

OFFICE OF THE CITY ADMINISTRATOR

CONCEALED PISTOL LICENSING REVIEW BOARD

**THIRD NOTICE OF EMERGENCY RULEMAKING AND
FIRST NOTICE OF PROPOSED RULEMAKING**

The City Administrator, on behalf of the Mayor, and pursuant to the authority under Section 908(d) of the Firearms Regulations Control Act of 1975 (Act), effective June 16, 2015 (D.C. Law 20-279; D.C. Official Code § 7-2509.08(d) (2018 Repl.)), Mayor’s Order 2015-036, dated January 9, 2015; the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 12236); and Mayor’s Order 2020-079, dated July 22, 2020, hereby gives notice of the adoption of emergency amendments to Chapter 12 (Concealed Pistol Licensing Review Board) of Title 1 (Mayor and Executive Agencies) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking modifies the Concealed Pistol Licensing Review Board (Board) deadlines for receiving and deciding appeals, and holding summary suspension hearings during and after the public emergency and public health emergency declared by the Mayor in Mayor’s Order 2020-045, dated March 11, 2020, and Mayor’s Order 2020-046, dated March 11, 2020, and any extensions thereof (the “emergency period”). Additionally, the emergency rulemaking requires parties to file appeals of adverse actions electronically to the Board at cplrb@dc.gov during the emergency period in order for the filing to be considered during the emergency period; if the filing is made by postal mail, it will not be considered filed with the Board until after the end of the emergency period, except in limited circumstances. Further, the rulemaking authorizes the Board to serve orders, notices, and other documents by email in certain circumstances even if the email address was not listed on the written appearance submitted by the party. Lastly, this emergency rulemaking prohibits in-person filings as the physical offices of the Board are closed to the public during the public health emergency period. This emergency rulemaking is necessary to protect the health, safety, and well-being of the District of Columbia as it responds to the effects of COVID-19 by amending Board appeals deadlines and service procedures to ensure appellants’ procedural due process rights and allow for the safer and appropriate handling of matters of the Board.

An initial emergency rulemaking was adopted on April 23, 2020, and was published in the D.C. Register on May 8, 2020, at 67 DCR 4915. A second emergency rulemaking was adopted on September 24, 2020, and was published in the D.C. Register on September 29, 2020, at 67 DCR 11449. This third emergency rulemaking was adopted on January 22, 2021, became effective immediately, and will expire one hundred twenty (120) days from the date of adoption, on May 22, 2021, unless superseded by a further emergency or final rulemaking.

The City Administrator also provides notice of his intent to take final rulemaking action to adopt these rules in not less than thirty (30) days after the publication of this notice in the D.C. Register.

Chapter 12, CONCEALED PISTOL LICENSING REVIEW BOARD, of Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES, is amended as follows:

Section 1202, APPEALS, is amended as follows:

A new Subsection 1202.8 is added to read as follows:

1202.8

- (a) Notwithstanding Subsection 1202.2 and Sections 902(g) and 903(c) of the Act (D.C. Official Code §§ 7-2509.02(g) and 7-2509.03(c)) (as authorized by the Coronavirus Support Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-130; 67 DCR 12236); and Mayor’s Order 2020-079, dated July 22, 2020, and any subsequent emergency, temporary, or permanent legislation or Mayor’s Order providing similar authority), the deadline for filing an appeal of the denial of an initial application shall be tolled during the public emergency and public health emergency declared pursuant to Mayor’s Orders 2020-45, dated March 11, 2020, and Mayor’s Order 2020-46, dated March 11, 2020, and any extensions thereof (collectively, the “emergency”), and during the ninety (90) days after the end of the emergency. The deadline for filing an appeal of the denial of a renewal application or an appeal of a limitation or revocation of a license shall not be tolled during the emergency.
- (b) The Board may, as practicable, proceed with appeals during the emergency.
- (c) During the emergency:
 - (1) No documents may be filed or submitted in person at the physical offices of the Board;
 - (2) Appellants of adverse actions, including the denial of an initial application, the denial of a renewal application, and a limitation or revocation of a license, must submit their filings to the Board via email at cplrb@dc.gov in order for the filings to be eligible for review during the emergency; and
 - (3) An appeal that is submitted by postal mail during the emergency shall not be considered filed with the Board until the day after the end of the emergency and will not be reviewed by the Board until after the end of the emergency; provided, that the Board may, in its sole discretion, review the filing before the day after the end of the emergency if the Board is in actual receipt of the filing (and such a filing may, in the Board’s sole discretion, be considered filed on the date the Board is in actual receipt).
- (d) As provided in § 1202.3, each appeal filed with the Board must include the information described in § 1202.3(a)-(f).

