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**OFFICE OF THE
CITY CLERK**

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CITY CLERK

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**CITY OF SACRAMENTO
CALIFORNIA**

August 6, 1990

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City Council
City Hall
Sacramento, California

Honorable Members in Session:

APPROVED
BY THE CITY COUNCIL

AUG 14 1990

OFFICE OF THE
CITY CLERK

**SUBJECT: AUTOMATIC REFERRAL OF CITY COUNCIL APPEALS TO HEARING
EXAMINER**

SUMMARY

This report recommends that the City Council adopt a resolution to delineate nineteen categories of appeals which routinely involve a lengthy fact finding process, and authorize the City Clerk to refer said appeals to a hearing examiner without further action of the City Council.

BACKGROUND AND DISCUSSION

Sacramento Municipal Code Chapter 2, Division 2, subsection 2.45(a) provides that the City Council may appoint a hearing examiner to hear an appeal, when the Council determines that the hearing may involve a lengthy fact finding process. Additionally, subsection 2.45(b) gives the City Council authorization to delineate by resolution one or more categories of appeals which routinely involve a lengthy fact finding process to be referred to a hearing examiner without further action of the City Council.

Those categories recommended to be delineated by resolution are:

- a) Decision of the City Manager denying, suspending or revoking a cardroom license;
- b) Decision of the Chief of Police denying, suspending or revoking a cardroom work permit;
- c) Decision of the Chief of Police denying, suspending or revoking an amusement arcade license;
- d) Decision of the Chief Animal Control Officer declaring a dog vicious;
- e) Decision of the City Manager denying, suspending or revoking a sidewalk food or flower vendor's permit;
- f) Decision of the City Manager denying, suspending or revoking a billiard/pool parlor license;
- g) Decision of the Construction Codes Advisory and Appeals Board;
- h) Decision of the Board of Plumbing Examiners;
- i) Decision of the City Manager denying, suspending or revoking a dance or concert permit;
- j) Decision of the City Manager denying, suspending or revoking a bingo license;
- k) Decision of the Director of Finance relating to determination of business operations tax due;
- l) Decision of the Director of Parks and Community Services denying, suspending or revoking a horse-drawn vehicle operating permit, driver's permit or vehicle permit;
- m) Decision of the Chief of Police denying, suspending or revoking a secondhand dealer, junk dealer or pawnbroker permit;
- n) Decision of the City Manager denying, suspending or revoking an adult-related establishment permit, massage technician's permit, escort permit or figure model permit;
- o) Decision of the Assessor-Collector determining amount of transient occupancy tax due;
- p) Decision of the Director of Finance denying, suspending or revoking a taxicab vehicular permit, a taxicab driver permit, a tow car vehicular permit, a tow car driver permit, a food vending vehicle permit, or a food vending vehicle driver permit;

- q) Decision of the Chief of Police denying, suspending or revoking an astrology, etc. license;
- r) Decision of the Housing Code Advisory and Appeal Board;
- s) Decision of the City-County Noise Control Hearing Board

The number of appeals received by this office which fit into one of the aforelisted categories, as recommended for delineation, has increased in sharp numbers over the last several months. Considerable time and staff effort could be saved with the process as recommended in addition to allowing for the appellant to have his/her hearing heard more promptly.

The resolution as proposed requires notification to the city council by the city clerk of each appeal that is referred; in addition, subsection 2.45(c) allows for the city council, at any time prior to a hearing examiner commencing a hearing, by resolution to rescind the appointment of the hearing examiner and to schedule the matter under appeal for hearing before the council.

FINANCIAL IMPACT

There is no financial impact connected with this process. There should be some unknown savings resulting from reduced staff time devoted to appeals of this nature.

POLICY MATTERS

Appeals received which are related to the nineteen categories listed are currently taken to the city council with an option of either hearing the appeal, or forwarding to a hearing examiner at McGeorge School of Law. It has been the practice of the city council to elect that appeals of this type be heard by an examiner at McGeorge rather than to schedule them for hearing by the council.

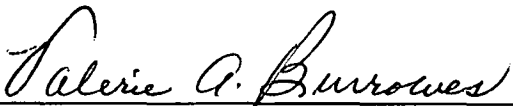
MBE/WBE

McGeorge School of Law endeavors to appoint a minority or woman attorney hearing officer (or graduate legal assistant) pursuant to an agreement adopted in 1988.

