
CITY OF CHICAGO

RULES



PROCEDURAL RULES & REGULATIONS

Last Updated: June 5, 2018



Mayor Rahm Emanuel
Director/Chief Administrative Law Judge Patricia Jackowiak

BY AUTHORITY VESTED IN THE DIRECTOR/CHIEF ADMINISTRATIVE LAW JUDGE OF THE DEPARTMENT OF ADMINISTRATIVE HEARINGS PURSUANT TO **SECTION 2-14-030(3) OF THE MUNICIPAL CODE OF CHICAGO**, THE FOLLOWING RULES REGARDING **PROCEDURAL RULES & REGULATIONS** ARE ADOPTED HEREIN.

By Order of the Director/Chief Administrative Law Judge:

Signed: 
Director/Chief Administrative Law Judge Patricia Jackowiak

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**Rules and Regulations for the Conduct of
Administrative Hearing Proceedings**

Chapter 1. General Rules & Regulations.

1.1 Issuing Body.

These rules and regulations are issued by the City of Chicago's Department of Administrative Hearings. The Department of Administrative Hearings currently maintains four divisions; The Buildings Hearings Division, the Environmental Safety and Consumer Affairs Hearings Division, the Municipal Hearings Division, and the Vehicle Hearings Division. (Amended November 8, 2011)

1.2 Power to Adopt Rules & Regulations.

These rules and regulations are promulgated pursuant to the Municipal Code of Chicago, chapter 2-14, sections 2-14-030(3), 2-14-030(5) and other chapters, sections and/or subsections which provide that the Director of the Department of Administrative Hearings may promulgate rules and regulations for the conduct of administrative hearing proceedings and other matters related to the operation of chapter 2-14. The Director may also promulgate or adopt additional rules and regulations for the conduct of administrative hearings before a particular division or section of a division of the Department of Administrative Hearings.

1.3 Scope of Rules & Regulations.

These rules and regulations shall apply to the conduct of all cases before the Department of Administrative Hearings.

1.4 Subject to Amendment.

These rules and regulations shall be subject to change or amendment by the Director of the Department of Administrative Hearings.

1.5 Prior City Department or Agency Rules & Regulations Regarding Administrative Hearings Proceedings.

These rules and regulations shall supercede any and all rules and regulations, or portions thereof, for the conduct of administrative hearing proceedings promulgated by a city department or agency that was formerly vested with jurisdiction to conduct administrative hearings. The superseding authority of the rules and regulations of the Department of Administrative Hearings over the rules and regulations, or portions thereof, of other city departments or agencies is expressly narrowed and limited to the rules and regulations, or portions thereof, that dealt with the conduct of administrative hearing proceedings.

1.6 Supremacy of Ordinances.

Nothing in these rules and regulations shall act to override, restrict or relax the procedural requirements and/or provisions of the applicable provisions of the ordinances of the Municipal Code of Chicago. In the event of a conflict between provisions of these rules and regulations and provisions of the Municipal Code of Chicago, the Municipal Code of Chicago shall take precedence.

1.7 Construction with Other Laws.

The controlling statutory authorities in these municipal administrative adjudicatory proceedings are article 1, division 2.1 of the Illinois Municipal Code (65 ILCS 5/1-2.1) and chapter 2-14 of the Municipal Code of Chicago.

Pursuant to section 2-14-076(h) of the Municipal Code of Chicago and section 1-2.1-6 of the Illinois Municipal Code, the formal and technical rules of evidence shall not apply in the conduct of administrative hearings. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

Pursuant to Illinois case law, the Illinois Administrative Procedure Act, the Illinois Code of Criminal Procedure and the Illinois Code of Civil Procedure are inapplicable to these types of administrative adjudicatory proceedings. (See, *Macon Co. v. Bd. of Ed. of Decatur School Dist. No. 61*, 165 Ill.App.3d 1 (4th Dist. 1987) app. den 119 Ill2d 588, *City of Chicago v. Joyce*, 38 Ill.2d 368, 373 (1967), and *Desai v. Metropolitan San. Dist. of Greater Chicago*, 125 Ill.App.3d 1031, 1033 (1st. Dist. 1984) respectively.)

1.8 Order and Other Pleading Forms.

The Director of the Department of Administrative Hearings shall have the authority to create and/or require the format and/or use of order and related pleading forms in the hearing process.

