

# CITY OF CHICAGO

## RULES



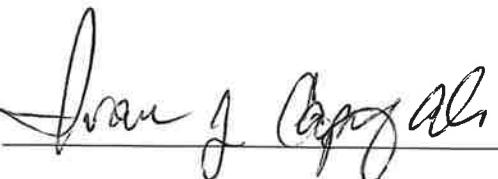
### MAYOR'S LICENSE DISCIPLINE COMMISSION RULES OF PROCEDURE



Business Affairs and  
Consumer Protection

Mayor Brandon Johnson  
Acting BACP Commissioner Ivan J. Capifali  
Local Liquor Commissioner Shannon Trotter

BY AUTHORITY VESTED IN THE COMMISSIONER OF BUSINESS AFFAIRS AND CONSUMER PROTECTION AND THE LOCAL LIQUOR CONTROL COMMISSIONER PURSUANT TO SECTIONS 2-25-050 AND 2-25-120 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING RULES REGARDING THE ADMINISTRATIVE ADJUDICATION OF MATTERS RELATING TO BUSINESS LICENSES ARE HEREBY ADOPTED.

Signed:  Date: 10/23/24

Ivan J. Capifali  
Acting Commissioner of Business Affairs and Consumer Protection

Signed:  Date: 10/23/2024

Shannon K. Trotter  
Local Liquor Control Commissioner

Published: September 28, 2024, to October 7, 2024, in the Chicago Sun-Times

Effective: These Rules shall apply to all matters for which a Notice of Hearing is filed with the Department, or proceedings are held, on or after November 1, 2024.

## **MAYOR'S LICENSE DISCIPLINE COMMISSION RULES OF PROCEDURE**

### **RULE 1. SCOPE**

These Rules of Procedure ("Rules") apply to all proceedings before hearing officers of the Department of Business Affairs and Consumer Protection and Local Liquor Control Commission ("Mayor's License Discipline Commission" or "MLDC"). This includes, but is not limited to, liquor license disciplinary proceedings, non-liquor license disciplinary proceedings, denial of non-liquor license applications under Section 4-4-060 of the Municipal Code of Chicago, license rescission proceedings, disciplinary proceedings related to shared housing registrations or Commissioner's adjustments, and denials of shared housing registrations or Commissioner's adjustments. For these Rules only, the term "licensee" shall refer to the holder of or applicant for any City of Chicago ("City") license or registration under Titles 4 and 9 of the Municipal Code of Chicago. These Rules shall be subject to amendment by the Commissioner of Business Affairs and Consumer Protection ("Commissioner").

Nothing in these Rules shall override, restrict, relax, or modify in any way the applicable provisions of the Municipal Code of Chicago. In the event of a conflict between any provision(s) of these Rules and provision(s) of the Municipal Code of Chicago, the Municipal Code of Chicago shall govern. Unless explicitly made applicable in these Rules, the Illinois Code of Civil Procedure, Illinois Code of Criminal Procedure, and Illinois Supreme Court Rules are not controlling, but may be considered as persuasive authority.

### **RULE 2. STATEMENT OF PURPOSE**

The purpose of these Rules is to provide for the swift, efficient, and fair resolution of contested cases, to allow all parties a full and fair opportunity to be heard, to minimize the expense to all parties, and to decide cases on their merit, without undue technicality or delay.

### **RULE 3. HEARING OFFICERS**

- a) All hearing officers shall be appointed by the Commissioner and shall be attorneys licensed to practice law in the State of Illinois.
- b) Hearing officers shall have all powers necessary to conduct fair and impartial hearings including, but not limited to, the power to:
  - 1) administer oaths and affirmations;
  - 2) hear testimony;
  - 3) exclude witnesses;
  - 4) rule on motions, objections, and the admissibility of evidence;
  - 5) preserve and authenticate the record of the hearing and all exhibits and evidence introduced at hearing;

- 6) regulate the course of the hearing in accordance with these Rules;
- 7) issue a written recommendation to the Commissioner or the Local Liquor Control Commissioner which may include findings of fact and conclusions of law as appropriate; and
- 8) issue subpoenas pursuant to Rule 10.

