



Zoning Board of Appeals

CITY OF CHICAGO

EMERGENCY RULES GOVERNING THE CONDUCT OF REMOTE PUBLIC BOARD MEETINGS AND PROVISIONS FOR REMOTE PUBLIC PARTICIPATION

The following Emergency Rules are issued by the Chairman of the Zoning Board of Appeals of the City of Chicago (the “Chairman”, “Board” and the “City”) in accordance with the Chairman’s emergency rule-making powers pursuant to the Board’s Rules of Procedure (eff. June 26, 2020).¹

These Emergency Rules are effective as of January 26, 2021, and shall remain in effect until there is no longer a disaster proclamation issued by the Governor of the State of Illinois (“Governor”) or the Director of the Illinois Department of Public Health relating to public health concerns for Cook County. At such time these Emergency Rules shall be repealed of their own accord.

The Chairman may amend, reissue or supplement these Emergency Rules as circumstances dictate.

During the period the Emergency Rules are in effect, they supersede any conflicting rules and regulations regarding the conduct of meetings of the Board (including rules and regulations regarding public participation) as such rules and regulations are set forth in the Board’s Rules of Procedure (eff. June 26, 2020) (the “Regular Rules”). Capitalized terms not defined in these Emergency Rules shall have the same meanings as set forth in the Regular Rules.

The purpose of these Emergency Rules is to permit the Board to conduct its meetings while taking appropriate measures consistent with the guidance from the City Council of the City, the Governor, the United States Centers for Disease Control and Prevention (“CDC”), the Illinois Department of Public Health and the Chicago Department of Public Health to mitigate the contagion and spread of the COVID-19 virus.

¹ A copy of the Board’s Rules of Procedure may be accessed from: www.chicago.gov/zba

These Emergency Rules address the manner in which the Board will conduct its meetings to comply with recommended social distancing and social isolation practices to mitigate contagion and protect and promote the health and well-being of the general public, Board staff and members of the Board.

Chairman's Powers

Like the Regular Rules, all powers granted to the Chairman under these Emergency Rules shall apply, if applicable, to the Vice Chairman.

The Chairman shall have the power and authority to continue any application appearing on any regular or special meeting agenda that the Chairman, in his sole and absolute discretion, does not believe can adequately be heard at such meeting. This power and authority shall not require the presence of a quorum and may be exercised outside of a Board meeting. The Chairman or his designee may instead notify the applicant prior to the day of the Board meeting that the application has been continued until another Board meeting or until such time as these Emergency Rules are repealed. Such notification shall be in writing. In the event that the Chairman or his designee has notified the applicant that the application has been continued to another Board meeting, the notification may specify what must be done prior to the application being heard at such meeting. If any members of the public have timely requested to testify on the application, such members of the public shall receive a copy of the notification, and the notification may also contain what the Chairman expects such members of the public to do prior to such meeting.

The Chairman shall have the power and authority to continue any application for a special use for a cannabis business establishment appearing on any regular or special meeting agenda in the event that any of the tolling provisions of Section 55-28 of the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1 *et seq.*, come into effect. This power and authority shall not require the presence of a quorum and may be exercised outside of a Board meeting. The Chairman or his designee may instead notify the applicant prior to the day of the Board meeting that the application has been continued until such tolling period has expired. Such notification shall be in writing.

The Chairman shall have the power to call for discovery, briefs, oral arguments or any combination thereof prior to, during or at the conclusion of any hearing. If the Chairman requests briefs during or at the conclusion of any hearing, a briefing schedule shall be entered, and the Chairman shall set another hearing date. Copies of all documents produced in discovery, briefs and any replies thereto shall be served on the Chairman, the applicant and any members of the public that have timely requested to testify on the application. In the event of oral argument, the applicant and any members of the public that have timely requested to testify shall be notified and will have a chance to be heard.

Virtual Board Meetings and Quorum

The Board's regular and special meetings shall not require the physical presence of a quorum of Board members or any number of Board members at a single meeting location or any one location. The Board may conduct its regular and special meetings via telephone, teleconference, closed-circuit television or via other electronic media at multiple locations provided that the public portions of such meetings (i.e., those portions not closed pursuant to the applicable provisions of the Open Meetings Act) shall be simulcast to the general public via live-streaming or other means to permit the general public to monitor the conduct of the Board's business and to engage in public participation. An electronic recording of the virtual meeting shall be preserved.

In the event that the Chairman, in his sole and absolute discretion, finds that the telephone, teleconference, closed-circuit television or via other electronic media fails to allow the Board to adequately conduct any regular or special meeting, the Chairman shall immediately postpone the virtual meeting until such time that the virtual meeting may resume.

