
CITY OF CHICAGO

RULES



SUSPENSION OF PERMIT PRIVILEGES



Mayor Lori E. Lightfoot

Commissioner Matthew W. Beudet

City of Chicago Department of Buildings
Rules for the Suspension of Permit Privileges

BY AUTHORITY VESTED IN THE COMMISSIONER OF BUILDINGS PURSUANT TO SECTIONS 14A-1-104.4 AND 14A-3-304 AND THE GENERAL PROVISIONS OF THE MUNICIPAL CODE OF CHICAGO, THE FOREGOING RULES FOR SUSPENSION OF PERMIT PRIVILEGES ARE ADOPTED AND SUPERSEDE ALL PRIOR RULES ON THIS SUBJECT.

BY ORDER OF THE COMMISSIONER:



MATTHEW W. BEAUDET

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DATE

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PART I: GENERAL PROVISIONS

A. Definitions

In these Rules, the following words and terms have the meanings shown:

AGENT. A person to whom another person has granted express authority, a person whom another person has appointed to a position of authority (such as a manager, director, or corporate officer), or a person whom the Commissioner has a reasonable basis to believe has authority to act on behalf of the other person based on an action or inaction of the other person.

BUSINESS DAY. A day of the week other than a Saturday, Sunday, City of Chicago holiday, or other day when the Department is not generally conducting business.

COMMISSIONER. The Commissioner of Buildings or the Commissioner's designee.

CONTROLLING PERSON(S). As defined in Section 4-4-005 of the Municipal Code.

DEPARTMENT. The City of Chicago Department of Buildings.

HEARING OFFICER. An Illinois-licensed attorney, selected by the Commissioner, who has not had substantial involvement with the basis for suspension or revocation prior to the request for hearing. The hearing officer may be an employee of the Department or another department of the City of Chicago.

MUNICIPAL CODE. The Municipal Code of Chicago, as amended.

PARTIES. The Commissioner and the principal.

PERMIT. As defined in Section 14A-2-202 of the Municipal Code.

PERMIT PRIVILEGES. The ability of a person to submit a new application or complete a pending application for a permit.

PERSON. As defined in Section 1-4-090 of the Municipal Code.

PRINCIPAL. The person to whom a notice of suspension of permit privileges is addressed under these Rules.

B. Scope and Effect

1. Nothing in these Rules is intended to limit the power or authority of the City of Chicago, the Commissioner, the Department, or any other City department or official; nor are these Rules intended to relieve any person or entity from full compliance with any provision of the Municipal Code, or any other rules promulgated by any City official or agency.
2. The Commissioner reserves the right to amend these Rules at any time in accordance with law.
3. The provisions of these Rules are severable. If part of these Rules is declared invalid or unconstitutional, that declaration does not affect any other part.

PART II: APPLICATION

C. Basis

1. A person's permit privileges may only be suspended based on one or more of the conditions identified in Section 14A-3-304.1 of the Municipal Code.

D. Progressive Remediation

1. Prior to suspending a person's permit privileges, the Department has elected to use progressive remediation as described in this rule.
2. Except as provided in Rule D(4), the Department will notify the person or the person's agent, either orally or in writing, at least once of at least one condition that could be the basis for suspension of permit privileges and provide the person with a reasonable opportunity to cure the condition before issuing a notice of suspension of permit privileges.
3. Except as provided in Rule D(4), the Commissioner may pursue suspension of a person's permit privileges based on a pattern of at least three occasions when the person or the person's agent has been notified of a condition that could be the basis for suspension of permit privileges even if the person cures each condition within a reasonable time.
4. The Commissioner, in the Commissioner's sole discretion, may immediately pursue suspension of a person's permit privileges under these Rules without providing a warning or an opportunity to cure if any of the following form a basis for suspension:
 - a. An act, omission, or event that results in severe injury or death of a human being.
 - b. An act, omission, or event that results in property damage or loss exceeding \$100,000.00 in the aggregate.
 - c. A conviction or finding of liability by a court or administrative tribunal for an act or underlying act related to bribery or attempted bribery of a government official or government vendor or related to fraud or theft or attempted fraud or theft involving a public or private project, program, procurement, or contract.
 - d. Knowing or reckless performance of work that requires a permit without first obtaining the required permit.
 - e. Knowing or reckless direction of others to perform work that requires a permit without first obtaining the required permit.
 - f. Knowing or reckless performance of work that creates an imminent threat to the health or safety of construction workers, first responders, occupants of the building where work is performed (if any) or neighboring buildings, or the public.