#### **RULE 4. COMMENCEMENT OF CASES**

A case involving a licensee shall be commenced by the filing and service of a Notice of Hearing. The Notice of Hearing shall be filed by the Department of Law of the City of Chicago ("Law Department") in the office of the Department of Business Affairs and Consumer Protection ("Department") at City Hall, 121 North LaSalle, Room 805, Chicago, Illinois 60602. Service on the licensee shall be by personal service or by first-class U.S. mail directed to the licensed premises or to the licensee's last known home address. In cases where the licensee is a partnership, service may be made by first-class U.S. mail directed to the licensed premises, or to the last known home address of any general partner. In cases where the licensee is a corporation, service may be made by first-class U.S. mail directed to the licensed premises, or to the address of the corporation or its registered agent. In cases where the licensee is a Limited Liability Corporation ("L.L.C."), service may be made by first-class U.S. mail directed to the licensed premises, or to the address of the L.L.C. or its registered agent.

An attorney's certification that service was made shall be prima facie evidence that service was in fact made.

#### **RULE 5. SERVICE OF DOCUMENTS**

All papers filed with the MLDC and related to a matter before the MLDC shall be served on all other parties. Parties may file papers with the MLDC by (1) hand delivery to Business Affairs and Consumer Protection, Attention Deputy Commissioner of Prosecutions and Adjudications, 121 North LaSalle Street, Room 805, Chicago, Illinois 60602, (2) by first-class U.S. mail to the same address, or (3) by email to [BACP-Prosecutions@CityofChicago.org](mailto:BACP-Prosecutions@CityofChicago.org). Service on the Law Department for MLDC matters, but not for circuit court matters, shall be made on the Assistant Corporation Counsel in charge of the case either by email or in person.

All papers filed with the MLDC shall bear proof of service. An attorney's certification that service was made shall be prima facie evidence that service was in fact made.

#### **RULE 6. ATTORNEY APPEARANCES**

- a) Licensee business entities, with the exclusion of sole proprietorships, must be represented by legal counsel, and cannot appear through any officer, director, shareholder, member, or partner, unless such individual is a licensed attorney.

- b) All other licensees, including sole proprietorships and individuals, may be represented by legal counsel.
- c) Only attorneys licensed to practice in Illinois shall be permitted to appear as legal counsel.
- d) Legal counsel must file an appearance with the MLDC on a form provided by the Department. Motions to withdraw an appearance shall follow the procedure set out in Illinois Supreme Court Rule 13(c).

## RULE 7. CONTINUANCES

- a) Litigants in this forum have no absolute right to a continuance after the first hearing date. Hearing officers may grant a continuance only upon proper motion and a showing of good cause, subject to conditions set out in Rule 7(b)-(e).
- b) *Motion Required.* A continuance will only be granted pursuant to a motion:
  - 1) Filed in writing no later than three business days prior to the hearing date.
  - 2) In case of emergency, filed via email pursuant to Rule 5 with notice to the Assistant Corporation Counsel as soon as practicable.
  - 3) Made orally before the hearing officer based upon the unexpected absence of a necessary witness.
- c) All motions shall set forth good cause for the continuance and be supported by evidence which tends to prove the grounds alleged.
- d) If an emergency telephone continuance is granted, the movant shall file a retroactive written motion reiterating the grounds provided during the emergency telephone motion on the hearing date immediately following the emergency telephone motion. Failure to file this retroactive motion shall be considered evidence that the movant is not exercising due diligence or is intentionally delaying the final hearing of the case without good cause.
- e) *Good Cause.* In deciding whether the movant has demonstrated good cause, the hearing officer shall consider the following criteria:
  - 1) good cause for an emergency continuance is limited to unforeseen conditions outside the control of the movant, including the sudden death or severe illness of an immediate family member or movant's counsel;
  - 2) the recent discovery of new evidence or an unforeseen delay in the procurement of material evidence may be considered good cause, subject to the restrictions set forth in Illinois Supreme Court Rule 231;
  - 3) the fact that a litigant is unprepared shall not be considered good cause;
  - 4) the fact that the licensee is awaiting the completion of an administrative task by the City, such as building inspections or application processing, shall not be considered good cause; however, documented proof that the licensee has made multiple timely efforts to complete the tasks may be considered good cause;
  - 5) the inability to obtain timely transportation to the hearing shall not be considered good cause, except upon a showing of indigence;

