

CHAPTER 1
TITLE 1
Administrative Procedures Ordinance No. 13

(Cite as eg.)
(Scott County Administrative Procedures Ordinance No. 13 Section)

Administered by
Planning, Inspections and Environmental Health

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**SCOTT COUNTY
ADMINISTRATIVE PROCEDURES ORDINANCE
ORDINANCE NO. 13**

1.00 PURPOSE AND APPLICABILITY

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

2.00 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 subject to the procedural requirements of section 7.01 of this ordinance.
- 2.02 "ADMINISTRATOR" shall mean the Scott County Administrator.
- 2.03 "COUNTY" shall mean the County of Scott.
- 2.04 "COUNTY BOARD" shall mean the Scott County Board of Commissioners.
- 2.05 "DEPARTMENT" shall mean the Commission, Department, Office, Agency, Board or Officer, authorized by law to administer a Scott County Ordinance.
- 2.06 "FORMAL HEARING" means a proceeding in which the legal rights, duties or privileges of a party are required by this ordinance to be reviewed by a Hearing Officer subject to the procedural requirements of Section 7.02 of this ordinance.
- 2.07 "HEARING OFFICER" means an individual appointed to conduct a hearing.
- 2.08 "LICENSE" includes the whole or part of any departmental permit, certificate, approval, registration, or similar form of permission or renewal required by law.
- 2.09 "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 Scott County Ordinances.

- 2.10 "LICENSING" includes the departmental process respecting the issuance, denial, renewal, revocations, suspension, or amendment of a license.
- 2.11 "PARTY" means each person or department named or admitted as a party.
- 2.12 "PERSON" shall mean any individual person, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a Department.

3.00 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 his or its control to be used for any activity, which is regulated by a Scott County Ordinance without the appropriate license issued by the Department permitting such activity.
- 3.02 APPLICATION FORM. Application for a license or license renewal shall be on forms furnished by the department. 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 GROUND FOR DENIAL. Omission of any information or submission of false information may constitute grounds for the denial of the license applied for or the suspension or revocation of an issued license.
- 3.04 LICENSE NONTRANSFERABLE
- A. License obtained pursuant to a Scott County ordinance shall not be transferable.
 - B. All licensees, other than a 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 thirty (30) days prior to the effective date of said change.
- 3.05 LICENSEE RESPONSIBILITY. The licensee shall:
- A. Be responsible for compliance with all applicable provisions of the Scott County ordinance under which the license is issued.
 - B. 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.

- C. 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 a Scott County Ordinance.

3.07 FEE REQUIRED

- A. All license and 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.
- B. Unless otherwise provided in the ordinance under which a license was issued, new license applications received by the department after the date specified in the ordinance, shall be considered late and shall be assessed a late application penalty of 25 percent of the license fee.
- C. Unless otherwise provided in the ordinance under which a license was issued, license renewal applications received by the department less than thirty (30) days before commencement of the applicable license year or in the case of seasonal operations, less than thirty (30) days before commencement of the seasonal operation, shall be considered late and shall be assessed a late application penalty of 25 percent of the license fee.

3.08 CONDITIONS

- A. Violation of any condition imposed by the County on a license, permit, or variance, shall be deemed a violation of the ordinance and subject to the penalty provisions set forth in the ordinance and/or revocation of the license, permit or variance.
- B. Violations of an ordinance that necessitate follow-up inspections by the department shall, in addition to any other penalties, be subject to an administrative charge for each follow-up inspection. This inspection charge shall be established by County Board resolution. The reinspection payment must be received by the department within ten (10) days following the reinspection. Failure by the licensee to pay a reinspection charge shall be grounds for revocation of a license. This charge shall not apply to permits or variances, except where a licensee is performing a permitted activity.

4.00 DUTIES OF THE COUNTY

- 4.01 ADMINISTRATOR RESPONSIBILITY. The administrator, under the general supervision of the County Board, shall be responsible for the administration of this ordinance and all other county ordinances.
- 4.02 DEPARTMENT DUTIES. The duties of the department shall include, but not necessarily be limited to, the following:
- A. 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.
 - B. 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.
 - C. To refer, according to department procedures, information indicating violation(s) of ordinance provisions to the Scott County Attorney's Office.

5.00 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.
- A. Unless otherwise provided in the ordinance under which a license is issued, the department shall have thirty (30) days to issue or deny the license. Failure by the department to act on an application within the thirty (30) days shall constitute a denial.
 - B. 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.
 - C. Where a license is denied, the department shall state the factual basis for its decision and notice of its decision shall be personally served on the applicant or shall be served by registered or certified mail to said applicant at the address designated in the license application. The applicant shall have a right to request an administrative hearing in accordance with the provisions in section 7.01 of this ordinance.
- 5.02 SUSPENSION
- A. Any license required under a Scott 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 administrator, said license may be

suspended by the department for a period not longer than sixty (60) days or until the violation is corrected.

- B. Such suspension shall not occur earlier than five calendar days after written notice of suspension has been served personally or by registered or certified mail on the licensee or, if a hearing is requested, until written notice of the action has been served personally or by registered or certified mail on the licensee. 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, he must within five (5) county working days, exclusive of the day of service, file a request for an administrative hearing in accordance with the provisions of section 7.01 of this ordinance.
- C. If said suspension is upheld and the licensee has not demonstrated within the sixty (60) day 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 5.05 of this ordinance.

5.03 SUMMARY SUSPENSION

- A. 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 administrator. Written notice of such summary suspension shall be personally served on the licensee, or shall be served by registered or certified mail to said licensee at the address designated in the license application. In addition, the department may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this section.
- B. The written notice in such cases 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 he must, within five county working days, exclusive of the day of service, file a request for a hearing in accordance with the provisions of section 7.01 of this ordinance.
- C. The Summary Suspension shall not be stayed pending an appeal but shall be subject to disposition or reinspection pursuant to the provisions of section 5.04 of this ordinance.

