

ORDINANCE NO. 20-16
BY: Nancy Moore

Approving and authorizing Council to more readily make decisions of an emergency nature if significant numbers of Council Members cannot be present during the current COVID-19 crisis, and to grant the Mayor extraordinary authority to expend funds of the City for certain purchases of goods and services in order to reduce the need for Council meetings, and the duration of such meetings, during the present crisis, and declaring an emergency.

WHEREAS, the Ohio Department of Health has declared that there is community spread of the coronavirus, called COVID-19, which is a respiratory disease marked by fever, cough and difficulty breathing, and on March 9, 2020, Governor DeWine declared an emergency in the State of Ohio due to the spread of the virus in Ohio, followed on March 11, 2020, by a declaration by the World Health Organization (WHO) that the COVID-19 crisis is now a worldwide pandemic; and

WHEREAS, pursuant to Article XVIII, Sections 3 and 7, of the Ohio Constitution, the City has the authority to adopt, and has adopted, a Charter and Ordinances governing the organization and operations of the City and its Council; and

WHEREAS, the City's Charter, in Article II, Section 5, states that a majority of the members elected to the Council shall constitute a quorum, which means that at least four Council Members are required to be in attendance at a meeting in order for the Council to transact any business; and

WHEREAS, the City's Ordinances require, in Section 113.05(a), that every action of Council by ordinance or resolution must be approved by at least four Council Members; and

WHEREAS, the City's Ordinances ordinarily require that ordinances and resolutions must be considered at three separate Council meetings before adoption, unless at least five Council Members vote to suspend such rule to allow a vote on an item at first or second reading, except that Section 113.05(b) provides that an ordinance or resolution that is adopted as an emergency measure may be passed after one reading, without the concurrence of at least five Council Members; and

WHEREAS, the City's Charter, at Article VI, Section 7, states that Council may authorize expenditures without public bidding in dollar amounts exceeding the limit set by Council in specific cases; and

WHEREAS, in Section 141.03 of the City's ordinances, Council has required that competitive bidding must be conducted for any expenditure over \$25,000, unless Council adopts an ordinance for the expenditure of money without bidding over \$25,000 for any of the following actions: the acquisition of real estate, the discharge of noncontractual claims against the City, personal services, the joint use of facilities or exercise of powers with other political subdivisions, the product or services of public utilities, or in the case of urgent emergency for the immediate protection of public property or public safety; and

WHEREAS, this Council has determined that it is in the best interests of the City and its citizens to ensure the efficient and continuous operation of the City government during the present COVID-19 crisis, and that to meet this objective Council should:

1. enable the Council to more readily make decisions of an emergency nature if significant numbers of Council Members cannot be present during the crisis, by allowing decisions of Council to be made by a majority of a quorum, which means by a vote of 3 members if there are only 4 or 5 Council Members in attendance, while still requiring 4 members to constitute a quorum for any Council action, and still requiring that any ordinance or resolution must be approved by at least 4 members if there are more than 5 members in attendance at a meeting, as shown in the chart below:

TEMPORARY VOTING RULE CHANGE DURING DECLARED HEALTH EMERGENCY	
Numbers of Council Members Present at a Council Meeting	Number of Votes Needed to Adopt Emergency Ordinance
1 - 3 Members	Not Applicable—No Quorum/ No Voting
4 - 5 Members	3 Members
6 - 7 Members	4 Members

and

2. adopt this ordinance granting the Mayor extraordinary authority to expend funds in order to reduce the need for Council meetings, and the duration of such meetings, during the present crisis, by authorizing the expenditure of money without bidding over \$25,000 and up to \$100,000 for any of the following actions: the acquisition of real estate, the discharge of noncontractual claims against the City, personal services, the joint use of facilities or exercise of powers with other political subdivisions, the product or services of public utilities, or in the case of urgent emergency for the immediate protection of public property or public safety.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, Ohio, as follows:

Section 1. This Council declares an urgent emergency exists in the City due to the presence of COVID-19 in Northeast Ohio, and based upon social distancing and other recommendations of public health officials of the Cuyahoga County Board of Health, the Health Department of the State of Ohio and the federal Centers for Disease Control (CDC), and that such emergency declaration shall continue for a period of up to ninety (90) days, which period may be extended or shortened by vote of Council.

Section 2. That during the period of this emergency, notwithstanding and to the contrary of Section 113.05(a) of the City's Codified Ordinances, the approval of at least a majority of those Council members in attendance at any meeting of Council at which a quorum (of at least four members) is present shall be required to adopt any ordinance or resolution. All notices and time period for notices as set forth in Chapter 113 of the Codified Ordinances shall be followed and remain in effect during the emergency.

Section 3. That during the period of this emergency, the Mayor is hereby granted the authority to expend funds of the City up to the amount of \$100,000 without public bidding for the acquisition of real estate, for the discharge of noncontractual claims against the City, for personal

services, for the joint use of facilities or exercise of powers with other political subdivisions, for the product or services of public utilities (including those municipally operated) or in the case of urgent emergency, for the immediate protection of public property or public safety, but no expenditure for any purpose other than those listed here of more than twenty-five thousand dollars (\$25,000) shall be made, except pursuant to contract made with the lowest and best bidder after advertising for bids for two (2) consecutive weeks in a newspaper of general circulation in the City. The Mayor shall advise Council of any purchase made pursuant to this extraordinary authority, and do so in advance if possible, and otherwise immediately thereafter.

Section 4. During the period of this emergency, Council meetings shall be held at least one time per month if a sufficient number of Council Members are available to attend to constitute a quorum (of at least four members), and if no recommendations or orders of the Cuyahoga County Board of Health (CCBH), State of Ohio, or federal Centers for Disease Control (CDC) makes the holding of such a meeting inadvisable.

Section 5. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that it is necessary to ensure the efficient and continuous operation of the City government during the present COVID-19 crisis, and to allow for the possibility that significant numbers of Council Members cannot be present during the crisis, and to reduce the need for Council meetings, and the duration of such meetings, during the present crisis, and, therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

Enacted March 14, 2020.

Approved this ____ day of _____, 2020.

DAVID E. WEISS, Mayor

Attest:

JERI E. CHAIKIN
Clerk of Council

coun20/0311emergencypowers