1.9 Effective Date.

These rules and regulations shall be in full force and effect upon the date of issuance by the Director of the Department of Administrative Hearings, July 14, 1997. Subsequent amendments shall be in full force and effect upon the date of issuance by the Director of the Department of Administrative Hearings.

1.10 Publication.

A copy of these rules and regulations and subsequent amendments may be published by depositing a copy or subsequent copy with the City of Chicago, Municipal Reference Library. Additional publication may be made by depositing a copy or subsequent copy with the Chicago Public Library and the Cook County Law Library.

Chapter 2. Operation of Central Hearing Facility.

2.1 Security.

All persons entering the central hearing facility must pass through security.

2.2 Contraband.

The central hearing facility shall be a weapons and drug free building. Weapons, including but not limited to, guns, knives, chemical spray and pepper spray, are strictly prohibited and subject to confiscation without return.

2.3 Other Prohibited Items.

Food and/or beverages may not be brought into the central hearing facility.

2.4 Disruptive Behavior.

Security personnel or an administrative law judge may order the temporary removal of any individual who is causing or contributing to a disruption of the facility operations or the hearing proceedings. *(Amended November 8, 2011)*

Chapter 3. Instituting Proceedings.

3.1 Petitioner’s Pleadings.

Pursuant to section 2-14-070 of the Municipal Code of Chicago, any authorized City department or agency may institute an administrative adjudicatory proceeding before the Department of Administrative Hearings by forwarding a copy of a properly served notice of violation or notice of hearing. In matters where service is by means other than by personal service, the authorized City department or agency shall also forward proof of service to the Department of Administrative Hearings. In matters where a reinspection of the subject matter of the case has occurred, the authorized City department or agency shall also forward a re-inspection report or re-inspection transmittal with the Department of Administrative Hearings as soon as practicable.

Chapter 4. Recording of Proceedings.

4.1 Official Recording.

All proceedings, including telephonic, should be recorded by audio tape or by other approved means from start to finish. Respondents may, at their own cost, provide a certified or licensed court reporter to record the proceedings. Video or audio recording, by means other than the above, is prohibited.

4.2 Cameras and Other Non-authorized Audio/Visual Recording or Broadcasting Devices.

The Department of Administrative Hearings hereby adopts and incorporates Illinois Supreme Court Rule 63 A (7). Pursuant to said rule, the taking of photographs in the courtroom during sessions of the court or recesses between proceedings, and the

broadcasting or televising of proceedings is permitted only to the extent authorized by order of the supreme court. For purposes of this rule, the use of the terms “photographs,” “broadcasting,” and “televising” include the audio or video transmissions or recordings made by telephones, personal data assistants, laptop computers, and other wired or wireless data transmission and recording devices. By adoption of said rule, the photographing, broadcasting or televising of proceedings before the Department of Administrative Hearings is prohibited. This rule does not limit the Department’s use of security cameras or official audio recording pursuant to rule 4.1 *(Amended November 8, 2011)*

Chapter 5. Right to Representation.

5.1 Representation and Appearances.

Parties may represent themselves, or may be represented by an attorney or authorized representative at their own expense. Any and all counsel or other persons appearing on behalf of a respondent in proceedings before the Department of Administrative Hearings must file a written and signed appearance with the Department of Administrative Hearings. The filing of an appearance shall constitute an affirmative representation, under penalty of law, by the person signing the appearance that he or she has been duly authorized by the respondent to act on the respondent’s behalf in the proceedings. “Proceedings” as defined in this section includes any and all requests for a continuance, hearing or default set-aside.

5.2 Interpreters.

Foreign language interpreters and interpreters for the hearing impaired are provided to assist during the hearing process. Interpreters shall be sworn-in and shall swear that he or she will provide an accurate translation of the proceedings. *(Amended November 8, 2011)*

Chapter 6. Pre-Hearing Matters.