- 6) two or more emergency continuance motions may be considered evidence that the movant is not exercising due diligence or is intentionally delaying the final hearing of the case without good cause.

## **RULE 8. PRE-HEARING SETTLEMENT CONFERENCES**

A licensee, through its representative or legal counsel, may request a pre-hearing settlement conference. If a settlement offer is extended to the licensee, the licensee has the right to reject any settlement offer and contest the matter in a formal hearing before a hearing officer.

## **RULE 9. DISCOVERY**

- a) *Discovery Generally.* Discovery is the disclosure of facts and information about the case prior to the hearing on the merits. The parties shall exchange discovery no later than five business days after the first scheduled hearing date or the filing of any amendments to the Notice of Hearing. Unless a motion for additional discovery is granted by the hearing officer pursuant to Rule 9(c), discovery is limited to the following non-privileged items within the Law Department's custody and control which pertain directly to the charges in the Notice of Hearing:
  - 1) information and documents from the Chicago Police Department or any other law enforcement agency, including reports, inventories, laboratory reports, witness statements or summaries;
  - 2) information and documents from the Office of Emergency Management and Communications;
  - 3) videos and photographs;
  - 4) information and documents that might be helpful to the licensee; and
  - 5) written orders of disposition relating to the licensee.
- b) *Hearing-Related Discovery.* The parties must also provide each other with copies of all documents and exhibits that will be used at the hearing, and the names of all witnesses including a summary of their testimony.
- c) *Motions For Additional Discovery.* Any motions for additional discovery must be filed in writing no more than fifteen business days after the first scheduled hearing date or the filing of any amendments to the Notice of Hearing. The party filing a motion for additional discovery bears the burden of showing that the information sought is relevant, material, and cannot be obtained by any other means and that the motion is not made for purpose of delay.
- d) *Exclusion From Evidence.* The hearing officer has discretion to exclude any evidence for violation of this Rule.

## **RULE 10. SUBPOENAS**

- a) *Generally.* A party may request issuance of a subpoena to a third party for the production of books, records, or other information or for the testimony of a witness

if the books, records, or information or testimony sought is relevant to a contested matter in the case.

- b) *Issuance.* Only a hearing officer may issue a subpoena. A party may request issuance of a subpoena by motion accompanied by a proposed subpoena that complies with this Rule. If the hearing officer determines that the proposed subpoena complies with this Rule, the hearing officer shall permit issuance by signing the subpoena.
- c) *Contents.*
  - 1) No subpoena shall issue unless it states that the action is pending before the MLDC and identifies:
    - i. the case name and number;
    - ii. the name, address, and telephone number of the party requesting the subpoena;
    - iii. the person to whom the subpoena is directed;
    - iv. whether the subpoena requests testimony of a witness or production of books, records, or other information
    - v. with specificity, the books, records, or other information sought by the subpoena, if any; and
    - vi. the date, time, and place for the appearance of the witness(es) and/or the production of the books, records, or other information described in the subpoena, as appropriate.
  - 2) In no event shall the date identified in the subpoena for the appearance of the witness or the production of books, records, or information be less than seven business days after issuance of the subpoena.
- d) *Service; Response Required.* Once authorized by the hearing officer's signature, the party that requested the subpoena shall serve the subpoena in a manner designed to provide actual notice to its intended recipient. This may include service by email. Each subpoena recipient shall promptly respond to any subpoena of which he or she has actual knowledge.
- e) *Motion to Quash.* A motion to quash a subpoena issued pursuant to this Rule must be filed within seven business days of service of the subpoena.

