

QUASI-JUDICIAL HEARING ELECTRONIC PARTICIPATION RULE

Pursuant to Emergency Order 2020-8, the Board of Zoning Adjustment may hold quasi-judicial hearings at a meeting through electronic participation, subject to the procedures set forth in this Rule. To the extent practical, the Board will use its standard meeting procedures, as modified by this Rule. To the extent that this Rule conflicts with the procedural rules of the Board, this Rule is intended to prevail.

GENERAL PROCEDURES

A. Applicant's Written Request. An applicant may request to have its application for a hearing conducted via electronic participation by completing a written request form provided by the city. The applicant will acknowledge that holding a quasi-judicial hearing by electronic participation presents certain legal risks and involves an area of legal uncertainty, and the applicant will acknowledge that moving forward with a quasi-judicial hearing by electronic participation will be at its own risk.

B. City Manager to Determine Suitability of Conducting Quasi-Judicial Hearing by Electronic Participation. These procedures create no right in any party to a quasi-judicial matter to a hearing conducted by electronic participation. Upon receipt of a written request, the city manager will determine whether the city has the capability to hold the particular type of hearing by electronic participation, what available form of electronic participation is most appropriate for the type of hearing, and set a date(s) for the hearing(s).

C. Hearings Open to the Public and Subject to Adequate Technology. Hearings will be open to the public and provide the ability for interested members of the public to join the hearing electronically. The method chosen by the city manager will ensure the public can view or listen to the hearing in real time and interested parties may speak at designated times during the hearing. If at any point the city manager or board chair determines it is not possible or prudent to hold the hearing by electronic participation, whether due to technical issues or an inability to do so while meeting constitutional and any other due process requirements, the hearing will be continued or vacated, and the matter will be held in abeyance until any technical problems can be resolved or in-person meetings have resumed.

D. Notice Requirements. In addition to the requirements of the Boulder Revised Code, the city will include additional notice about how the hearing will be conducted and how the public can access, observe, and participate in the hearing. The additional notice is intended to reasonably inform interested persons that such hearing will instead be held by electronic participation; provided, however, this additional notice will not be deemed jurisdictional.

E. Technological Accommodations. The city will make reasonable efforts to accommodate interested parties who lack necessary computer equipment or the ability to access such equipment by providing call-in or telephonic access to the meeting. Interested parties will

be encouraged to submit written comments in advance of the hearing, which comments will be made a part of the hearing record.

F. Hearing Procedures. Hearings are for conducting the business of the City of Boulder. Activities that disrupt, delay or otherwise interfere with the meeting are prohibited. At the onset of the hearing, the board chair will describe the hearing procedures, including how testimony and public comment will be received. The department that supports the Board will moderate the electronic meeting. To the extent practical, any person who wants to attend the meeting will be added to the meeting and will be muted. Any person who wants to testify should inform the moderator. The moderator will unmute such person during the public hearing to testify for three minutes.

1. Any documentary evidence will be provided to the designated secretary of the Board via email at least 48 hours prior to the beginning of the meeting. The secretary will publish the documentary evidence on the Board's city webpage where the rest of the materials are published. Documentary evidence includes, without limitation, materials related to specific applications and other documents to be shown electronically or be referenced during the hearing.

2. The applicant will be allowed to speak to its application for 15 minutes. City staff will be allowed to speak to its recommendations for 10 minutes. The applicant or staff may request additional time from the board chair for more complicated applications. Other persons wishing to testify will be allowed up to three minutes to speak. For electronic hearings, every person will need to testify for themselves. No pooling of time will be allowed.

3. The time for speaking or asking questions is limited to facilitate the purpose of the hearing. No person shall speak except when recognized by the person presiding and no person shall speak for longer than the time allotted. Each person shall register to speak at the meeting using that person's real name. Any person believed to be using a pseudonym will not be permitted to speak at the meeting.

4. Only audio participation will be permitted except for city officials, employees and invited speakers. All others will participate by voice only.

5. The person presiding at the meeting shall enforce these rules by muting anyone who violates any rule.

6. Board members staff, and applicants shall not use chat features of electronic meeting software except for the purpose of asking the board chair procedural questions or to request to be recognized by the board chair to speak.

7. Applicants will be provided the opportunity to speak for up to three minutes prior to the close of the public hearing. The board chair may allow additional time.

8. In order to accurately record board member votes, the board chair will call for a roll call vote on any motions made during the hearing or taking final action.

G. Record. The secretary of the Board will make every reasonable effort that all equipment used for the hearing is adequate and functional for allowing clear communication among the participants and for creating a record of the hearing as required by law; provided, however, the secretary will not be responsible for resolving any technical difficulties incurred by any person participating in the hearing.

READ, PASSED AND ADOPTED, this 14th day of May 2020.

A handwritten signature in black ink that reads "Jack Rydd". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Board Chair

ATTEST:

A handwritten signature in blue ink that reads "Cindy Spence". The signature is written in a cursive style.

Secretary of the Board