

Essex County Fire Standard Operating Guideline

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Municipal Hearing Officers		

PURPOSE: To provide those communities in Essex County with access to a designated Municipal Hearing Officer in matters of appeal of Fire Code Violations of 527 Code of Massachusetts Regulations (CMR) in accordance with Massachusetts General Law Chapter 148 A.

SCOPE: Chapter 304 of the Acts of 2004 – “An Act Relative to Fire Safety in the Commonwealth” established the scheduled assessment process, which includes procedures for appeals to a designated local municipal hearing officer. In order for a local fire or building department to participate in the process the municipality must designate a municipal hearing officer who has attended the training provided jointly by the Office of the Attorney General and the Massachusetts Association of City and Town Solicitors.

GOAL: To provide local municipalities with access to trained and qualified persons who can serve as Municipal Hearing Officers in matters of appeal for citations issued under the provisions of MGL Chapter 148 A.

RESPONSIBILITIES:

Hearing Officer Responsibilities:

- To have attended the designated Municipal Hearing Officer training program as accepted by the Office of the Attorney General and the Massachusetts Association of City and Town Solicitors.
- To maintain current with all issues related to the Municipal Hearing Officer designation under MGL Chapter 148 A.
- To respond upon request from a municipality for service within twenty-four hours, stating availability.
- The Municipal Hearing Officer shall schedule the hearing no later than forty-five (45) days after notice is provided that a hearing has been requested.
- The Municipal Hearing Officer shall conduct a hearing of the appeal in accordance with the Massachusetts informal hearing process.

- The Municipal Hearing Officer shall provide a written decision to the municipality where the hearing was conducted within fourteen (14) days after the completion of the hearing.
- The Municipal Hearing Officer shall transmit all documents, evidence and materials associated with the hearing to municipality for which the hearing was conducted.

Municipality Responsibilities:

- To have the appointing authority for the municipality formally appoint the approved representatives of the Essex County Fire Chiefs as the Municipal Hearing Officers for the community.
- Shall provide notice that a Municipal Hearing Officer is required to conduct a hearing no later than twenty-four hours after the request for appeal.
- Notify the parties involved of the date, time and place for the hearing as established by the Municipal Hearing Officer.
- Provide a suitable hearing room that is accessible to all persons that is accessible to any and all parties involved with the hearing.
- If necessary, the municipality shall provide interpretation services at their cost.
- Ensure attendance of all municipal employees involved with the appeal at the designated hearing time.
- Provide the Municipal Hearing Officer access to Town Counsel if requested.
- Designate a person to receive all related hearing materials from Municipal Hearing Officer and take ownership of those materials as part of the Municipal Public Record.

PROCEDURES:

1. The Municipality shall formally appoint the Municipal Hearing Officers of the Essex County Fire Chiefs' Association as their municipal hearing officers. The Municipality that receives a request for an appeal of a citation under MGL Chapter 148 A shall notify the Executive Director of the Essex County Fire Chief's Association that they have need for a Municipal Hearing Officer. This notice will be within twenty-four hours of receipt of the request for appeal. They shall also designate a point of contact for the Municipal Hearing Officer.
2. The Essex County Fire Chiefs' shall provide a trained Municipal Hearing Officer to the particular community. The Municipal Hearing Officer is a person appointed by the appointing authority of a municipality to conduct the requested hearings of code violations pursuant to Chapter 148 A.
3. The Municipal Hearing Officer shall contact the municipal point of contact within twenty-four hours of notification that his services are required and ascertain the particulars regarding the appeal including a copy of the violation notice and a copy of the request for appeal. The names, addresses, telephone or email addresses of both the enforcement officer and the appellant shall be provided in a clear and legible manner.
4. The designated Municipal Hearing Officer shall not be an employee or officer of the municipality where the appeal was requested.
5. The Municipal Hearing Officer shall provide a date and time of the hearing to the municipal point of contact. This shall be within forty-five days of the original notice from the appellant to the municipality of the request for appeal.
6. The municipality shall notify both the Municipal Hearing Officer and the appellants of the date, time and location of the hearing.
7. The Municipal Hearing Officer shall notify the municipality the need to consult with Town Counsel at anytime throughout the process.
8. The municipality shall honor the request by the Municipal Hearing Officer for consultation with Town Counsel and shall bear the financial costs related to any consultation(s).
9. The hearing shall be conducted as scheduled. Postponements of any hearings will be the decision of the Municipal Hearing Officer, keeping in mind the requirement that the hearing must be conducted within forty-five days from the original request for appeal.
10. The Municipal Hearing Officer shall finalize a decision on the appeal, in writing, within fourteen (14) days after the conclusion of the hearing.

11. The Municipal Hearing Officer shall surrender all documents, evidence, notes and other materials pertaining to the hearing to the municipality.
12. The municipality shall accept all of the records and documents surrendered by the municipal hearing officer and shall accept ownership of them as official Town Records.
13. The municipality shall transmit the written decision of the Municipal Hearing Officer to the appellant and the enforcement officer.