## RULE 11. EXHIBITS

- a) All exhibits must be individually numbered and labeled.
- b) Exhibits must be emailed to [BACP-Prosecutions@CityofChicago.org](mailto:BACP-Prosecutions@CityofChicago.org) and the opposing party **with the case number and hearing date in the subject line** no less than five business days before the hearing on the merits. The email will be forwarded to all parties and the appropriate hearing officer.
- c) At the hearing on the merits, paper copies of exhibits and flash drives containing any audio or video exhibits must be provided to the hearing officer and opposing counsel.
- d) The contents of an official record of the City of Chicago, or of a document authorized to be recorded or filed and recorded or filed by the City of Chicago,

including data compilations in any form, may be proved by copy, certified as correct by the signature of an officer or employee of the City of Chicago in their official capacity, with or without seal.

- e) A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity, or the circumstances make it unfair to admit the duplicate.
- f) The hearing officer will determine whether to admit exhibits not conforming to the above requirements at the hearing on the merits.

## RULE 12. CONDUCT OF HEARING

- a) *Public.* All hearings shall be open to the public. In the event of overcrowding, the hearing officer may limit the number of persons allowed in the hearing room consistent with safety and due process.
- b) *Decorum.* Individuals before the MLDC shall always conduct themselves in a dignified, orderly, and appropriate manner. During the hearing, all individuals shall address themselves to the hearing officer and avoid direct debate or argument amongst themselves or with the hearing officer. The hearing officer retains the authority to preserve order and to remove individuals who fail to conduct themselves with the proper decorum.
- c) *Order of Presentation.* The first matter of business in any hearing is the admission into evidence of the Notice of Hearing. The Notice of Hearing shall be admitted solely as a charging document in disciplinary cases, or as a statement of the reasons for the action of the Department in denial cases, and not as proof of any of the allegations made therein. The Law Department may present witnesses and exhibits. The licensee has the right to cross-examine all Law Department witnesses. At the conclusion of the Department's case-in-chief, the licensee shall have the opportunity to present witnesses and exhibits, and the Law Department shall have the right to cross-examine those witnesses. At the close of the licensee's case, the Law Department may present witnesses and exhibits in rebuttal and may present a list of any prior disciplinary orders against the licensee. This order of presentation may be altered by the hearing officer for any reason, including permitting witnesses not present to testify at a later date.
- d) *Evidence.* Rulings on the admission and exclusion of evidence are within the discretion of the hearing officer. The rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, the hearing officer may admit evidence not admissible under such rules of evidence if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. If the applicable provision of the Municipal Code of Chicago pertaining to the charges in the Notice of Hearing authorizes consideration of police reports, then those reports shall be admissible. The purpose of rulings on evidence shall be to promote the finding of truth and to seek the greatest accuracy in the determination of facts. A licensee's prior history shall be admitted at or after the completion of testimony in the case for purposes of aggravation and will only

be considered for those purposes if one or more of the charges in the Notice of Hearing are sustained. Facts or law underlying prior orders of disposition may not be re-litigated. The hearing officer shall have the discretion to order witness testimony to be taken via telephone or video conference.

- e) *Attorney Conduct.* Attorneys appearing before the MLDC must comply with these MLDC Rules, the Illinois Rules of Professional Conduct, and all other applicable ARDC rules. In addition, an attorney shall not harass, disrupt, or cause unnecessary delay to proceedings. The hearing officer may impose appropriate sanctions for violations of these Rules.