RECOMMENDATION

Adopt a resolution to delineate nineteen categories of appeals which routinely involve a lengthy fact finding process, and authorize the City Clerk to refer said appeals to a hearing examiner without further action of the City Council.

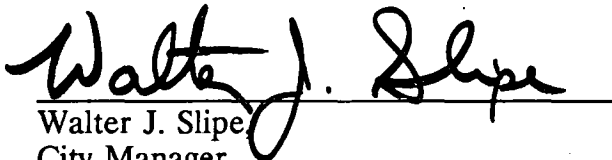
Respectfully submitted,



Valerie A. Burrowes,
City Clerk

August 14, 1990
All Districts

Recommendation Approved:


Walter J. Slipe,
City Manager

Contact Person:
Valerie Burrowes, City Clerk
449-5799

RESOLUTION NO. 90-617

APPROVED
BY THE CITY COUNCIL

AUG 14 1990

OFFICE OF THE
CITY CLERK

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**A RESOLUTION RELATING TO APPOINTMENT OF
HEARING EXAMINERS BY AUTOMATIC REFERRAL TO
HEAR CERTAIN APPEALS TO CITY COUNCIL**

WHEREAS, Sacramento City Council Code Section 2.45(a) provides that the City Council may appoint a hearing examiner to hear an appeal, when the City Council determines that the hearing may involve a lengthy fact finding process; and

WHEREAS, Sacramento City Code Section 2.45(b) authorizes the City Council to delineate by resolution one or more categories of appeal which routinely involve a lengthy fact finding process to be referred to a hearing examiner without further action of the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. The City Clerk shall refer to a hearing examiner without further Council action appeals from:
 - a. Decision of the City Manager denying, suspending or revoking a cardroom license;
 - b. Decision of the Chief of Police denying, suspending or revoking a cardroom work permit;
 - c. Decision of the Chief of Police denying, suspending or revoking an amusement arcade license;
 - d. Decision of the Chief Animal Control Officer declaring a dog vicious;
 - e. Decision of the City Manager denying, suspending or revoking a sidewalk food or flower vendor's permit;
 - f. Decision of the City Manager denying, suspending or revoking a billiard/pool parlor license;
 - g. Decision of the Construction Codes Advisory and Appeals Board;

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DATE ADOPTED: _____

- h. Decision of the Board of Plumbing Examiners;
- i. Decision of the City Manager denying, suspending or revoking a dance or concert permit;
- j. Decision of the City Manager denying, suspending or revoking a bingo license;
- k. Decision of the Director of Finance relating to determination of business operations tax due;
- l. Decision of the Director of Parks and Community Services denying, suspending or revoking a horse-drawn vehicle operating permit, driver's permit or vehicle permit;
- m. Decision of the Chief of Police denying, suspending or revoking a secondhand dealer, junk dealer or pawnbroker permit;
- n. Decision of the City Manager denying, suspending or revoking an adult-related establishment permit, massage technician's permit, escort permit or figure model permit;
- o. Decision of the Assessor-Collector determining amount of transient occupancy tax due;
- p. Decision of the Director of Finance denying, suspending or revoking a taxicab vehicular permit, a taxicab driver permit, a tow car vehicular permit, a tow car driver permit, a food vending vehicle permit, or a food vending vehicle driver permit;
- q. Decision of the Chief of Police denying, suspending or revoking an astrology, etc. license;
- r. Decision of the Housing Code Advisory and Appeal Board;
- s. Decision of the City-County Noise Control Hearing Board.

2. The hearing examiner shall be provided by the Institute of Administrative Justice, McGeorge School of Law. If an Institute of Administrative Justice hearing examiner is not available for appointment, the City Clerk shall select as hearing examiner a practicing attorney who has significant experience as an arbitrator or who has in another capacity gained significant experience conducting fact-finding processes.

3. The City Clerk shall place an information item on the consent calendar of the next available council meeting agenda describing each appeal that is referred to a hearing examiner pursuant to this resolution describing the nature of the appeal, the appellant's name, the name of the hearing examiner appointed and the scheduled hearing date and time.

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4. The City Council may, at any time before a hearing examiner commences a hearing on a matter under appeal, with or without prior notice to the appellant, by resolution rescind the appointment of the hearing examiner and schedule the matter under appeal for hearing before the council.

MAYOR

ATTEST:

CITY CLERK

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DATE ADOPTED: _____