

CITY OF PHILADELPHIA BOARD OF LICENSE AND INSPECTION REVIEW
EMERGENCY REGULATIONS REGARDING PUBLIC HEARING PROCEDURES

On March 16, 2020, as part of a series of emergency declarations and orders, the Mayor and Health Commissioner issued an Emergency Order Temporarily Prohibiting Operation of Non-essential Businesses to Prevent the Spread of COVID-19 (“Emergency Order”). The City recognizes that the COVID-19 Pandemic is unprecedented. The City’s top priority is maintaining public health and the safety of all Philadelphians and those who work and invest in the City; by taking proactive steps now we can help mitigate community spread.

As part of a series of emergency regulations adopted across the City of Philadelphia departments and agencies, the Philadelphia Board of Licenses and Inspection Review (“Board”) suspended appeal deadlines as of March 13, 2020 and stayed all non-emergency hearings. On May 22, 2020, following the resumption of certain activities per orders issued by the Governor of Pennsylvania and the Mayor, the Board issued further emergency regulations reestablishing appeal deadlines and permitting hearings before the Board to be scheduled at the Board’s discretion.

Pursuant to its powers as set forth at Sections 5-1005 and 8-407 of the Philadelphia Home Rule Charter and Sections A-803.1, A-804.1, A-804.2, PM-314.7, PM-315.8, PM-316.8, 6-602 - 6-605, 6-611, 9-103(2), 9-212(7)(b), 9-617(3)(b), 9-709, 9-4405, 10-115(1)(c)(.2), 11-701(2)(b)(.3), 11-707(2), 14-301(6), 14-1008, 19-2602(5) of the Philadelphia Code, the Board hereby adopts the following additional temporary regulations, which shall become effective immediately and shall remain in effect for the duration of the affected period, unless amended by the Board.

1. Definitions.

“Affected Period.” Means the period beginning on March 13, 2020, through September 20, 2020, unless further extended by the Board.

“Telecommunications Technology.” Any interactive technology used to facilitate virtual or distance meetings during the affected period, including telephone and internet communication.

“Participant.” Appellants, Attorneys representing Appellants, City Solicitors, and Witnesses.

“Panel Members.” The Board, the Board’s Attorney, and the Board’s Administrator and members of the Board’s staff. Panel Members may have their role in the proceedings identified on screen along with their name.

“Limited Panel Members.” Participants designated as panel members for the duration of a case.

“Host.” A member of the Board’s staff responsible for displaying the previously submitted documents and exhibits during the course of the hearing.

2. Quorum. For the duration of the affected period, the three members of the Board necessary to constitute a quorum for any hearing required under the Philadelphia Code pursuant to Subsection 3-913 need not be present at a physical meeting location and a quorum may instead be established through telecommunications technology.

3. Contents of Appeal. The Board shall address only those issues raised in the Board Appeal Form or the Board Emergency Hearing Appeal Form.

4. Language Services. Participants shall inform the Board as soon as possible if the primary language in which the Appellant communicates is not the English language to enable the Board to provide an Interpreter to orally translate the proceedings. If the Board does not receive notice of the need for an Interpreter in time to arrange for an Interpreter to be provided, the Board may reschedule the hearing. The Interpreter must be provided by the Board; the Appellant may not rely on the services of another Interpreter even if that person is an attorney, family member, or friend.

5. Continuance Requests. Requests for continuances must be submitted to the Board at least three (3) days prior to the hearing. A copy of the request must be sent to the opposing party contemporaneous with the request to the Board.

6. Submission of Evidence.

(a) Documentary Evidence. All documentary evidence that a Participant intends to rely on at the hearing, not including the appeal form and any documents attached thereto, shall be numbered and submitted to the Board at least three days (3) days prior to the hearing in the manner and format provided on the Board’s website for submission of documents. The Board shall ensure any documents submitted are transmitted to the opposing party prior to the hearing.

(b) Witness Testimony. A list identifying the name of each witness who may be called to testify at the hearing shall be submitted to the Board at least three (3) days prior to the hearing. The list shall identify any language for which the witness may need an Interpreter, keeping in mind that a translator provided by the Board is necessary if any Witness communicates in a primary language other than English.

7. Presentation of Evidence. The Board’s Administrator or a member of the Board’s staff will be designated as the Host and will be responsible for displaying previously submitted documents and exhibits during the course of the hearing as directed by the Participants. Where documents and exhibits have not been submitted in advance of the hearing and the Board determines that a continuance is not necessary, the Participant presenting the documents or exhibits shall send them to the Host by electronic mail and the Host will display the documents

or exhibits as directed by the Participant. Prior to displaying the documents, the Board shall ensure the documents submitted are transmitted to the opposing party.

8. Order of Presentation. Unless otherwise directed by the Board, the order of presentation shall be: (a) presentation of the City Solicitor, followed by (b) presentation of the Appellant or Appellant's Counsel. The Board may require the parties to present any procedural issues arising in the matter prior to addressing the merits; if the Board concludes the procedural issues are determinative, the Board may decline to reach the merits.

9. Conduct of Hearing.

(a) The hearing will be recorded and participation by any person joining the hearing, regardless of role or telecommunications technology used to join the hearing, constitutes consent to be recorded.

(b) Each Participant will be designated as a Limited Panel Member for the duration of the case and, where joining the hearing by video enabled telecommunications technology, shall enter their first and last name at login so that it may be displayed on screen.

(c) Participants will be required to identify themselves to the Board and provide up to date contact information.

(d) For the duration of the case, each Participant shall state their name prior to speaking each time they speak and, where joining the hearing by video enabled telecommunications technology, shall activate their video camera while speaking.

(e) When not speaking or making an objection, each Participant shall keep their microphone or transmitter on mute. The raise hand function is not required to make an objection.

(f) Prior to each witness' testimony, the Board will administer the oath.

(g) When presenting, the Participant shall direct the Host to display documents or exhibits as needed and the Participant shall identify the document or exhibit displayed by the Host for the record.

10. Where the Board determines that there has not been substantial compliance with these regulations and, as a result, the hearing cannot go forward at the scheduled time, the Board may continue the hearing as necessary in the interest of the efficient administration of justice. Moreover, the Board may make a determination as to whether a stay should be lifted or imposed.

11. Vote by Board. The Board may not communicate privately during the hearing. At the end of each case, the Chair shall poll the Board and query whether the individual members are prepared to vote. If each member is prepared to vote, the Chair shall poll the Board and the individual members shall verbally report their vote for the record. The Board's Administrator or a member of staff will also record the vote on a tally sheet. If any member of the Board wishes to discuss the case prior to voting, the Chair shall announce that the matter will be discussed in

executive session, stating the date of the executive session, and the case shall be voted on in the manner provided herein at the next scheduled hearing.

12. Notice of Decision. The Notice of Decision shall be dated and shall be sent by electronic mail and, in the event an electronic mail address is not provided, shall be sent by regular mail. The date of the decision is the date on the Notice of Decision.