## RULE 13. MOTIONS

- a) *Generally.* Motions may be presented in writing or orally, subject to the continuance motion provisions in Rule 7. Written motions shall be filed with the MLDC and served on all other parties as set out in Rule 5. All motions not ruled on before a final decision or decided within the final decision itself are considered denied as moot. The hearing officer may rule on procedural motions and emergency motions. Such motions may be ruled upon when made. Dispositive motions, such as a motion to dismiss, will not be ruled upon when made, but will be considered by the hearing officer in preparation of the proposed findings submitted to the Commissioner.
- b) *Substitution of Hearing Officer.* Litigants in this forum have no absolute right to a substitution of hearing officer without cause. Any motion for substitution of hearing officer—because the hearing officer has an interest in the licensee that is the subject of the case, or because their testimony is material to the case, or because the hearing officer is related to or has been counsel for any party in the case, or for good cause shown--shall be heard by and may be ruled upon by the hearing officer from whom the change is sought. If a substitution of hearing officer is granted, or if the hearing officer recuses themselves, the case shall be reassigned to another hearing officer at random by the Department.
- c) *Rulings.* Rulings on motions shall be made orally on the record.

## RULE 14. DECISION

At the close of all the evidence, the hearing officer shall take the matter under advisement. The hearing officer shall submit proposed findings of fact and recommendations to the Commissioner or Local Liquor Control Commissioner. Decisions shall be mailed or delivered promptly to all parties. The licensee shall be served with a copy of the decision by first-class U.S. mail. Service of the decision shall be deemed complete on the date the decision is placed in the mail. The certificate of mailing shall be prima facie evidence that service of the decision was made. Decisions of the Commissioner or Local Liquor Control Commissioner are final. No petitions for rehearing, other than motions to set aside default orders, are permitted. Appeals to the License Appeal Commission of the City of Chicago

or the Circuit Court of Cook County, in cases where such appeal is permitted by law, shall be in accordance with applicable laws, ordinances, and rules.

#### **RULE 15. DEFAULT**

If at the time set for a hearing on the merits the licensee fails to appear, the hearing officer shall find the licensee in default proceed with the hearing and conclude with a finding and recommendation to the Commissioner. If the case is an appeal from a decision denying a Commissioner adjustment, license or registration application or rescinding a license, upon a finding that adequate notice of the hearing was provided to the licensee, the hearing officer may dismiss the appeal for want of prosecution without accepting further evidence and without a finding and recommendation to the Commissioner, in which case the original decision shall stand.

#### **RULE 16. PETITION TO SET ASIDE DEFAULT**

- a) A licensee who is found to be in default may petition the Commissioner to set aside the order and to set a new hearing date.
- b) Petitions to set aside an order of default must be in writing and filed with the Department within twenty-one days after the service of the order of default.
- c) If a petition has been properly filed, a set-aside hearing shall be scheduled and held before a hearing officer. The hearing officer shall make a finding as to whether the petitioner's failure to appear at the hearing was for good cause. The hearing officer shall make a recommendation as to the merit of the petition to the Commissioner within seven business days of the day on which the set-aside hearing is held.
- d) The default order shall remain in effect throughout the petition to set aside proceedings unless and until the petition is granted and the default order is stayed in writing by the Commissioner.
- e) If the Commissioner decides to grant the petition and sets aside a default order, a hearing officer shall proceed with a hearing on the underlying matter as soon as practical.

#### **RULE 17. REMOTE HEARINGS**

- a) The Commissioner may, upon request or on the Commissioner's own order, for good cause shown, require participation in a status call or hearing via video conference. If a party does not have video conference services available, the hearing officer may allow presentation of testimony by telephone conference in compelling circumstances with good cause shown and with appropriate safeguards.
- b) Remote hearings will be conducted using video conference technology. Parties appearing remotely, or their attorneys, must submit their names, addresses, phone

numbers, and email addresses to [BACP-Prosecutions@CityofChicago.org](mailto:BACP-Prosecutions@CityofChicago.org) at least three business days before the hearing on the merits.

#### **RULE 18. UNAUTHORIZED RECORDING OR BROADCASTING**

The recording, photographing, broadcasting, or televising of proceedings is prohibited other than for the MLDC's purpose of creating the official record of the proceedings or to the limited extent needed to allow the hearing officer to conduct remote hearings pursuant to Rule 17, and only with the written authorization of the Commissioner or the Commissioner's designee.