



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. August 20, 2021).¹

These Emergency Rules are effective as of November 1, 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 At such time these Emergency Rules shall be repealed of their own accord.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. August 20, 2021) (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.

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.

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 not included in their proposed Findings of Fact 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: Revised plans, drawings, and/or renderings when such revisions are requested by the City’s Department of Planning and Development, the City’s Department of Transportation or any other City department are exempt from the above deadline.

Continuances of Virtual Hearings

In the event of a contested application, due to the technological limitations of the virtual hearing, the Chairman, in his sole and absolute discretion, 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.

Public Participation at Virtual Hearings on Applications

Public Appearance and Testimony at Virtual Hearings on Applications

Members of the public that wish to **APPEAR** and **TESTIFY** at a virtual hearing on an application shall join the Board’s virtual meeting by selecting the Zoom meeting link from the Board’s website at:

www.chicago.gov/zba

Members of the public will NOT be able to appear and testify from the livestream so members of the public must ensure that they select the Zoom meeting link (NOT the link entitled “Click here to access the livestream on the day of the meeting”). Any person or legal entity may be represented by an attorney at the virtual hearing on an application; however, appearance via power of attorney shall not be permitted. If a member of the public is represented by an attorney, both the member of the public (if the member of the public is a legal entity, a representative of the legal entity) and their attorney (along with any additional witnesses) must be signed in on the Zoom meeting (see Zoom sign-in instructions below). The Board does not allow for an attorney to appear on an application without the presence of their client.

Zoom Sign-In Instructions:

Members of the public shall (like applicants) sign in on Zoom at **8:30 AM** the day of the meeting. Members of the public shall sign-in with their first and last name (if the

member of the public is a legal entity, the name of the legal entity) as well as the Board calendar number for the application they wish to provide testimony on. Members of the public shall refrain for signing in with nicknames. Members of the public shall sign in from only one device (signing in on more than one device causes audio interference). Once signed in, please only use the “raise your hand function” when called upon to do so.

If members of the public cannot access the Zoom meeting via a computer or a smartphone, please join the virtual meeting by calling the number listed on the Board’s website. Then, when prompted, enter the Zoom Meeting ID (as shown on the website) and follow additional prompts as appropriate.

Appearance & Testimony:

When the Chairman calls an application for hearing, members of the public shall enter their appearance orally by stating their names and addresses for the record. Due to the virtual nature of the hearing, there shall be no written appearance forms for members of the public (and, if applicable, their attorneys). If members of the public (and, if applicable, their attorneys) are not signed in on Zoom at the time the Chairman calls the application for hearing, they shall not be allowed to enter their appearance and shall not be allowed to testify on the application.

Members of the public shall provide testimony when called upon by the Chairman. As set forth in the Regular Rules, the Chairman shall be the judge of all relevance and materiality of evidence. The Chairman may require a preliminary statement of the nature of the evidence proposed to be elicited from any witness. Repetitive testimony by multiple witnesses shall not allowed. Testimony unrelated to the application shall not be allowed. Personal attacks shall not be allowed.

General Procedure: As set forth in the Regular Rules and re-printed here for ease of convenience, generally, the order of procedure at hearings is as follows:

- (1) Opening of hearing by Chairman;
- (2) Statement of Chairman summarizing application;
- (3) Swearing in of witnesses;
- (4) Opening statements (if any);
- (5) Presentation of direct case of applicant;
- (6) Presentation of parties supporting the application (if any);
- (7) Presentation of direct case of persons and entities objecting to the application (collectively, “objectors”); cross-examination of applicant’s witnesses by objectors.
- (8) Cross-examination of objectors’ witnesses by applicant; rebuttal testimony of applicant’s witnesses (if any) and closing remarks by applicant;
- (9) Application taken under advisement by Board.

The Chairman, in his sole and absolute discretion, may alter the order of procedure.

When the Board has taken the application under advisement, members of the public should leave the Zoom meeting to ensure adequate capacity. Members of the public are encouraged to continue observing the Board's virtual meeting via livestream.

Public Exhibits at Virtual Hearings on Applications

Any exhibits a member of the public intends to reference at the virtual hearing on an application 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 at 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. Members of the public shall submit all exhibits they wish to reference to the following email account: ZBA@cityofchicago.org. The subject line of the email shall specify the Board calendar number and property address for the application so that the exhibit can be properly filed with the Board. All submissions shall be in PDF format and shall be accompanied by a completed Exhibit Request Form (available at the Board's website). 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. Submissions received without a completed Exhibit Request Form shall not be considered. Exhibits containing racist, homophobic, violent, pornographic or other similar statements or images shall not be considered. Exhibits containing personal attacks shall also not be considered. Due to technological limitations, **MEMBERS OF THE PUBLIC THAT TESTIFY AT THE HEARING SHALL NOT BE ALLOWED TO ENTER ANY EXHIBITS AT THE HEARING.**

NOTE: Members of the public must have entered their appearance to request² that their exhibits be entered into the evidentiary record of the virtual hearing. In the event that a member of the public does not enter their appearance at the virtual hearing, their exhibits shall not be entered into the evidentiary record of the hearing.

Aldermanic Comment at Virtual Hearings on Applications

Please contact Board staff at ZBA@cityofchicago.org to participate. Alternatively, Aldermen and their staff are always welcome to participate via the Zoom meeting link available on the Board's webpage.

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

² Consistent with his powers under the Regular Rules, the Chairman may decline to accept any exhibit offered by either an applicant or a member of the public into the evidentiary record.

the virtual hearings via telephone, teleconference, closed-circuit television or via other electronic media.

Written Communications to Board

As a quasi-judicial body, the Board prefers that members of the public provide public testimony. Nevertheless, 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. 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 comments containing personal attacks shall also not be considered.

Public Observation of Virtual Board Meetings

Members of the public that wish to view **BUT NOT PARTICIPATE** at the Board's virtual meetings via livestream should select the "Click here to access the livestream on the day of the meeting" link 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.

Note: If you are watching the livestream, you will **NOT BE ABLE TO APPEAR AND TESTIFY**. If you would like to appear and testify, please follow the instructions set forth above.

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 all members of the public that provided public testimony on the application 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.

DocuSigned by:

Timothy Knudsen

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