6.1 Pre-Hearing Settlement Conferences.

A party and the issuing City department, through its representative or legal counsel, may enter into a settlement and/or stipulation of the issues or case and present the same to the administrative law judge when the matter is called. The administrative law judge shall have the discretion to approve or reject a settlement proposal presented by the parties. *(Amended November 8, 2011)*

6.2 Pre-Hearing Motions.

Pre-hearing motions should be limited to motions for leave to request discovery (6.3), subpoenas (6.4) and continuances (6.5) under these rules and regulations. In matters where discovery is allowed by an administrative law judge, discovery related motions may also be allowed. (*Amended November 8, 2011*)

6.3 Discovery.

The Department of Administrative Hearings hereby adopts and incorporates *Illinois Supreme Court Rule 201(h)*, except for proceedings under chapter 3-4 of the Municipal Code of Chicago. By adoption, no discovery procedure shall be used in proceedings before the Department of Administrative Hearings except by leave of an administrative law judge. (*Amended November 8, 2011*)

6.4 Subpoenas of Witness and/or Documents.

Pursuant to section 2-14-080 of the Municipal Code of Chicago, a subpoena in proceedings before the Department of Administrative Hearings may only be issued by an administrative law judge. An administrative law judge may grant the issuance of a subpoena when he or she determines that said issuance is necessary. The manner of quashing a subpoena in a given proceeding is governed by section 2-14-080(d) of the Municipal Code of Chicago. (*Amended November 8, 2011*)

6.5 Continuances.

Pursuant to section 2-14-076(d) of the Municipal Code of Chicago, a continuance may be granted only upon a finding of good cause. Lack of preparation shall not be grounds for a continuance.

Chapter 7. Management of the Case Call.

7.1 Introduction and Opening Remarks.

An administrative law judge should begin his or her call by introducing himself or herself to the litigants and other attendants. Opening remarks should briefly inform the litigants as to the nature and manner of the proceedings. (*Amended November 8, 2011*)

7.2 Order of the Call.

Cases should be called in a manner to achieve a timely and efficient management of the call. Matters in which the respondent is represented by legal counsel may be called first to accommodate other tribunals which may require the presence of those officers of the court. Matters in which there are pre-tried dismissals or settlements may be called next. Contested matters may be called next. Motions to set-

aside a prior default may be next, and if granted proceed to a hearing on the underlying matter. Return for re-noticing, dismissals for want of prosecution, and defaults may be handled at the end of the call.

Chapter 8. Administrative Hearings.

8.1 Public

Unless otherwise provided by law, all administrative hearings shall be open to the public. In the event of overcrowding, however, an administrative law judge may limit the number of persons allowed in a hearing room in the interest of safety and due process to the litigants. In the event of overcrowding, litigants shall be afforded priority to the hearing room over non-litigants. Members of the general public, while welcomed to observe, may not testify in the actual hearing proceedings unless formally called as a witness by the petitioner or respondent. (*Amended November 8, 2011*)

8.2 Decorum.

Individuals before the Department of Administrative Hearings shall conduct themselves at all times in a dignified, orderly and appropriate manner. During the hearing, all individuals shall address themselves to the administrative law judge and avoid direct debate or argument amongst themselves. Individuals who fail to conduct themselves with the proper decorum may risk being removed from the proceedings. (*Amended November 8, 2011*)

8.3 Constitutional Challenges.

The Department of Administrative Hearings and administrative law judges do not have the authority to pass upon the constitutionality of a statute, ordinance, rule and regulation, or other legislative or administrative action. (See *Hunt v. Daley*, 286 Ill.App.3d 766 (1st Dist. 1997) and *Yellow Cab Company v. City of Chicago*, 938 F.Supp. 500 (1996)). Parties may, however, make an objection to the constitutionality of statute, ordinance, rule and regulation, or other legislative or administrative action for the record. (*Amended November 8, 2011*)

8.4 Witnesses, Documents and Exhibits.

Parties are expected to have all of their witnesses, documents and exhibits available and with them at the hearing. An extra copy, for the administrative law judge, of any document intended to be offered into the evidence is desirable. Parties wishing to offer audio tape or video tape evidence must provide their own tape playing equipment. (*Amended November 8, 2011*)

8.5 Evidence.

Pursuant to section 2-14-076(h) of the Municipal Code of Chicago and section 1-2.1-6 of the Illinois Municipal Code, the formal and technical rules of civil/criminal procedure and evidence shall not apply in the conduct of administrative hearings. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

8.6 Questions by the Administrative Law Judge.

An administrative law judge may ask questions of the parties and witnesses, if necessary, to ensure the clarity and completeness of the testimony and the record. (Amended November 8, 2011)

8.7 Standard of Proof.

Pursuant to section 2-14-076(i) of the Municipal Code of Chicago, no violation may be established except upon proof by a preponderance of the evidence.

Chapter 9. The Administrative Hearing Process.

