

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



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TO: Zoning Commission  
FROM: Office of Zoning  
DATE: May 11, 2020  
RE: Text Amendment to ZC & BZA Rules of Practice and Procedures, Subtitles Y and Z, to Allow for Virtual Meetings and Hearings

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With the current state of the District in the midst of the Covid-19 pandemic, the Office of Zoning is requesting that the Zoning Commission grant the following text amendments to allow the ZC and BZA to proceed with virtual meetings and hearings. This text amendment would set out the rules and procedures for holding such meetings and hearings.

Therefore, we request that the Commission grant the following at their May 11<sup>th</sup> public meeting for the proposed text amendment:

- Set the case down for public hearing; and
- Take emergency action and approve the immediate publication of a Notice of Proposed Rulemaking.
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The proposed text amendment to the Zoning Regulations for the Commission's consideration (additions are shown in **bold** and underlined text and deletions are shown in **bold** and ~~strikethrough~~ text) are as follows:

**I. Amendments to Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE**

**Section 103, MEETINGS AND HEARINGS, of Chapter 1, ADMINISTRATION, of Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, is amended by revising § 103.12 and by adding a new § 103.13, to read as follows:**

**103.12** If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required. For the purposes of this section, the form of the public announcement **shall be on the website of the Office of Zoning and** may **be include** a sign placed at the entrance to the Board's hearing room.

**103.13** **The Board may hold its meetings and hearings in an online virtual mode, through teleconference or through digital means identified by the Board for this purpose, during the pendency of a public health emergency declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01). At these online virtual meetings and hearings:**

- (a) Members physically or remotely present shall be counted for determination of a quorum;**
- (b) A party, witness, agency representative, or party status requestor shall be deemed to “appear” or to be “present” if available for questioning and cross-examination by telephone, teleconference, or digital means;**
- (c) The Board may question parties and witnesses by telephone, teleconference, or digital means;**
- (d) Cross-examination may be performed by telephone, teleconference call, or digital means;**
- (e) Exhibits may be offered into evidence provided they are submitted to the Office of Zoning at least twenty-four (24) hours prior to the start of the online virtual public hearing;**
- (f) Notice of online virtual public hearings and meetings shall include instructions for participation by telephone, teleconference, or digital means as chosen by the Board, the details of which may be provided on the Office of Zoning website;**
- (g) Any individual or organization representative desiring to participate in an online virtual public hearing must sign up on the website of the Office of Zoning at least twenty-four (24) hours prior to the start of the online virtual public hearing;**
- (h) All individuals or organization representative signing up to testify shall perform the required oath or affirmation when signing up;**
- (i) A party to a case may request the Board not to hold the public hearing as an online virtual hearing but instead postpone the public hearing until the time the Commission resumes regular in-person public hearings; and**
- (j) Copies of the agenda shall be posted on the website of the Office of Zoning and may be posted at the entrance to the office.**

**Subsections 206.3 and 206.7 of § 206, SUBMITTING COMMENTS OR FILING DOCUMENTS ELECTRONICALLY OR BY E-MAIL, of Chapter 2, PUBLIC PARTICIPATION, of Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, are amended to read as follows:**

**206.3** Comments may be submitted electronically through IZIS or by e-mail; except that no comments shall be submitted into the record electronically ~~after 9:00 a.m. on the day~~ **less than twenty-four (24) hours prior to the start** of the hearing.

**206.7** All documents to be filed electronically through IZIS or by e-mail shall be in portable document format (PDF) and shall not be filed ~~after 9:00 a.m. on the day~~ **less than twenty-four (24) hours prior to the start** of the hearing.

**Subsections 401.4 and 401.6 of § 401, EXPEDITED REVIEW, of Chapter 4, PRE-HEARING AND HEARING PROCEDURES: CONTESTED CASES, of Subtitle Y, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, are amended to read as follows:**

**401.4** Subject to the removal process described in Subtitle Y §§ 401.7 and 401.8, an eligible application that includes a waiver of hearing will be placed on an expedited review calendar and decided without hearing at the Board's next regularly scheduled session after:

- (a) The completion of the public notice procedures set forth in Subtitle Y § 402; and
- (b) The completion of the affected ANC review period of thirty (30) days, **as may be extended pursuant to the Advisory Neighborhood Commission Act (D.C. Law 1-21; D.C. Official Code § 1-309.10)**, from the date it receives notice of the application, excluding Saturdays, Sundays, and holidays, plus an additional fourteen (14) days.

**401.6** The public notice of an expedited review and the affected ANC notice of an application requesting expedited review shall also indicate:

- (a) The procedure for requesting the removal of the application from the expedited review calendar is as described in Subtitle Y §§ 401.7 and 401.8; and
- (b) That the only public notice of the hearing date for a removed application will be the posting of that date **in on the website of** the Office of Zoning **and may include posting on at the entrance to that office** beginning on the date that the application was removed and continuing until the date of such hearing.

## **II. Amendments to Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE**

Section 103, MEETINGS AND HEARINGS, of Chapter 1, ADMINISTRATION, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended by revising § 103.12 and by adding a new § 103.13, to read as follows:

**103.12** If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required. For the purposes of this section, the form of the public announcement **shall be on the website of the Office of Zoning and** may **be include** a sign placed at the entrance to the Commission's hearing room.

**103.13** **The Commission may hold its meetings and hearings in an online virtual mode, through teleconference or through digital means identified by the Commission for this purpose, during the pendency of a public health emergency declared pursuant to § 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01).**

**At these online virtual meetings and hearings:**

- (a) Members physically or remotely present shall be counted for determination of a quorum;**
- (b) A party, witness, agency representative, or party status requestor shall be deemed to "appear" or to be "present" if available for questioning and cross-examination by telephone, teleconference, or digital means;**
- (c) The Commission may question parties and witnesses by telephone, teleconference, or digital means;**
- (d) Cross-examination may be performed by telephone, teleconference, or digital means;**
- (e) Exhibits may be offered into evidence provided they are submitted to the Office of Zoning at least twenty-four (24) hours prior to the start of the online virtual public hearing;**
- (f) Notice of online virtual public hearings and meetings shall include instructions for participation by telephone, teleconference, or digital means as chosen by the Commission, the details of which may be provided on the Office of Zoning website;**
- (g) Any individual or organization representative desiring to participate in an online virtual public hearing must sign up on the website of the**

**Office of Zoning at least twenty-four (24) hours prior to the start of the online virtual public hearing;**

**(h) All individuals or organization representative signing up to testify shall perform the required oath or affirmation when signing up;**

**(i) A party to a case may request the Commission not to hold its public hearing as an online virtual hearing but instead postpone the public hearing until the time the Commission resumes regular in-person public hearings; and**

**(j) A copy of the public hearing notice shall be posted on the website of the Office of Zoning and may be posted at the entrance to the office.**

**Subsections 206.3 and 206.7 of § 206, SUBMITTING COMMENTS OR FILING DOCUMENTS ELECTRONICALLY OR BY E-MAIL, of Chapter 2, PUBLIC PARTICIPATION, of Subtitle Z, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, are amended to read as follows:**

**206.3** Comments may be submitted electronically through IZIS or by e-mail; except that no comments shall be submitted into the record electronically ~~after 5:00 p.m. on the day~~ **less than twenty-four (24) hours prior to the start** of the hearing.

**206.7** All documents to be filed electronically through IZIS or by e-mail shall be in portable document format (PDF) and shall not be filed ~~after 5:00 p.m. on the day~~ **less than twenty-four (24) hours prior to the start** of the hearing.