GUIDING PRINCIPLES	4
ACTIVITY SUMMARY	5
ACTIVITY DETAIL	6
BOARD MEETINGS AND TRAINING.....	7
ATTENDANCE RECORD	8
APPEAL HEARINGS HEARD BY PLAB.....	9
APPEAL HEARINGS NOT HEARD BY PLAB	10
APPENDIX	
A. PERMIT AND LICENSE APPEAL BOARD CITY CODE	11
DALLAS CITY CODE, Chapter 2, Article IX, Section 94-99	

TAB 1

CURRENT BOARD MEMBERS

Board Member	Position	Original Appointment Date	Current Status
Roland Anderson, Chairman	13	10-24-01	Holdover
Eladio Martinez	01	09-23-09	Reappointed
Wilma Avalos	02	03-25-09	Reappointed
Darryl Baker	03	03-25-09	Holdover
Carolyn Ann Johnson	04	10-22-08	Holdover
Ricardo Medrano	05	12-14-11	Appointed
Vacant (10-05-10 to present)	06	—	—
Vacant (08-28-08 to present)	07	—	—
James Kanaman	08	12-12-07	Holdover
James A. Morris	09	11-02-11	Appointed
Vacant (12-20-11 to present)	10	—	—
Carol Vesey	11	02-09-11	Holdover
Marla Beikman	12	04-07-10	Holdover
Vacant (03-10-10 to present)	14	—	—
Brent M. Rosenthal	15	02-18-04	Holdover

OTHER BOARD MEMBERS SERVING IN 2011

Board Member	Position	Original Appointment Date	Current Status
Edward "Ryan" Bowles	10	01-09-08	Resigned 12-20-11

TAB 2

STAFF MEMBERS

- CITY SECRETARY'S OFFICE
 - Rosa A. Rios, Acting City Secretary (Appointed July 6, 2011)
 - Daniel Soliz, Boards and Commissions Manager
 - Sandra E. Du Bose, PLAB/EAC Coordinator
 - Jesus J. Salazar, Senior Boards and Commissions Coordinator

 - Deborah Watkins, City Secretary (Retired July 6, 2011)

- CITY ATTORNEY'S OFFICE
 - Obeng Opoku-Acheampong, Assistant City Attorney, PLAB Counsel

TAB 3

MISSION STATEMENT

The Permit and License Appeal Board is committed to fulfill its mission as a quasi-judicial body, to hear the evidence offered by any interested persons during appeal hearings of city department director's actions pertaining to the denial, suspension or revocation of a license or permit issued by the city and to make an informed decision on the basis of a preponderance of the evidence presented at the hearing and in accordance with the provisions of Chapter 2, Article IX, Sections 95 through 99 of the Dallas City Code.

TAB 4

GUIDING PRINCIPLES

- Authority:** Dallas City Code, Chapter 2, Article IX Permit and License Appeal Board (PLAB), Section 2-96
- Members:** 15 members, one board member appointed by each City Council member
- Qualifications:** No special qualifications for membership
- Officers:** Mayor appoints the chair; and the full city council appoints the vice-chair
- Hearings:** PLAB shall hear appeals from denial, suspension or revocation of a license or permit issued by a city department director and filed in accordance with Section 2-96 of the City Code. A hearing of the permit and license appeal board may proceed if a quorum of the board is present. The decision of the permit and license appeal board is final, and no rehearing may be granted; but the appellant may appeal to the state district court.

The following are the areas in which PLAB hears appeals of license and permit suspensions, revocations and denials, in accordance with the provisions of the Code:

Animals	Chapter 7
Aviation	Chapter 5
Billiard Halls	Chapter 9A
Bus & Shuttles	Chapter 10
Dance Halls	Chapter 14
Food Establishments	Chapter 17
Health & Sanitation	Chapter 19
Massage Establishments	Chapter 25A
Motor Vehicle	Chapter 28
Secondary Metals Recyclers	Chapter 40B
Sexually Oriented Business	Chapter 41A
Parks & Water Reservoirs	Chapter 32
Special Events	Chapter 42A
Taxicabs	Chapter 45
Consumer Affairs	Chapter 50
Gas Drilling and Production	Chapter 51A Part II, Article XII

And any other matters delegated to PLAB by City Code

Attendance: PLAB member attendance is governed under the rules and procedures of Chapter 8, Section 20, 20.1 and 21 of the Dallas City Code (Boards and Commissions).

