

Alcohol License Review Commission License Suspension/Revocation Hearing Guidelines

This outline includes mandatory procedures required by MGO 38.10(1)(b) and suggested guidelines for administrative quasi-judicial hearings before the ALRC.

I. Role of Committee Chairperson

- a. Presiding Officer
 - i. Maintain Order
 - 1. Control who Speaks and when
 - 2. Control audience behavior
 - 3. Control ALRC members
 - a. Set ground rules ahead of time.
 - a. After hearing from the parties and depending on the complexity of the case, the Chairperson may wish to set time limits.
 - b. Chair to ask questions and control who on ALRC asks questions and when they may ask
 - ii. Administer Oaths to Witnesses (or delegate task to secretary)
 - iii. Rule on Objections and Motions

II. Summons/Initial Appearance

- a. The date and time named in the summons will serve as the initial appearance. During the initial appearance, the Chairperson will ask the licensee to enter a plea and the ALRC will set a future date to hold the hearing.
 - i. The initial appearances may take place during regularly scheduled ALRC meeting, however, if at all possible, hearings should take place during a special meeting of the ALRC.
- b. The parties may stipulate and waive the initial appearance. If that occurs, the ALRC agenda should reflect that a hearing will take place in lieu of an initial appearance.

H.III. Order of Proceedings

(1) Introductory matters

Call to Order – Determine if Hearing was properly noticed

Introduction of Commissioners

Introduction of Parties (City and Licensee) and their Appearances

Chair announces nature of Case

Chair sets rules of procedure/decorum.

Chair discusses the burden of proof (the City must prove charges in the Complaint to be true by a preponderance of the evidence, per MGO 38.10(1)(b)2.)

Formal rules of evidence do not apply See Wis. Stats. sec. 227.45

Ask if there are any stipulations or agreements. If there is a stipulated settlement, ALRC members may accept or reject it.

Ask if the Licensee concedes (does not dispute) any of the allegations or counts in the Complaint.

(2) Opening Statements of each Party (optional) City first, Licensee 2nd.

(3) Presentation of Evidence

(a) City goes first (because City has the burden of proof)

1. City calls its witness
2. Chair or designee administers oath to witness
3. City (represented by City Attorney) asks questions of its witness
4. Licensee cross examines the witness
5. City Attorney can ask questions based on cross-examination
6. ALRC members ask questions of witness, as permitted by Chairperson
7. Ask if either party has follow-up questions based on those asked by ALRC members.
8. City “moves” any exhibits into Evidence (formality) and exhibits are “received.”
9. City Rests Case (pending any rebuttal)

(b) Licensee’s Presentation of Case. Licensee has opportunity to present its case with witnesses and evidence - follow the same order as the City, in (3)(a) above.

(c) Rebuttal by City, if any.

(d) Chair must close evidence, and determine which Exhibits have been admitted and made part of the Record of the Case.

(4) Closing Arguments (or Briefs). If Oral Argument - City goes first, licensee second, City has the final word because City has the burden of proof. The Chairperson may wish to set a time limit for closing arguments as outlined in I.(a)(i)(3)(a)(a). Time limits for argument should be established.

If Briefs, -establish a briefing schedule. Hearing is then adjourned and ALRC will have to schedule a special meeting for the purpose of deliberation. Decision must be reported to Council in 20 days.

(5) Deliberation and Ruling.

* ALRC must make findings of fact and conclusions of law on each count in the Complaint, and a recommendation of what action, if any, the Common Council should take with respect to the license. MGO 38.10(1)(b)2.

(a) Deliberate in order to make Findings of Fact and Conclusions of Law.

* Can only deliberate in closed session if Agenda included the required notice. Chair must make announcement required by Wis. Stat. sec. 19.85(1) and (2) and ALRC must take a roll-call vote before convening in closed session. Cannot reconvene in open session unless the agenda included a notice under 19.85(2).

(b) Once decision is made and have returned to open session:

* ALRC must act by motion and a vote. It is *recommended* that final votes are taken in open session. A Motion should be made to adopt certain Findings of Fact and Conclusions of Law with respect to each count in the complaint:

1. Make a Motion and take a vote on **Findings of Facts** with respect to each count in the Complaint
2. Make a motion and take a vote on the **Conclusions of Law** with respect to each Count in the Complaint - do your findings of fact prove the count by a preponderance of evidence? (#1 and #2 motions can be combined.)
3. Announce Recommended Action (see 38.10(1)(b)2.)
 - a. suspend for 3-10 to 90 days
 - b. revoke license
 - c. mandatory revocation for violation of 38.10(1)(a)6 for license issued under Wis. Stats. 125.51(4)(v).

OR hear additional Arguments as to appropriate action against the license, based upon the findings. If hearing additional arguments, will need to deliberate again.

- ii. Direct Clerk or City Attorney to draft a Report incorporating your findings of fact, conclusions of law, and recommendations to the Common Council.
- iii. Submit a Report to the Common Council, with a copy to the City Attorney and the Licensee,- no later than twenty (20) days from the date of the Hearing.

(6) Adjourn the hearing.