9.1 Calling the Case.

The administrative law judge shall call the case name and number, place the litigants and witnesses under oath, and dispose of any preliminary matters. (Amended November 8, 2011)

9.2 Presentation of the Petitioner’s Case.

The City bears the responsibility for presenting its case. It also bears the burden of proof in the matter and therefore must proceed first. In general, the case may be presented via a City representative, live sworn testimony and/or by sworn signed prima facie documentation. The City may seek leave to make technical amendments to its pleadings prior to a final determination being made by an administrative law judge. The respondent may cross-examine any in-person testifying witness. Upon conclusion of the petitioner’s case, an administrative law judge will determine whether the petitioner has alleged sufficient evidence for the case to move forward. (Amended November 8, 2011)

9.3 Presentation of the Respondent’s Case and Defenses.

In the event that the case moves forward, the respondent or his or her representative shall be asked to enter a plea of “liable” or “not liable.” The respondent shall be afforded an opportunity to present a case, contest the allegations, and/or present

defenses. The defenses available to the respondent and the manner in which they may be presented are governed by the ordinance particular to the subject matter or violation in question. In general, evidence may be presented via sworn affidavit, live sworn testimony, admissible documents, admissible exhibits or other admissible evidence.

9.4 Closing Arguments.

Each party may be afforded an opportunity to make a closing argument.

9.5 Ruling.

At the conclusion of the hearing, the administrative law judge shall make a determination on the basis of the admissible evidence, testimony and arguments presented and enter a written order in the matter. (Amended November 8, 2011)

9.6 Mail-in Adjudication.

A respondent charged with a violation of one or more of the below sections of the Municipal Code of Chicago shall have the option to plead liable and tender the fine amount by mail, as indicated on the administrative notice of violation, in lieu of personal appearance at a scheduled hearing date. Such payment shall constitute respondent’s waiver of the hearing. This rule is limited to the following sections of:

- the Municipal Code of Chicago:
- 7-24-099(a) 8-4-056(b)
- 8-4-030(a) 8-4-081(a)
- 8-12-010 9-52-020
- 9-72-080(a) 9-76-230(a)
- 9-80-200(b) 10-8-310
- 10-8-410 10-8-520
- 10-36-130

-the Municipal Code of Chicago / the Chicago Transit Authority Code:

- 10-8-526 / 016-110-1.04
- 10-8-526 / 016-110-1.18
- 10-8-526 / 016-110-1.22
- 10-8-526 / 016-110-1.27(4)

-the Municipal Code of Chicago / the Chicago Park District Code:

- 10-36-185 / VII-B.2
- 10-36-185 / VII-B.7
- 10-36-185 / VII-B.10.a
- 10-36-185 / VII-C.3.a (9)
- 10-36-185 / VII-D.1

-the Municipal Code of Chicago / Chicago Harbors:

10-40-260(h)
10-40-261(a)(1) through (a)(8) except (a)(3)

-the Municipal Code of Chicago / Food Establishments:

7-38-012(a) (Serious) 7-38-020 (Critical)
7-38-020 (Serious) 7-38-030 (Critical)
7-38-030 (Serious) 7-38-005(a)(Critical)
7-38-005(a) (Serious) 7-38-005(b)(Critical)
7-38-010(a) (Critical) 7-38-010(b)(Critical)
7-42-090 (Critical) 7-42-090 (Serious)
7-42-010(b) (Serious)

-the Municipal Code of Chicago / Health Nuisances/Use of Public Way:

7-28-070 7-28-080
7-28-120(a) 7-28-217
7-28-260(a) 7-28-261(b)
7-28-270 7-28-710
7-28-720 7-28-740
7-28-750 (a) and (b)
10-8-180 10-8-320
10-28-030 10-32-050

-the Municipal Code of Chicago / Licenses, Public Vehicles and Chauffeurs:

9-112-050
9-112-650 Rule TX4.02
9-112-650 Rule TX4.07
9-112-650 Rule TX5.01
9-112-650 Rule TX5.05

-the Municipal Code of Chicago / Structures on and under Public Way:

10-8-240 10-28-040
10-28-064 10-28-283(a)
10-28-283(b) 10-28-799(j)

-the Municipal Code of Chicago/ Transportation Network Providers:

9-115-180(k)(3)

-the Municipal Code of Chicago/Ground Transportation Tax:

3-46-073(b)

-the Municipal Code of Chicago/Businesses, Occupations and Consumer Protection:

4-4-020(a) 4-4-210
4-276-010

(Amended November 8, 201; 1 August 17, 2012; July 12, 2013; October 29,2013; May 5, 2016 and April 16, 2018)

Chapter 10. Noticing and Default Matters.