PLAB hearings are held on the first Thursday of each month. A member can expect to devote one day a month to board service or more as the responsibilities of the board necessitate. A final decision is usually made by the board on the same day the appeal is heard unless a continuance is granted by the board.

Special Meetings: Special Meetings may be held in accordance with Chapter 8.3 of the Dallas City Code.

TAB 5

ACTIVITY SUMMARY

The following is a summary of activity within the period January 2011 through December 2011. A detailed summary of all scheduled hearings is located behind **Tabs 9 and 10** of the report.

- I. **12** Scheduled Hearing Days:
 - 7 days Appeal hearings conducted
 - 5 days No hearings held

- II. **11** Appeal Requests Received by the City Secretary's Office and Scheduled for PLAB Hearing: (See Tabs 6 and 7 for Activity Detail)
 - 11 Appeal requests considered and judgments rendered

- III. **1** Appeal Requests Received and Scheduled by the City Secretary's Office but not heard by PLAB: (See Tabs 6 and 7 for Activity Detail)
 - 1 Appeal hearing request withdrawn by city department prior to scheduled hearing date

TAB 6

ACTIVITY DETAIL

- I. Detail of Appeal Requests received and processed by the City Secretary's Office for PLAB

Requests	License/Permit/ Designation	Appeal Hearing Disposition		Appeal Hearing Not Held
		Denied	Granted	Withdrawn
Appeals	Description			
1	Animal Registration Revocation	1	0	0
7	Dance Hall Late-Hours Permit Denial	1	6	0
1	Dance Hall Permit Revocation	1	0	0
1	Mandatory Crime Reduction Program	0	0	1
1	Permit to Transport Liquid Waste Revocation	0	1*	0
Total 11		3	7	1

**For further information see Tab 9, Section 5*

II. Council District Breakdown of Appeal Requests received and processed by the City Secretary's Office for PLAB

District	Number of Cases	Type
01	1	Mandatory Crime Reduction Program Designation to Participate
02	5	Dance Hall Late Hours Permit Denial
03	0	
04	0	
05	1	Animal Registration Revocation
06	2	<ul style="list-style-type: none"> • Dance Hall Late Hours Permit Denial • Dance Hall License Revocation
07	0	
08	1	Dance Hall License Denial
09	0	
10	0	
11	0	
12	0	
13	0	
14	0	
15	1	Permit to Transport Liquid Waste Revocation
Total	11	

TAB 7

BOARD SPECIAL MEETING(S) AND NEW MEMBER TRAINING

One special meeting of PLAB was held in 2011 to discuss the following issues:

- **January 6, 2011**
 - Approval of the Minutes for the Special Meeting held December 2, 2010
RESULT: Minutes signed by Roland Anderson, PLAB Chair, and filed as a permanent record in the City Secretary's Office
 - Review and approval of the 2010 Annual Report
RESULT: PLAB approved the 2010 Annual Report for submission to the City Council

The City Secretary's Office, City Attorney's Office and the Dallas Police Department provided training for 1 newly appointed member serving a term ending September 30, 2011.

