

## **GUIDANCE CONCERNING IMPLEMENTATION OF ADMINISTRATIVE PROCESS TO ENFORCE CODE VIOLATIONS**

### **I. Determine whether you want to implement the administrative process**

A. Identify need and determine whether workload is sufficient to justify hiring an administrative hearing officer.

B. Determine whether you have a need for full-time or part-time hearing officer.

- Important to keep in mind that hearing officer time is not simply limited to time spent researching and preparing orders but will also include time spent preparing for and conducting administrative hearings.
- If you determine your city does not have the workload to hire a full-time hearing officer, consider entering into an agreement with one or more neighboring communities to share a hearing officer.
- To eliminate any suggestion of impropriety or prejudice, cities are strongly discouraged from employing an existing employee as an administrative hearing officer.

C. Determine whether your city has the resources to hire an administrative hearing officer

- In addition to the hearing officer's compensation, there will be additional costs associated with the original certification and fulfilling the ongoing continuing education requirements. Of course, a city may elect to require the hearing officer to pay these costs.
- You should also consider any costs that may be associated with conducting an administrative hearing – document preparation, mailing, court reporter, etc.
- If you determine your city does not have the resources to hire full-time hearing officer, consider entering into an agreement with another community to share the costs associated with a hearing officer.

D. Determine whether the governing body will support the creation of the administrative process and is prepared to commit the resources to hire an administrative hearing officer.

### **II. Implementing the Administrative Hearing Process**

A. Assuming you have determined there is a need for an administrative hearing officer and the city has the resources it is willing to pledge to hire a full-time hearing officer or is prepared to enter into an agreement with another city to share a hearing officer, then the next step is to formally adopt the process.

B. Implementation may be accomplished by adopting an ordinance by a majority vote of the governing body.

C. MTAS is preparing a model draft ordinance. A final version will be available in the near future.

### **III. Hiring qualified Administrative Hearing Officer**

A. The law lists certain criteria which an individual must meet in order to qualify for the position of administrative hearing officer.

B. The law provides no requirements concerning pay, benefits, hours, etc. The compensation and terms of employment are left to the implementing city(ies).

C. To eliminate any suggestion of impropriety or prejudice, cities are strongly discouraged from employing an existing employee as an administrative hearing officer.

### **IV. Certification of Administrative Hearing Officers**

A. Once you've identified a candidate, the individual must receive his/her certification.

B. By agreement, the State will provide the content and provide instructors for the certification of administrative hearing officers.

C. MTAS will handle the logistics associated with certification class.

D. The exact cost of the certification course has not been determined; however, TML and MTAS are working with the State to minimize the costs associated with certification and on-going training. To that end, we are encouraging all interested parties to enroll in a certification course to be held in early September. Additional details are forthcoming.

E. MTAS will also maintain a permanent record of individual certifications.

### **V. Continuing Education**

A. Each certified Administrative Hearing Officer is required annually to complete continuing education.

B. MTAS will offer sessions that will enable hearing officers to meet this requirement.

C. The specific cost of the annual continuing education classes is unknown at this time.

### **VI. Communicate Interest**

A. Now that you are more familiar with the administrative process and the law's requirements, we need to determine the level of interest among eligible cities.

B. We are requesting that each city complete a short on-line survey indicating your level of interest. The survey may be accessed [here](#)