

## Village of Boyceville Municipal Code

### TITLE 4 - ADMINISTRATIVE REVIEW PROCEDURES

#### **Sec. 4-1-1 Review of administrative determinations.**

An aggrieved party may have a determination reviewed as set forth in this chapter. The remedies provided are not all inclusive.

#### **Sec. 4-1-2 Determinations reviewable.**

(a) 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 4-1-3(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) An imposed penalty or sanction.
- (5) The suspension or removal of an official or employee except as provided in Sec 4-1-3(2).

#### **Sec. 4-1-3 Determinations not subject to review**

(a) The following determinations are not reviewable under this chapter:

- (1) A legislative enactment, which is an ordinance, resolution, or adopted motion of the Village board.
- (2) Actions subject to administrative or judicial review under state statute or other Code provisions.
- (3) The denial of tort or contract claims required to be filed with the Village under Wis. Stats. § 62.25.
- (4) The grant, denial, suspension, or revocation of a fermented malt beverage license or intoxicating liquor license under Wis. Stat. § 125.
- (5) Court judgments and orders.
- (6) Determinations made during municipal labor negotiations.
- (7) Determinations subject to collective bargaining agreements.

#### **Sec. 4-1-4 Municipal authority defined.**

"Municipal authority" includes the Village board, commission, committee, agency, officer, employee or agent of the Village making a determination under section 4-1-1, and every person, committee or agency of the Village to make an independent review under section 4-1-8(b).

#### **Sec. 4-1-5 Persons aggrieved.**

An aggrieved party may include any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the Village, whose rights, duties or privileges are adversely affected by a determination of a municipal authority. It does not include a department, board, commission, agency, officer, or employee of the Village who is aggrieved, but may respond or intervene in a review proceeding under this chapter if initiated by another.

#### **Sec. 4-1-6 Reducing determination to writing.**

Within ten days of notice of a determination, an aggrieved party may make a written request to have the determination reduced to writing, which must be dated and state the reasons for the determination. It must also include information regarding the right to have the determine reviewed if requested.

#### **Sec. 4-1-7 Request for review of determination.**

An aggrieved party may request a review of a written or oral decision, within thirty (30) days of the decision, by sending a written request to the municipal authority that made the determination. The request for review must state the grounds upon which the aggrieved person asserts that the decision should be modified or reversed. A request for review must be made to the officer, employee, agent, agency, committee, board, commission, or body who made the determination, but failure to make such request to the proper party does not preclude the aggrieved person from review unless such failure caused prejudice to the municipal authority.

#### **Sec. 4-1-8 Review of determination.**

(a) *Initial determination* means a request for review made under section 4-1-7.

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(b) *Who shall make review.* A review under this section may be made by the party who made the initial determination. An independent review may be by another party appointed by the Village president.

(c) *When to make review.* The municipal authority must review the initial determination within 15 days of receiving the request unless extended by the aggrieved party.

(d) *Right to present evidence and argument.* An aggrieved party may include supporting written evidence and/or argument along with the request to review.

(e) *Decisions on review.* The municipal authority may affirm, reverse, or modify the initial determination. The decision, including reason for the decision, must be mailed or delivered to the aggrieved party. The decision must advise the aggrieved party of the right to appeal the decision within 30 days and the office or person with whom the notice of appeal must be filed.

### **Sec. 4-1-9 Administrative appeal.**

(a) *From initial determination or decision on review.*

(1) If the aggrieved party's hearing was substantially in compliance with section 4-1-10, sections 4-1-6 through 4-1-8 are available, but section 4-1-10 is not unless granted by the municipal authority. A judicial review under section 4-1-12 is available.

(2) If the aggrieved party's hearing was not substantially in compliance with section 4-1-10, sections 4-1-6 through 4-1-8 must be followed, and the party may appeal the decision made under section 4-1-8.

(b) *Time within which appeal may be taken.* Appeal from a decision on review under section 4-1-8 may be taken within thirty (30) days of notice of such decision.

(c) *How appeal may be taken.* A written notice of appeal under this section may be filed with or mailed to the municipal authority's designee who shall immediately notify the Village attorney who shall advise the Village Board of the appeal.

### **Sec. 4-1-10 Hearing of administrative appeal.**

(a) *Time of hearing.* The Village must hold a hearing on an appeal under section 4-1-9 within fifteen (15) days of receipt of the notice of appeal. The Village must give the appellant ten (10) days' notice of the hearing.

(b) *Conduct of hearing.* The parties may be represented by counsel, present evidence, call and examine witnesses, and cross-examine witnesses of the other party. Witnesses must be sworn by the person conducting the hearing. The Village Board must appoint an impartial decision maker who did not participate in making or reviewing the initial determination.

(c) *Record of hearing.* The person conducting the hearing must take notes of the testimony and mark and preserve all exhibits. The person conducting the hearing may record the proceedings by a stenographer or recording device. Upon request of the appellant to record the hearing, the Village must pay for the expense thereof.

(d) *Hearing on initial determination.* If substantial rights are affected by an initial determination, any person directly affected has an opportunity to be heard in accordance with this section before the determination is made.

### **Sec. 4-1-11 Final determination.**

(a) The decision maker must issue and mail a written final determination and reasons thereof within 20 days of the hearing conducted under section 4-1-10.

(b) A judicial review may be obtained under section 4-1-12.

### **Sec. 4-1-12 Judicial review.**

(a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination.

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(b) The party seeking review must incur the expense of having the proceedings transcribed. A transcript must be supplied to anyone requesting the same at their expense. If the person seeking review is found indigent by reviewing court, the court may order the proceedings transcribed at the expense of the Village. 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.

### **Sec. 4-1-13 Legislative review.**

(a) Seeking review pursuant to this chapter does not preclude an aggrieved party from seeking relief from the Village board.

(b) Any modification and evidence adduced before the Village board, must be made part of the record on review under section 4-1-12.

(c) A hearing under section 4-1-10 is not required for a legislative review.