MEMBER(S) FOR TERM 2009-2011				
NAME	POSITION	APPOINTMENT	TRAINING	OBSERVED HEARING
Carol Vesey	11	02-09-11	03-29-11	05-05-11

TAB 8

**PLAB ATTENDANCE RECORD
JANUARY 2011 THROUGH DECEMBER 2011**

HEARING / MEETING DATES	REGULAR HEARING 1/06/11	SPECIAL MEETING 1/06/11	REGULAR HEARING 2/03/11	REGULAR HEARING 3/03/11	REGULAR HEARING 4/07/11
POSITION					
<u>Chair</u>					
13 Roland Anderson	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>
<u>Vice Chair</u>					
05 Ricardo Medrano	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>
<u>Boardmembers</u>					
01 Eladio Martinez	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>
02 Wilma Avalos	<u>P</u>	<u>P</u>	<u>A</u>	<u>NHS</u>	<u>NHS</u>
03 Darryl Baker	<u>P</u>	<u>P</u>	<u>A</u>	<u>NHS</u>	<u>NHS</u>
04 Carolyn A. Johnson	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>
06 Vacant	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>
07 Vacant	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>
08 James Kanaman	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>
09 James A. Morris	<u>P</u>	<u>P</u>	<u>A</u>	<u>NHS</u>	<u>NHS</u>
10 E. Ryan Bowles	<u>P</u>	<u>P</u>	<u>A</u>	<u>NHS</u>	<u>NHS</u>
11 Vacant/Carol A. Vesey	<u>V</u>	<u>V</u>	<u>V</u>	<u>NM</u>	<u>NHS</u>
12 Marla Beikman	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>
14 Vacant	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>
15 Brent M. Rosenthal	<u>P</u>	<u>P</u>	<u>P</u>	<u>NHS</u>	<u>NHS</u>

Legend:

A—Absent; AR—Appeal Reset; AW—Appeal Withdrawn; AWVT—Absent When Vote Taken; CR—Council Recess; NHS—No Hearings Scheduled; OH—Observe Hearing; P—Present; R—Resigned/ Replaced; V—Vacant

HEARING / MEETING DATES	REGULAR HEARING 5/05/11	REGULAR HEARING 6/02/11	REGULAR HEARING 7/07/11	REGULAR HEARING 8/04/11	REGULAR HEARING 9/01/11
POSITION					
<u>Chair</u>					
13 Roland Anderson	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
<u>Vice Chair</u>					
05 Ricardo Medrano	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
<u>Boardmembers</u>					
01 Eladio Martinez	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
02 Wilma Avalos	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
03 Darryl Baker	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
04 Carolyn A. Johnson	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
06 Vacant	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>
07 Vacant	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>
08 James Kanaman	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
09 James A. Morris	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
10 E. Ryan Bowles	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
11 Carol A. Vesey	<u>OH</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
12 Marla Beikman	<u>P</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>
14 Vacant	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>	<u>V</u>
15 Brent M. Rosenthal	<u>A</u>	<u>NHS</u>	<u>CR</u>	<u>AR</u>	<u>P</u>

Legend:

A–Absent; **AR**–Appeal Reset; **AW**–Appeal Withdrawn; **AWVT**–Absent When Vote Taken;
CR–Council Recess; **NHS**–No Hearings Scheduled; **OH**—Observe Hearing; **P**–Present; **R**–
 Resigned/ Replaced; **V**–Vacant

HEARING / MEETING DATES	REGULAR HEARING 10/06/11	REGULAR HEARING 11/03/11	REGULAR HEARING 12/01/11
POSITION			
<u>Chair</u>			
13 Roland Anderson	<u>P</u>	<u>P</u>	<u>P</u>
<u>Vice Chair</u>			
05 Ricardo Medrano	<u>P</u>	<u>A</u>	<u>A</u>
<u>Boardmembers</u>			
01 Eladio Martinez	<u>P</u>	<u>A</u>	<u>P</u>
02 Wilma Avalos	<u>P</u>	<u>P</u>	<u>P</u>
03 Darryl Baker	<u>P</u>	<u>P</u>	<u>P</u>
04 Carolyn A. Johnson	<u>P</u>	<u>P</u>	<u>P</u>
06 Vacant	<u>V</u>	<u>V</u>	<u>V</u>
07 Vacant	<u>V</u>	<u>V</u>	<u>V</u>
08 James Kanaman	<u>P</u>	<u>P</u>	<u>P</u>
09 James A. Morris/Vacant	<u>A</u>	<u>V</u>	<u>OH</u>
10 E. Ryan Bowles	<u>P</u>	<u>P</u>	<u>A</u>
11 Carol A. Vesey	<u>P</u>	<u>P</u>	<u>AWVT</u>
12 Marla Beikman	<u>P</u>	<u>P</u>	<u>P</u>
14 Vacant	<u>V</u>	<u>V</u>	<u>V</u>
15 Brent M. Rosenthal	<u>P</u>	<u>P</u>	<u>P</u>