10.1 Return for Re-Noticing.

In matters where service was by means other than by personal service and a respondent fails to appear for a scheduled hearing or fails to request a hearing, the administrative law judge shall examine the file to determine if the City has filed proof of service. If proof of service has not been filed, the case may be continued on the call to afford the City an opportunity to re-notice. (Amended November 8, 2011)

10.2 Dismissal for Want of Prosecution.

If at the continued date afforded under Rule 10.1 the City has not filed proof of service, the administrative law judge shall dismiss the matter for want of prosecution. Said first dismissal for want of prosecution shall be without prejudice. (Amended November 8, 2011)

10.3 Defaults.

If a respondent or his or representative fails to appear for or request a hearing, and the administrative law judge determines that notice was afforded, the administrative law judge may find the respondent in default and proceed with the hearing and render a decision and order in the respondent's absence. (Amended November 8, 2011)

10.4 Immediate Hearing Pilot Project

Pursuant to Section 2-14-030(3) of the Municipal Code of Chicago, effective June 7, 2006, and continuing until further notice, a pilot project is established whereby an administrative hearing may be scheduled and conducted immediately after an alleged violator has been personally served with an administrative notice of violation issued by the Chicago Police Department. (Added 06/07/06)

Chapter 11 Post-Hearing Matters.

11.1 Post-Hearing Motions.

The Department of Administrative Hearings does not have jurisdiction to conduct post-hearing motions except where authorized under sections 2-14-103, 2-14-108, 2-14-109 and 2-14-195 of the Municipal Code of Chicago.

11.2 Motion to Set-Aside a Default Order

Pursuant to section 2-14-108 of the Municipal Code of Chicago, a party may file a written motion to set-aside a default order. In general, the motion must 1) be filed within twenty-one days after the issuance of

the default order and 2) present a good cause reason for the movant's prior failure to appear for a hearing. The movant must also be prepared to proceed with an immediate hearing if the motion is granted. If the movant fails to appear on the date and time the motion is scheduled for a hearing, the motion will not be heard and will be stricken. Subsequent motions to set-aside for good cause will not be heard if they are outside the twenty-one day time limitation. "Issuance of the default order", as used in this rule and pursuant to section 1-2.1-5 of the Illinois Municipal Code, shall be the date that the default order was deposited in the United States mail. (Amended 11/8/04)

11.2.1 Motion to Set-Aside Fines and Other Sanctions Entered in Absentia.

If a respondent fails to appear at the separate hearing on fines and other sanctions as provided for in Sections 2-14-156 and 2-14-160 of the Municipal Code and fines are entered in absentia at that hearing, a motion to set-aside fines entered in absentia thereafter may be filed. The administrative law judge may grant the motion if it is: 1) filed within twenty-one days after the order imposing fines or other sanctions was entered and 2) presents a good cause reason for the prior failure to appear at the separate hearing on fines and other sanctions. If the motion is granted, a hearing shall take place that is limited to issues related to: 1) the extent of any corrective measures that have been undertaken and 2) the imposition of fines and other sanctions. The hearing shall not be for the purpose of contesting a previous determination of liability. The movant must be prepared to proceed with an immediate hearing if the motion is granted. If the movant fails to appear on the date and time the motion is scheduled for a hearing, the motion will not be heard and will be stricken. Subsequent motions will not be heard if they are outside the twenty-one day time limitation. [Added 09/20/10]. (Amended November 8, 2011)

11.3 Appeal to the Circuit Court

Upon becoming final, an order of an administrative law judge shall be subject to review in the Circuit Court of Cook County under the Illinois Administrative Review Act (735 ILCS 5/3-101. et seq.), which allows either party thirty-five (35) days to appeal. (Amended November 8, 2011)

Chapter 12. Miscellaneous Matters.

12.1 Reviewing and/or Copying of Public Records.

Copies of public records and public files may be requested through the Freedom of Information Act. The Department of Administrative Hearings reserves the right to require that requests be made in writing. Fees for processing requests shall be as follows: The first 50 copies are provided free of charge; additional documents are provided at a fee of 15 cents per page, one dollar (\$1.00) per certified order, and three dollars (\$3.00) per audio disk. The Department of Administrative Hearings does not process requests for written transcripts of audio records. (Amended June 25, 2014)