Virtual Hearings on Applications

Virtual hearings on applications are held at the Board's regular meetings and may be held at the Board's special meetings. The physical presence of applicants, their attorneys and their witnesses shall not be required. They will not be invited into the designated meeting locations from which each or any of the Board members are participating in the virtual meeting. Instead, applicants, their attorneys and their witnesses shall participate in the virtual hearings via telephone, teleconference, closed-circuit television or via other electronic media. Board staff shall communicate with applicants, or, if applicable, their attorneys, as to how this participation shall occur. All other requirements of applicants as set forth in the "Representation of Applicant," "Additional Requirements for Special Uses" and "Additional Requirements for Variations" sections of the Regular Rules shall remain in full force and effect.

Proposed Findings of Fact

Due to the nature of the virtual hearings, all proposed Findings of Fact must be final at the time of their submission. Applicants may not "swap out" any or all portions of the proposed Findings of Fact, including but not limited affidavits or exhibits. In the event that the Chairman, during his pre-review of a proposed Finding of Fact, discovers that further affidavits or exhibits are required, the applicant shall be allowed to supplement with the requested additional affidavits or exhibits provided that such supplementation complies with the time-frame set by the Chairman. In the event of a bona fide emergency (such, as, but not limited to a change to a site plan to accommodate opposition or the sudden unavailability of a witness), the applicant shall immediately contact Board staff to see if there is time to supplement the proposed Findings of Fact prior to the hearing. Board staff shall immediately relay the request to the Chairman who shall, in his sole and absolute discretion, determine how and when the proposed Findings of Fact may be supplemented.

Applicant Exhibits

Any exhibits the applicant intends to reference at the hearing (including but not limited to plans and drawings, renderings or photographs) must be received by the Board no later than seventy-two (72) hours prior to the meeting at which the application is scheduled to be heard. For instance, if the application is scheduled to be heard a regular meeting of the Board, the Board must receive all exhibits no later than 5:00 PM on the Monday prior to such regular meeting. The applicant shall submit all exhibits it wishes to reference to the following email account: ZBA@cityofchicago.org. All submissions shall be in PDF format. Due to technological limitations, exhibits submitted in alternative formats shall not be considered. Submissions that are received after the 5:00 PM deadline shall not be considered. Submissions sent to other email accounts shall not be considered. Due to technological limitations, **APPLICANTS SHALL NOT BE ALLOWED TO ENTER ANY EXHIBITS AT THE HEARING.**

Note: To ensure that that the virtual hearings remain open to the public, and that the public can view these exhibits in real time as the virtual hearing occurs, applicants cannot rely on the exhibits contained in their proposed Findings of Fact or elsewhere in the application file to meet this requirement. For instance, if an applicant's proposed Findings of Fact contains site plans that the applicant intends to reference at the hearing, the applicant still must ensure that PDF site plans are received by the Board no later than the 5:00 PM deadline set forth above. The Board understands that this is duplicative; however, the gain to the public in having an open meeting far outweighs the slight administrative burden to the applicant.

Continuances of Virtual Hearings

In the event of a contested application, due to the technological limitations of the virtual hearing, the Chairman may postpone the virtual hearing until such time: (1) the virtual hearing can adequately provide for the application to be fairly heard; or (2) that the Emergency Rules have been repealed, and the Board resumes physical hearings.

In the event that the Chairman, in his sole and absolute discretion, finds that the telephone, teleconference, closed-circuit television or via other electronic media fails to allow the Board to adequately conduct any virtual hearing, the Chairman shall immediately postpone the virtual hearing until such time that the virtual hearing may resume.

In the event that an applicant does not wish to participate in a virtual hearing, the applicant is free to request a continuance until such time that these Emergency Rules have been repealed. Such a continuance request may be made prior to the virtual hearing in the form of a written request addressed to the Chairman. Upon receipt, the Chairman or his designee shall provide a written acknowledgment to the applicant that the application shall not be heard prior to the Emergency Rules being repealed.

Public Participation at Virtual Board Meetings

Public Observation of Virtual Board Meetings

Members of the public will view the Board's virtual meetings via live stream by selecting "Watch the Board Meeting live" on the Board's website at:

www.chicago.gov/zba

Members of the public will not be invited into the designated meeting locations from which each or any of the Board members are participating in the meeting.

Public Comment at Virtual Board Meetings

The Board acknowledges that it has never held virtual meetings before. The Board further acknowledges that its technological abilities to conduct virtual meetings are limited. Therefore, to ensure equity of access to address the Board, the Board highly encourages that members of the public submit their comments in written form.

The Board will accept written comments on any and all applications up to seventy-two (72) hours prior to the Board meeting at which the application is scheduled to be heard. For instance, if a member of the public wishes to provide written comment on an application scheduled to be heard at a regular meeting of the Board, such written comment must be received by the Board no later than 5:00 PM on the Monday prior to such regular meeting.