Legend:

A—Absent; **AR**—Appeal Reset; **AW**—Appeal Withdrawn; **AWVT**—Absent When Vote Taken; **CR**—Council Recess; **NHS**—No Hearings Scheduled; **OH**—Observe Hearing; **P**—Present; **R**—Resigned/ Replaced; **V**—Vacant

TAB 9

APPEALS HEARD BY PLAB JANUARY 2011 THROUGH DECEMBER 2011

This report is a summary of all appeal requests scheduled by the City Secretary's Office for a hearing and heard by the Permit and License Appeal Board.

1. DENIAL OF A DANCE HALL LICENSE

Application for a Dance Hall License under Section 14-3(a)(9) of the Dallas City Code

Hearing Date: January 6, 2011
Appellant: Edivino Ortiz
Representative: N/A
Business Name: FANTASY BALLROOM
Location: 11740 C.F. Hawn Freeway, 75253
Denial: Operation of the proposed dance hall would violate the city's zoning ordinances
Issuing Department: DPD
Council District: 8
Date Filed with SEC: December 1, 2010
Disposition: Appeal Denied
Vote: 11-0 (all members present)
SEC File: 10-5281

2. DENIAL OF A DANCE HALL LICENSE

Application for a Dance Hall License under Section 14-3(a)(9) of the Dallas City Code

Hearing Date: February 3, 2011
Appellant: Howard Okon
Representative: David C. Hill
Business Name: THE BRICK / JOE'S
Location: 2525 Wycliff Avenue, # 120, 75219
Denial: Business located within 1,000 feet of the property line of a lot devoted to a residential use
Issuing Department: DPD
Council District: 2
Date Filed with SEC: December 21, 2011
Disposition: Appeal Granted / one (1) year exemption
Vote: 7-0 (4 members absent)
SEC File: 11-5077

3. DENIAL OF A DANCE HALL LICENSE

Application for a Dance Hall License under Section 14-3(a)(9) of the Dallas City Code

Hearing Date: February 3, 2011
Appellant: Pankaj Matta
Representative: Michael Manktelow
Business Name: ZOUK
Location: 703 McKinney Avenue #107, 75221
Denial: Business located within 1,000 feet of the property line of a lot devoted to a residential use
Issuing Department: DPD
Council District: 2
Date Filed with SEC: January 13, 2011
Disposition: Appeal Granted / one (1) year exemption
Vote: 7-0 (4 members absent)
SEC File: 11-5078

4. DENIAL OF A DANCE HALL LATE HOURS PERMIT

Application for a Dance Hall Late Hours Permit under Section 14-3.1 of the Dallas City Code

Hearing Date: May 5, 2011
Appellant: Gregory N. Kilhoffer
Representative: Martin J. Sweeney
Business Name: THE MINING COMPANY
Location: 3903 Cedar Springs, 75219
Denial: Business located within 1,000 feet of the property line of a lot devoted to a residential use
Issuing Department: DPD
Council District: 2
Date Filed with SEC: April 1, 2011
Disposition: Appeal Granted/two (2) year exemption
Vote: 10-0 (1 member absent)
SEC File: 11-5147

5. REVOCATION OF PERMIT TO TRANSPORT LIQUID WASTE

Violations under Chapter 19 Health and Safety and Chapter 49 Water and Wastewater