- g. Knowing or reckless direction of others to perform work that creates an imminent threat to the health or safety of construction workers, first responders, occupants of the building where work is performed (if any) or neighboring buildings, or the public.
- h. Knowing or reckless violation of a stop work order or closure order.
- i. Removal of a stop work order or closure order notice without authorization.

E. Duration

- 1. The duration of a suspension under these Rules will be as provided in Section 14A-3-304.1.2 of the Municipal Code.
- 2. The Commissioner may provide in the notice for a duration after which a suspension of permit privileges will expire without requiring a petition for reinstatement of permit privileges under Rule N.

PART III: PROCEDURE

F. General Hearing Procedures

- 1. *Hearing.* A hearing is any event where the parties and the hearing officer can meaningfully communicate with each other and with any witnesses in real time. A hearing is not limited to an event where all participants are physically present at the same location. At the discretion of the hearing officer, some or all participants in a hearing may attend by audio or video conference.
- 2. *Recording.* An official audio recording of all hearings, from start to finish, must be made by the hearing officer. The recording may also include video. The principal may, at the principal's own expense, provide a certified or licensed court reporter to record the proceedings. All other video or audio recording is prohibited.
- 3. *Representation.* Parties may represent themselves or may be represented by an attorney or authorized representative at their own expense. All counsel or other persons appearing on behalf of the principal in proceedings under these Rules must file a written and signed appearance with the hearing officer. The filing of a request for hearing or appearance under these Rules constitutes an affirmative representation, under penalty of law, by the individual signing the request for hearing or appearance that the individual is duly authorized by the principal to act on the principal's behalf in the proceedings.
- 4. *Disclosure of Controlling Parties.* If the principal is a business entity, the principal must disclose its controlling persons to the hearing officer or an agent of the business entity must attest that the business entity has no controlling persons in writing. The hearing officer must verify that this requirement has been met before the hearing begins.
- 5. *Settlements.* The parties may enter into a settlement agreement or stipulation of facts and present the same to the hearing officer. The hearing officer has discretion to accept or reject a settlement agreement or stipulation of facts

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presented by the parties if it is objectively unreasonable.

6. *Pre-hearing Motions.* Pre-hearing motions are limited to motions for leave to request discovery, subpoenas, and continuances under these Rules. In matters where discovery is allowed by the hearing officer, discovery related motions are also allowed.
7. *Subpoenas.* A subpoena may only be issued by the hearing officer upon request of a party. The hearing officer may grant the issuance of a subpoena when the hearing officer determines that the issuance of a subpoena is necessary for a fair determination of the issues presented and that the information sought cannot reasonably be obtained by other means.
8. *Continuances.* A continuance may be granted only upon a finding of good cause. Lack of preparation will not be accepted as grounds for a continuance.
9. *Beginning the Hearing.* The hearing officer must begin each hearing with brief opening remarks that inform the parties as to the nature and manner of the proceedings. All persons present must identify themselves for the record.
10. *Open Hearings.* Hearings under these Rules are open to the public. In the event of overcrowding or technological limitations, however, the hearing officer may limit the number of attendees in the interest of safety and due process to the parties. In the event of capacity limitations, the parties shall be afforded priority to attend the hearing over observers. Members of the public, while welcome to observe, may not testify unless formally called as a witness by one of the parties.
11. *Decorum.* All persons must conduct themselves at all times in a dignified, orderly, and appropriate manner. During the hearing, the parties must address themselves to the hearing officer and avoid direct debate or argument with other parties. Individuals who do not conduct themselves with the proper decorum may be removed from the proceedings by order of the hearing officer.
12. *Constitutional Objections.* The hearing officer does not have authority to pass upon the constitutionality of a statute, ordinance, rule, or other legislative or administrative action. The parties may, however, make an objection to the constitutionality of a statute, ordinance, rule, or other legislative or administrative action for the record.
13. *Rules of Evidence.* The formal and technical rules of civil procedure and evidence do not apply in the conduct of hearings under these Rules. Evidence, including hearsay, may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
14. *Presentation of Evidence.* For an evidentiary hearing, the parties must have all their witnesses, documents, and exhibits available and ready for presentation at the hearing. A courtesy copy, for the use of the hearing officer during the hearing, of any document intended to be offered as evidence is recommended. Parties wishing to offer an audio or video recording as evidence must provide the means to present the recording.
15. *Witness Testimony.* All persons offering testimony must do so under oath or