Members of the public shall send all written comment to the following email address: ZBA@cityofchicago.org. The subject line of the email shall specify the Board calendar number and property address for the application so that the written comment can be properly filed with the Board. Due to technological limitations, written comment shall be accepted only in the following formats: (1) body of the email; (2) word document; and (3) PDF. Written comment submitted in alternate formats shall not be considered. If a member of the public wishes to receive a mailed copy of the Board's resolution on the application, he or she must provide his or her name and a valid mailing address along with the written comment. All written comments shall become part of the Board's public record under the Freedom of Information Act. However, only written comment that the Chairman deems relevant and material shall be entered into the evidentiary record for its respective application. Written comment received after the 5:00 PM deadline shall not be considered. Written comment sent to alternative email addresses shall not be considered. Written comment containing racist, homophobic, violent, pornographic or other similar statements or images shall not be considered. Written comment containing personal attacks shall also not be considered.

Public Testimony at Virtual Hearings on Applications

The Board will accept requests to provide public testimony on any and all applications up to seventy-two (72) hours prior to the meeting at which the application is scheduled to be

heard. For instance, if a member of the public wishes to testify on an application scheduled to be heard at a regular meeting of the Board, the Board must receive said member of the public's request to testify on the application no later than 5:00 PM on the Monday prior to such regular meeting.

Requests to testify shall be made by sending a completed public testimony request form to the following email address: ZBA@cityofchicago.org. The subject line of the email shall specify the Board calendar number and property address for the application so that the public testimony request form can be properly filed with the Board. Public testimony request forms are available for download at the Board's website. Note that only those completed and legible² public testimony request forms received no later than the 5:00 PM deadline set forth above shall be accepted. Public testimony request forms sent to other email addresses shall not be accepted. If a member of the public intends to call witnesses or be represented by an attorney, this intention must be documented in the completed public testimony request form in order to ensure that there is sufficient technological capacity to accommodate these additional persons. Further, due to the nature of the virtual hearings, any and all exhibits a member of the public wishes the Board to consider along with his or her testimony must be received by the Board at ZBA@cityofchicago.org no later than the 5:00 PM deadline set forth above. Exhibits shall be in PDF format. Due to technological limitations, exhibits received in alternative formats shall not be considered. Nor shall exhibits sent to other email addresses be accepted. **LIKE APPLICANTS, MEMBERS OF THE PUBLIC THAT TESTIFY AT THE HEARING SHALL NOT BE ALLOWED TO ENTER ANY EXHIBITS AT THE HEARING.**

Aldermanic Comment at Virtual Hearings on Applications

Please contact Board staff at ZBA@cityofchicago.org to participate.

Physical Presence Not Required

The physical presence of aldermen (or their staff) and members of the public providing public testimony (and their attorneys and witnesses, if any) shall not be required. They will not be invited into the designated meeting locations from which each or any of the Board members are participating in the virtual meeting. Instead, they shall participate in the virtual hearings via telephone, teleconference, closed-circuit television or via other electronic media. Board staff shall communicate with them as to how this participation shall occur.

Sharing of Written Comments and Exhibits

Written comments that comply with these Emergency Rules shall be shared by Board staff with: (1) the applicant (or, if applicable, his/her/its attorney) and (2) any member of

² Board staff shall, in their sole and absolute discretion, be the judge of the completeness and legibility of the public testimony request forms.

the public that has requested to publicly testify on the application in accordance with these Emergency Rules. Such sharing shall be done via email to the email address provided to Board staff.

Applicant exhibits that comply with these Emergency Rules shall be shared by Board staff with: (1) any member of the public that has provided written comment on the application in accordance with these Emergency Rules; and (2) any member of the public that has requested to publicly testify on the application in accordance with these Emergency Rules (or, if applicable, his/her/its attorney). Such sharing shall be done via email to the email address provided to Board staff.

Exhibits that comply with these Emergency Rules submitted by members of the public providing public testimony shall be shared by Board staff with: (1) the applicant (or, if applicable, his/her/its attorneys); and (2) members of the public that have provided written comment on the application in accordance with these Emergency Rules. Such sharing shall be done via email to the email address provided to Board staff.

The Board highly encourages applicants and their opposition to exchange as much information as possible prior to the hearing. The Board highly encourages applicants and their opposition to see if any reconciliation is possible prior to the virtual hearing. In the event that reconciliation is not possible, applicants and their opposition should stipulate to as much as possible. Note that despite this stipulation, technological limitations may require the Chairman to continue the application.

Obtaining Copies of the Board's Resolution

The Board's resolution on an application shall be mailed to the applicant. A copy of the resolution shall also be mailed to: (1) all members of the public that provided public testimony on the application and provided a valid mailing address; and (2) all members of the public that submitted written comment in accordance with these Emergency Rules and provided a valid mailing address. If any applicant or member of the public that provided public testimony was represented by counsel at the virtual hearing, a copy of the resolution shall instead be mailed to counsel. Other persons or entities may request a copy of any resolution pursuant to the Freedom of Information Act.

The above “EMERGENCY RULES GOVERNING THE CONDUCT OF REMOTE PUBLIC BOARD MEETINGS AND PROVISIONS FOR REMOTE PUBLIC PARTICIPATION” are hereby issued by the Chairman of the Zoning Board of Appeals of the City of Chicago.



Timothy Knudsen
Chairman
Zoning Board of Appeals of the City of Chicago