Hearing Date: September 1, 2011
Appellant: Richard Hernandez
Representative: Mary Goodrich Nix
Business Name: SOUTHWASTE
Location: 525 South 6th Avenue, Mansfield, Texas 76063
Revocation: Revocation of Permit to Transport Liquid Waste
Issuing Department: DWU
Council District: 15 (Citywide)
Date Filed with SEC: May 3, 2011
Scheduled: June 2, 2011 – Reset
Reset Request: May 18, 2011 – City Attorney's Office
Rescheduled: August 4, 2011 – Reset
Reset Request: July 25, 2011 – SouthWaste Representative
Rescheduled: September 1, 2011
Disposition: Suspension
Vote: 12-0 (all members present)
SEC File: 11-5147

6. DENIAL OF A DANCE HALL LATE HOURS PERMIT

Application for a Dance Hall Late Hours Permit under Section 14-3.1 of the Dallas City Code

Hearing Date: October 6, 2011
Appellant: Pedro Mendoza
Representative: Roger Albright
Business Name: 039 NIGHT CLUB
Location: 1820 W. Mockingbird Lane, #34, 75205
Denial: Business located within 1,000 feet of the property line of a lot devoted to a residential use
Issuing Department: DPD
Council District: 2
Date Filed with SEC: August 25, 2011
Disposition: Appeal Granted / two (2) year exemption
Vote: 11-0 (1 member absent)
SEC File: 11-5187

7. DENIAL OF A DANCE HALL LATE HOURS PERMIT

Application for a Dance Hall Late Hours Permit under Section 14-3.1 of the Dallas City Code

Hearing Date: October 6, 2011
Appellant: Gregory N. Kilhoffer
Representative: Martin J. Sweeney
Business Name: SUE ELLEN'S
Location: 3014 Throckmorton, 75219
Denial: Business located within 1,000 feet of the property line of a lot devoted to a residential use
Issuing Department: DPD
Council District: 2
Date Filed with SEC: August 31, 2011
Disposition: Appeal Granted / two (2) year exemption
Vote: 7-4 (1 member absent)
SEC File: 11-5188

8. DENIAL OF A DANCE HALL LATE HOURS PERMIT

Application for a Dance Hall Late Hours Permit under Section 14-3.1 of the Dallas City Code

Hearing Date: November 3, 2011
Appellant: Jesus De La Torre
Representative: Roger Albright
Business Name: EL CRISTAL
Location: 10523 Harry Hines Boulevard, 75220
Denial: Business located within 1,000 feet of two mobile home parks
Issuing Department: DPD
Council District: 6
Date Filed with SEC: September 22, 2011
Disposition: Appeal Granted / two (2) year exemption
Vote: 9-0 (2 members absent)
SEC File: 11-5205

9. REVOCATION OF ANIMAL REGISTRATION

Revocation of feral cat colony registration under Chapter 7 of the Dallas City Code

Hearing Date: November 3, 2011
Appellant: Dawn McClellan
Representative: Donald D. Feare
Location: 5727 Old Ox Road, 75241 (residence)
Revocation: Multiple complaints regarding cats in colony and/or residing at 5727 Old Ox Road
Issuing Department: Animal Services/Code Compliance
Council District: 5
Date Filed with SEC: August 22, 2011
Scheduled: October 6, 2011 – Reset
Reset Request: October 5 18, 2011 – City Attorney's Office – Granted by City Secretary at the agreement of both parties
Rescheduled: November 3, 2011
Disposition: Appeal Denied
Vote: 7-2 (2 members absent)
SEC File: 11-5186