affirmation.

16. *Questions by Hearing Officer.* The hearing officer may ask questions of the parties and witnesses if necessary to ensure the clarity and completeness of the testimony and the record.
17. *Closing Arguments.* Each of the parties will be afforded an opportunity to make a closing argument.
18. *Closing the Record.* After an evidentiary hearing, the hearing officer may, but is not required to, allow all parties a fixed period of time following the conclusion of the hearing, not exceeding 10 days, to supplement the record with additional written evidence. Otherwise, the record is closed at the conclusion of the hearing.
19. *Decision.* Within 30 days after closing the record, the hearing officer must make a decision on the basis of the admissible evidence, testimony, and arguments presented and issue a written decision and order.
20. *Default.* If one of the parties fails to appear for a hearing, and the hearing officer determines that due notice was afforded, the hearing officer may find the party in default, proceed with the hearing, and render a decision and order in the party's absence.

G. Notice

1. A notice of suspension of permit privileges must comply with Section 14A-3-304.2 of the Municipal Code.
2. A notice issued to a business entity will require the business entity to disclose the name(s) and mailing address(es) of its controlling person(s) to the Commissioner in writing within the time to request a preliminary hearing, regardless of whether a hearing is requested.
3. The Commissioner may, but is not required to, attach supporting material to the notice.

H. Request for Preliminary Hearing

1. The principal has ten calendar days from the date of the notice or the date of mailing, whichever is later, to submit a preliminary hearing request. If the tenth calendar day is not a business day, the last day to submit a hearing request is the next business day. Hearing requests must be submitted at or before 5:00 p.m., central time, on the last day to submit a hearing request.
2. Hearing requests must be in writing, signed by an individual who is the principal or the principal's agent, and emailed to DOBCommissioner@cityofchicago.org. Requests submitted by other means are invalid.
3. For determining subsequent deadlines, hearing requests are deemed received the next business day after actual receipt.
4. An untimely preliminary hearing request will be considered as a full hearing

request under Rule K.

I. Effect

1. If a timely preliminary hearing request is received, the suspension of permit privileges will not become effective until after a preliminary hearing is held in accordance with Rule J and the hearing officer issues a written determination against the principal or the principal waives the right to a preliminary hearing in writing.
2. If a timely preliminary hearing request is not received in accordance with Rule H, the suspension of permit privileges becomes effective on the next business day following the last day to submit a preliminary hearing request.

J. Preliminary Hearing

1. When a timely preliminary hearing request is received, the Commissioner must schedule and convene a preliminary hearing on the request within 10 calendar days following receipt.
2. The parties may mutually agree to extend the deadline established by Rule J(1).
3. The hearing officer may continue a preliminary hearing for not more than 30 days to facilitate settlement discussions between the parties. With the mutual consent of the parties, more than one continuance may be granted under this rule.
4. At a preliminary hearing, the hearing officer must determine whether: (i) the written notice and any materials attached to the notice establish a prima facie case for suspension of permit privileges and (ii) the Commissioner has a reasonable likelihood of success at a full hearing under Rule M.
5. At a preliminary hearing, the burden is on the principal to identify defects in the written notice and the types of arguments and evidence which would be presented at a full hearing to defeat or overcome each basis for suspension of permit privileges identified in the written notice.
6. The Commissioner may attend the preliminary hearing. The Commissioner may rebut any arguments presented by the principal.
7. A preliminary hearing is not an evidentiary hearing. It is an opportunity for the principal to challenge the facial validity of the notice. Accordingly, the hearing officer is not to consider any testimony or documents other than the notice and written materials attached to the notice, if any.
8. The principal may elect to submit written objections to the notice in lieu of presenting the principal's arguments at a hearing. In such case, the hearing officer will rule on the basis of the notice and the principal's written submission without further input from the Commissioner.
9. Following the preliminary hearing or in response to written objections under Rule J(8), the hearing officer must issue a written determination as to whether: (a) the written notice establishes a prima facie case for suspension of permit privileges