Section 1205, SERVICE OF PAPERS, is amended as follows:

A new Subsection 1205.10 is added to read as follows:

1205.10 The Board strongly encourages appellants to file and serve appeals by email to streamline and expedite the appeal process. If an appeal is filed with the Board by email, service upon the filing party may thereafter be made by email in all filings for that appeal, even if the email address of the filing party or his or her attorney was not listed on the written appearance submitted pursuant to § 1204. The party is responsible for ensuring that the Board has an accurate, up-to-date email address. In the case of a public emergency declared pursuant to section 5 or 5a of the District of Columbia Public Emergency Act of 1980, effective October 7, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304 or 7-2304.01), that is in effect for over seven (7) days the Board may serve orders and notices on a party by email, even if the party's email address was not listed on the written appearance submitted pursuant to § 1204, throughout the duration of the emergency and for a period equal to the duration of the emergency or ninety (90) calendar days, whichever is shorter, following the end of the public emergency. The party is responsible for ensuring that the Board has an accurate, up-to-date email address.

Section 1226, SUMMARY SUSPENSION HEARINGS, is amended as follows:

Subsections 1226.1 and 1226.2 are amended to read as follows:

1226.1 A person subject to a summary suspension or summary limitation of a license issued pursuant to the Act shall have the right to request a hearing to the Board, in the manner described in § 1202.3(a)-(f), within seventy-two (72) hours after service of notice of the summary suspension or limitation of the license on the Board. The request for a hearing must be submitted to the Board via email at cplrb@dc.gov.

1226.2

(a) The Board shall hold a hearing within seventy-two (72) hours after receipt of a timely request for hearing; provided, that if the request is filed during the emergency, as defined in § 1202.8(a), the Board may, notwithstanding Section 905(b) of the Act (D.C. Official Code § 7-2509.05(b)) (as authorized by the Coronavirus Public Health Extension Emergency Amendment Act of 2020, effective Dec. 21, 2020, D.C. Act A23-0524, 67 DCR 14747 and Mayor's Order 2021-004, dated January 11, 2021, and any subsequent emergency, temporary, or permanent legislation or Mayor's Order providing similar authority), hold the hearing up to twenty-one (21) days after the request is filed.

(b) The Board shall issue a written decision within seventy-two (72) hours after the conclusion of the hearing; provided, that if the hearing is held during the emergency, as defined in § 1202.8(a), the Board may, notwithstanding Section 905(b) of the Act (D.C. Official Code § 7-2509.05(b)) (as authorized by the Coronavirus Support Temporary Amendment Act of 2020, effective October 9,

2020 (D.C. Law 23-130; 67 DCR 12236); and Mayor’s Order 2020-079, dated July 22, 2020, and any subsequent emergency, temporary, or permanent legislation or Mayor’s Order providing similar authority), issue the written decision up to seven (7) days after the conclusion of the hearing.

Subsection 1226.6 is amended by striking the phrase “thirty (30) days” and inserting the phrase “sixty (60) days” in its place.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the CPLRB at cplrb@dc.gov with the subject header “CPLRB NPRM – Public Comments.” Copies of the proposed rules may be obtained from the Board at the same email address.