10. REVOCATION OF A DANCE HALL LICENSE

Revocation of a Dance Hall License under Section 14-11 of the Dallas City Code

Hearing Date: December 1, 2011
Appellant: Mark Annis
Representative: Arthur Selander
Business Name: AFTERLIFE
Location: 1819 W. Northwest Highway, 75220
Revocation: Licensee or employee has knowingly allowed possession, use or sale of controlled substances on the premises
Issuing Department: DPD
Council District: 6
Date Filed with SEC: October 13, 2011
Scheduled: November 3, 2011 – Reset
Reset Request: October 24, 2011 – Appellant, Granted by City Secretary
Rescheduled: December 1, 2011
Disposition: Appeal Denied
Vote: 8-0 (2 members absent, 1 new member observing hearing)
SEC File: 11-5237

TAB 10

**APPEALS NOT HEARD BY PLAB
JANUARY 2011 THROUGH DECEMBER 2011**

This report is a summary of all appeal requests scheduled by the City Secretary's Office for a hearing but not heard by the Permit and License Appeal Board.

1. DESIGNATION TO PARTICIPATE IN A MANDATORY CRIME REDUCTION PROGRAM

Participation in a Mandatory Crime Reduction Program under Article VIII, Chapter 27 of the Dallas City Code

Hearing Date: May 5, 2011 (Scheduled)
Appellant: Tony Rispoli / Olga Murillo
Representative: N/A
Business Name: **LANDFAIR APARTMENTS**
Location: 202 S. Lancaster Avenue, 75203
Notice: Violation of the Crime Risk Threshold
Issuing Department: DPD
Council District: 1
Date Filed with SEC: March 28, 2011
Disposition: Withdrawn by City Attorney's Office, May 2, 2011
SEC File: 11-5144

TAB 11

**ARTICLE IX.
PERMIT AND LICENSE APPEAL BOARD.**

**SEC. 2-95. PERMIT AND LICENSE APPEAL BOARD -
CREATED; FUNCTION; TERMS.**

(a) There is hereby created the permit and license appeal board of the city, which shall be composed of 15 members. Each city council member shall appoint one member to the board. The mayor shall appoint the board chair, and the full city council shall appoint the vice-chair.

(b) The permit and license appeal board shall hear appeals of department directors' actions on licenses and permits issued by the city filed in accordance with Section 2-96 of this chapter and requests for exemptions from locational restrictions filed in accordance with Section 14-2.3, 14-2.4, or 41A-14 of this code, whichever applies.

(c) All members shall be appointed for a term to expire on September 1, 1985. Subsequent appointments will be made in August of each odd-numbered year for a two-year term beginning on September 1. All members shall serve until their successors are appointed and qualified. (Ord. Nos. 18200; 21153; 21514; 22259; 23386; 25002)

SEC. 2-95.1. TRAINING.

(a) Every person appointed as a member of the permit and license appeal board must attend a one-day training course before hearing an appeal under Section 2-96 of this chapter or a request for an exemption from locational restrictions under Section 14-2.3, 14-2.4, or 41A-14 of this code, whichever applies. The training course will include, but not be limited to:

(1) an orientation session concerning the powers and duties of the permit and license appeal board and the procedures and requirements for hearing appeals and requests for exemptions from locational restrictions;

(2) instruction in the city's ordinances governing the various licenses and permits issued by the city that may be involved in appeals to the permit and license appeal board;

(3) instruction concerning locational restrictions contained in Chapters 14 and 41A of this code and the procedures and requirements for obtaining exemptions from those restrictions; and

(4) a mock hearing or an observation of an actual hearing.

(b) A person who fails to attend the one-day training course within 90 days from the date of appointment as a member of the permit and license appeal board shall forfeit that position with the city, and that position becomes vacant. (Ord. Nos. 23386; 23736)

SEC. 2-96. APPEALS FROM ACTIONS OF DEPARTMENT DIRECTORS.

(a) If the director of a city department denies, suspends, or revokes a license or permit over which the director has regulatory authority, and no appeal is provided by ordinance to another city board, the action is final unless the applicant, licensee, or permittee files a written appeal to the permit and license appeal board with the city secretary within 10 calendar days after the date of receiving notice of the director's action.