5.04 SUSPENSION, REINSPECTION. 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 reinspect the facility or activity within a

reasonable length of time, but in no case more than three (3) county working days after receipt of the notice from the licensee. If the department finds upon such a reinspection that the violations constituting the grounds for the suspension have been corrected, the department shall immediately terminate the suspension by written notice to the licensee, the County Attorney's Office, and the Administrator.

5.05 REVOCATION

- A. Any license granted pursuant to a Scott County ordinance may be revoked by the department for violation of any provision of said ordinance, upon written notice to the Administrator and the County Attorney's Office.
- B. Revocation shall not occur earlier than five (5) county working days from the time that written notice of revocation is served personally or by registered or certified mail on the licensee, or if a hearing is requested, until the written findings of the hearing have been served personally or by registered or certified mail on the licensee. 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, he must within five (5) county working days, exclusive of the day of service, file a request for a hearing in accordance with the provisions in section 7.01 of this ordinance.

5.06 Omission of any information or submission of false information may constitute grounds for the denial of the license applied for, or the suspension or revocation of an issued license.

6.00 VARIANCE

6.01 VARIANCE PERMITTED. In any case where, upon application to the department, it appears by reason of exceptional circumstances, the strict enforcement of any provision of the standards of a Scott 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 County Board 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. Application for variance must be submitted in accordance with the provisions of section 7.02 of this ordinance.

6.02 VARIANCE CONDITIONS. Unless otherwise provided, the County Board shall consider all applications for variance in accordance with the provisions in section 7.02 of this ordinance. A variance may be granted provided that:

- A. The conditions causing the hardship are unique to the property, applicant or licensee.
- B. 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.
- C. Granting of the variance will not be contrary to public interest of damaging to the rights of other persons or of properties in the same area or district.
- D. 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.
- E. 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.

7.00 APPEALS PROCEDURES

- 7.01 ADMINISTRATIVE HEARING. Any person wishing to appeal a departmental decision may request an administrative 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 4:00 p.m. the fifth county working day following service of the departmental decision in question. After receipt of an appeal request, the department shall set a time and place for the hearing. The department shall reply as soon as possible, not to exceed five (5) county working days of the receipt of the request for hearing and identify a hearing time within twenty (20) calendar days of the receipt of the request for hearing. If the department fails to grant an administrative hearing, or if after the hearing, the person wishes to appeal the decision reached as a result of the administrative hearing, they may request a formal hearing.
- 7.02 FORMAL HEARING. Any person denied an administrative hearing or aggrieved by the decision reached at the administrative hearing, or requesting a variance pursuant to section 6.00 may request a formal 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 4:00 p.m. the fifth county working day following the: 1.) administrative hearing, or 2.) service of notice by the department to deny the request for an administrative hearing, or 3.) at any time, pursuant to a variance request. After receipt of an appeal request, the department shall set a time and place for the hearing. The department shall reply as soon as possible, not to exceed five (5) county working days of the receipt of the request

for formal hearing, and identify a hearing time within twenty (20) calendar days of the receipt of the request for hearing. The department shall notify the administrator as soon as possible upon receipt of a request for formal hearing.

- A. Unless otherwise provided, the hearing officer in a formal hearing shall be appointed by the County Board upon request by the Administrator.
- B. Notice of the hearing shall be published in the official county newspaper at least ten (10) days prior to the date of the hearing. The notice shall include:
 - 1. A statement of the time, place and nature of the hearing;
 - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 3. A reference to the particular section of the ordinance and rules involved;
 - 4. A short and plain statement supporting the departmental action.
- C. Opportunity shall be afforded all parties to respond and present evidence, cross examination, and argument on all issues involved.
- D. Unless precluded by law, informal disposition may be made of any appeal for formal hearing by stipulation, agreed settlement, consent order, or default.
- E. The record in a formal hearing shall include:
 - 1. All pleadings, motions, intermediate rulings;
 - 2. Evidence received or considered;
 - 3. A statement of matters officially noticed;
 - 4. Questions and offers of proof, objections and rulings thereon;
 - 5. Proposed findings and exceptions;
 - 6. Any decision, opinion, or report by the officer presiding at the hearing;
 - 7. All staff memoranda or data submitted to the hearing officer.
- F. Oral proceedings or any part thereof shall be transcribed on the request of any party at the cost of the party so requesting.
- G. Findings of Fact shall be based exclusively on the evidence and matters officially noticed.

- H. Unless otherwise provided 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 privately with the department or hearing officer on any part of the proceedings.

7.03 RULES AND EVIDENCE: OFFICIAL NOTICE

- A. Irrelevant, and immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in the District Courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of truth under those rules, evidence not admissible thereunder may be admitted (except where precluded by law) if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be notified in the record. Subject to these requirements, 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.
- B. 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.
- C. A party, or a party through his counsel, may conduct cross examinations required for a full and true disclosure of the facts.
- D. 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.

7.04 HEARING OFFICER RECOMMENDATION

- A. 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. Parties shall be notified either personally or by mail of the Hearing Officer's recommendation. Upon request, a copy of the recommendation shall be delivered or mailed forthwith to each party and to his attorney of record.
- B. The Hearing Officer's Findings of Fact and Conclusions shall be forwarded to the County Board for action.

7.05 FAILURE TO APPEAR. If the license applicant, licensee or authorized representative fails to appear at the hearing, any opportunity for a hearing shall be forfeited.

8.00 SEVERABILITY.

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

9.00 PROVISIONS ACCUMULATIVE.

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

10.00 NO CONSENT.

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