and (b) the Commissioner has a reasonable likelihood of success at a full hearing under Rule M.

- a. If the hearing officer finds that the written notice does not establish a prima facie case for suspension of permit privileges, the hearing officer must strike the notice.
- b. If the hearing officer finds that the written notice establishes a prima facie case for suspension of permit privileges but, based on the written notice and arguments presented at the preliminary hearing, the Commissioner does not have a reasonable likelihood of success at a full hearing under Rule L, the suspension of permit privileges will not take effect. The Commissioner may request a full hearing in accordance with Rule L.
- c. If the hearing officer finds that the written notice establishes a prima facie case for suspension of permit privileges and, based on the written notice and information presented at the preliminary hearing, the Commissioner has a reasonable likelihood of success at a full hearing under Rule M, the suspension of permit privileges will take effect in accordance with Rule I(1). The principal may request a full hearing in accordance with Rule L.

K. Request for Full Hearing Without a Preliminary Hearing

1. If a preliminary hearing is not requested pursuant to Rule H, the principal has forty-five calendar days from the date of the notice or the date of mailing, whichever is later, to request a hearing to contest the suspension of permit privileges. If the forty-fifth calendar day is not a business day, the last day to request a hearing is the next business day. Hearing requests must be submitted at or before 5:00 p.m., central time, on the last day to request a hearing.
2. Hearing requests must be in writing, signed by an individual who is the principal or the principal's agent, and emailed to DOBCCommissioner@cityofchicago.org. Requests submitted by other means are invalid.
3. Requests must state each basis for contesting the suspension of permit privileges.
4. For determining subsequent deadlines, hearing requests are deemed received the next business day after actual receipt.

L. Request for Full Hearing After a Preliminary Hearing

1. If a preliminary hearing is held pursuant to Rule J, the principal or Commissioner has ten calendar days from the date of the hearing officer's written decision, or the time provided by Rule K(1), whichever is later, to request a full hearing. If that day is not a business day, the last day to request a hearing is the next business day. Hearing requests must be submitted at or before 5:00 p.m., central time, on the last day to request a hearing.
2. Hearing requests must be in writing, signed by an individual, and submitted by email to the hearing officer. Requests submitted by other means, including oral requests during a preliminary hearing, are invalid.

3. Requests must state each basis for contesting or supporting the suspension of permit privileges.
4. For determining subsequent deadlines, hearing requests are deemed received the next business day after actual receipt.

M. Full Hearing

1. When a timely full hearing request is received and a hearing officer has not yet been assigned, the Commissioner must promptly assign a hearing officer. The hearing officer must schedule a full hearing on the request within 30 calendar days following receipt. The date set for the full hearing must be within 45 calendar days of the date when notice of the full hearing date is sent to the parties and no more than 75 calendar days after receipt of the full hearing request.
2. The parties may mutually agree to extend the deadlines set by Rule M(1).
3. When setting a full hearing date, the hearing officer must also set a date, no less than 3 business days before the hearing date, by which the parties must submit:
 - a. Any procedural or pre-hearing motions, including motions under Rule F(6) and any motion by the Commissioner seeking leave to supplement the notice.
 - b. A list containing the name, address, and phone number of each witness to be presented as evidence.
 - c. A copy of each document to be presented as evidence.
4. Pre-hearing disclosures must be made by electronic mail to the hearing officer and all other parties.
5. The deadline for pre-hearing disclosures must be the same for all parties.
6. The hearing officer may continue a full hearing for not more than 30 days to facilitate settlement discussions between the parties. With the mutual consent of the parties, more than one continuance may be granted under this rule.
7. At a full hearing, the Commissioner bears the burden of proof by a preponderance of the evidence. The Commissioner will present first. The Commissioner may seek leave to make technical amendments to the notice prior to a final determination being made by the hearing officer. The principal may cross-examine any witness and rebut any evidence presented by the Commissioner.
8. Upon conclusion of the Commissioner's case, the hearing officer will determine whether the Commissioner has presented a sufficient basis for the suspension of permit privileges. The hearing officer may, but is not required to, allow arguments on this point.
9. If the hearing officer determines that the Commissioner has presented a