(b) If a written request for an appeal hearing is filed with the city secretary within the 10-day limit, the permit and license appeal board shall hear the appeal. The city secretary shall set a date for the hearing within 60 days after the date the appeal is filed.

(c) The permit and license appeal board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply. The permit and license appeal board shall decide the appeal on the basis of a preponderance of the evidence presented at the hearing if there is a dispute of fact, otherwise the board shall decide the appeal in accordance with the provisions of this code. The board shall affirm, reverse, or modify the action of the director by a majority vote. Failure to reach a majority decision on a motion leaves the director's decision unchanged. A hearing of the permit and license appeal board may proceed if a quorum of the board is present. The decision of the permit and license appeal board is final as to administrative remedies, and no rehearing may be granted. (Ord. Nos. 18200; 20279; 21185; 23386; 25002)

SEC. 2-97. RESETS AND CONTINUANCES OF HEARINGS BEFORE THE PERMIT AND LICENSE APPEAL BOARD.

(a) A request for a reset or continuance of an appeal hearing or of a hearing on an exemption from a locational restriction must be granted by the city secretary if the request is received in writing by the city secretary not less than 10 days before the scheduled hearing date.

(b) The city secretary may not grant any request for a reset or continuance received less than 10 days before a scheduled hearing date, unless the city secretary, after notifying all parties to the appeal or exemption hearing of the request, determines that:

(1) exigent, compelling, or exceptional circumstances exist that:

(A) were unforeseen by and beyond the control of the person requesting the reset or continuance; and

(B) require immediate action or attention by the person requesting the reset or continuance; and

(2) no opposing party will be unreasonably damaged or inconvenienced by the reset or

continuance.

(c) Notwithstanding Subsection (a) of this section, a party that has been granted one reset of a scheduled hearing may not be granted another reset of any scheduled hearing for the same appeal or request for an exemption unless the city secretary makes the determinations required by Subsection (b) of this section. (Ord. Nos. 23386; 25002)

SEC. 2-98. PUBLIC NOTICE REQUIREMENTS FOR HEARINGS ON EXEMPTIONS FROM LOCATIONAL RESTRICTIONS.

If a permit or license is denied because of a locational restriction and the applicant is seeking an exemption to the locational restriction from the permit and license appeal board, a nonrefundable public notice fee of \$100 must be paid to the director of sustainable development and construction at the time the written request for the exemption hearing is filed. Not less than 10 days before the hearing date, the director of sustainable development and construction shall publish notice of the hearing in a newspaper of general circulation and provide written notice of the hearing to all neighborhood associations registered with the department of sustainable development and construction to receive zoning notices for the area in which the subject of the exemption is located. The director of sustainable development and construction may waive the \$100 public notice fee upon receipt of an affidavit from the applicant showing financial hardship. (Ord. Nos. 23386; 25002; 25047; 27697)

SEC. 2-99. APPEALS TO STATE DISTRICT COURT.

Once the decision of the permit and license appeal board is final under Section 2-96 of this chapter for an appeal of a department director's action on a license or permit or under Section 14-2.3, 14-2.4, or 41A-14 of this code, whichever applies, for a request for an exemption from a locational restriction, the decision may be appealed to the state district court by the city, by the applicant, licensee, or permittee, or by any other person aggrieved by the decision. An appeal to the state district court must be filed within 20 days after the date of the board's final decision. An appeal to the state district court is limited to a hearing under the substantial evidence rule. (Ord. Nos. 18200; 20279; 21185; 23386; 25002)

SEC. 2-100. RESERVED.

Disclaimer:

This Code of Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality. American Legal Publishing Corporation provides these documents for informational purposes only. These documents should not be relied upon as the definitive authority for local legislation. Additionally, the formatting and pagination of the posted documents varies from the formatting and pagination of the official copy. The official printed copy of a Code of Ordinances should be consulted prior to any action being taken.

For further information regarding the official version of any of this Code of Ordinances or other documents posted on this site, please contact the Municipality directly or contact American Legal Publishing toll-free at 800-445-5588.