§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses, applications for transfer of location of existing on-premises licenses and applications for common consumption area licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [PL 1993, c. 730, §27 (AMD).]

A-1. An applicant for a common consumption area license must certify that the applicant's premises are located within an entertainment district established in accordance with section 221. The municipal officers shall evaluate the merits of each applicant and separately issue or deny a license to each applicant. Applications for an unestablished common consumption area must be submitted jointly by all persons that seek to operate the common consumption area. A person may submit an individual application for a license to operate an established common consumption area. [PL 2019, c. 281, §6 (NEW).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's or applicants' prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [PL 2019, c. 281, §6 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license, transfer of the location of an existing on-premises license or common consumption area license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [PL 2019, c. 281, §6 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [PL 1995, c. 140, §5 (NEW).]

[PL 2019, c. 281, §6 (AMD).]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [PL 1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [PL 1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [PL 1989, c. 592, §3 (AMD).]

D-1. Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners; [PL 2017, c. 13, §1 (NEW).]

E. A violation of any provision of this Title; [PL 2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [PL 2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve liquor. [PL 2021, c. 658, §94 (AMD).]

[PL 2021, c. 658, §94 (AMD).]

2-A. Common consumption area license applications. In addition to the grounds for denial set forth in subsection 2, the municipal officers may deny a common consumption area license if:

A. The applicant fails to establish that the common consumption area can be operated without creating a safety risk to the properties within the entertainment district; [PL 2019, c. 281, §7 (NEW).]

B. The applicant fails to obtain or maintain a properly endorsed general liability and liquor liability insurance policy that is reasonably acceptable to the municipal officers and names the local licensing authority as an additional insured; or [PL 2019, c. 281, §7 (NEW).]

C. The use is not compatible with the reasonable requirements of or existing uses in the entertainment district. [PL 2019, c. 281, §7 (NEW).]

[PL 2019, c. 281, §7 (NEW).]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [PL 1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [PL 1993, c. 730, §27 (AMD).]

[PL 1995, c. 140, §6 (AMD).]

4. No license to person who moved to obtain a license.

[PL 1987, c. 342, §32 (RP).]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[PL 1995, c. 140, §7 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §32 (AMD). PL 1987, c. 623, §8 (AMD). PL 1989, c. 592, §§3,4 (AMD). PL 1993, c. 730, §27 (AMD). PL 1995, c. 10, §1 (AMD). PL 1995, c. 140, §§4-7 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 1999, c. 589, §1 (AMD). PL 2001, c. 500, §1 (AMD). PL 2003, c. 213, §1 (AMD). PL 2009, c. 81, §§1-3 (AMD). PL 2017, c. 13, §1 (AMD). PL 2019, c. 281, §§6, 7 (AMD). PL 2021, c. 658, §94 (AMD).

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