sufficient basis for the suspension of permit privileges, the principal will be afforded an opportunity to present a case, contest the allegations, or present defenses. The defenses available to the principal, if any, and the way they may be presented are governed by the ordinance specific to the basis of suspension. The Commissioner may cross-examine any witness and rebut any evidence presented by the principal.

10. Following the full hearing, the hearing officer must issue a written decision as to whether the Commissioner has established at least one basis for suspension of permit privileges identified in the notice by a preponderance of the evidence.
 - a. If the hearing officer finds that the Commissioner has not established at least one basis for suspension of permit privileges by a preponderance of the evidence, the hearing officer must strike the notice.
 - b. If the hearing officer finds that the Commissioner has established at least one of the bases for suspension of permit privileges identified in the notice by a preponderance of the evidence, the hearing officer must enter an order upholding the suspension of permit privileges.
 - c. If the hearing officer finds by a preponderance of the evidence that the principal has subsequently cured some (but not all) of the bases for suspension of permit privileges identified in the notice, the hearing officer must determine whether the scope of the suspension of permit privileges stated in the notice is consistent with Rules D and E. In such case, the hearing officer may modify the terms of the suspension of permit privileges consistent with Rules D and E.
 - d. If the hearing officer finds by a preponderance of the evidence that the principal has subsequently cured all of the bases for suspension of permit privileges identified in the notice, the hearing officer must uphold the notice but terminate the suspension of permit privileges, effective as of the date of the hearing.
 - e. In no event may a hearing officer order a greater scope of suspension of permit privileges than is stated in the notice.
11. Following the full hearing, the hearing officer does not have jurisdiction to consider post-hearing motions.
12. The written decision of the hearing officer following a full hearing is issued as the decision of the Commissioner and constitutes a final decision for purposes of judicial review as provided by law.

N. Petition for Reinstatement of Permit Privileges

1. A person whose permit privileges have been suspended may file a written petition for reinstatement of permit privileges with the Commissioner at any time.
2. The burden of proof, by a preponderance of the evidence, regarding the rehabilitation of the person whose permit privileges have been suspended that would warrant reinstating the privilege of applying for permits is on the person

whose permit privileges have been suspended.

3. The petition for reinstatement of permit privileges must state:
 - a. Each basis for the suspension of permit privileges.
 - b. The date the suspension of permit privileges took effect.
4. The petition for reinstatement of permit privileges must establish that each basis of suspension has been corrected and that all related fines and fees, if any, have been paid. If it is impossible to correct a basis for suspension, the petition must describe all remedial measures taken by the petitioner.
5. The petition for reinstatement of permit privileges must attach all evidence which supports the petition, including sworn affidavits from witnesses, if applicable.
6. Within 10 days of receiving a petition for reinstatement of permit privileges, the Commissioner must assign a hearing officer.
7. After the petition is assigned to a hearing officer, the Commissioner has 30 days to submit a written response to the petition to the hearing officer and the other parties. The Commissioner's response may attach supporting evidence. The hearing officer must allow the petitioner at least 15 days to file a written reply. The hearing officer must issue a written decision and order within 60 days of the deadline provided for the petitioner's reply.

O. Public Information

1. The fact that a person's permit privileges have been suspended and the basis for suspension of permit privileges are public information.
2. The Department may publish or maintain a public list of persons whose permit privileges have been suspended, including persons whose permit privileges have been suspended and subsequently reinstated. Such a list may include a summary of the basis for suspension of permit privileges.