

ORDINANCE NO. 22-28
BY: Anne Williams

Amending Sections 113.01, 113.04, 115.02 and 115.03 of the Administrative Code of the Shaker Heights Codified Ordinances to authorize members of any City public body to hold and attend meetings, conduct and attend hearings, to be counted for purposes of the quorum for such body, and to vote on matters before such body, by means of teleconference, video conference, or any other similar electronic technology, and declaring an emergency.

WHEREAS, during the COVID-19 pandemic, the Ohio General Assembly enacted legislation effective on March 27, 2020, and November 22, 2020, which declared that, notwithstanding Section 121.22 of the Ohio Revised Code to the contrary, during the period of the health emergency members of a public body could hold and attend meetings, and conduct and attend hearings, by means of teleconference, video conference, or any other similar electronic technology through December 1, 2020, which date was extended to July 1, 2021; 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, including the time and place of meetings of public bodies of the City; and

WHEREAS, in Chapters 113 and 115 of the Codified Ordinances, Council has established measures governing the holding of meetings of public bodies of the City, including the City Council, Council committees, City commissions or boards, and citizen advisory committees to Council; and

WHEREAS, upon the expiration of the authority granted by the Ohio General Assembly, while the COVID-19 pandemic continued, and to allow time for Council to consider enacting amendments to the Codified Ordinances granting permanent authority to the City's public bodies to conduct meetings either in-person, or entirely or in-part electronically, this Council enacted Ordinance 21-54 on June 22, 2021, Ordinance 21-76 on August 23, 2021, Ordinance 21-103 on September 27, 2021, and Ordinance 22-02 on January 10, 2022, granting authority to the members of any City public body to hold and attend meetings, conduct and attend hearings, to be counted for purposes of the quorum for such body, and to vote on matters before such body, either in-person, or by means of teleconference, video conference, or any other similar electronic technology; and

WHEREAS, this Council has determined that it should amend Chapters 113 and 115 of the Administrative Code of the Codified Ordinances to grant permanent authority to the City's public bodies to conduct meetings either in-person, or entirely or in-part electronically; and

WHEREAS, Section 113.01 of the Administrative Code was amended by Ordinance 78-11, on February 27, 1978, and then amended in part in Ordinance 02-27, on February 25, 2002; and

WHEREAS, Section 113.04 of the Administrative Code was enacted by Ordinance 4162, on January 7, 1932; and

WHEREAS, Sections 115.02 and 115.03 were amended in Ordinance 90-61, on July 23, 1990.

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

Section 1. Sections 113.01, 113.04, 115.02 and 115.03 of the Administrative Code of the Codified Ordinances of the City of Shaker Heights as heretofore in effect are hereby repealed.

Section 2. Sections 113.01, 113.04, 115.02 and 115.03 of the Administrative Code of the Codified Ordinances of the City of Shaker Heights are hereby enacted as amended as follows:

Chapter 113. Council; Ordinances and Resolutions.

113.01 MEETINGS OF COUNCIL AND COMMITTEES.

(a) Regular Meetings of Council.

(1) ~~A regular meeting of Council shall be held in the Council Chamber at City Hall at 7:30 p.m. on the fourth Monday of each month at such location and time as determined by consensus of the Mayor and Council or by a Rule adopted by Council, except when a legal holiday or the eve thereof falls on the fourth Monday of a month, or when Council determines it will lack a quorum, or when, in the judgment of Council, it is found to be necessary to hold such regular meeting on another date or another time, or at another location.~~

(2) ~~Such re-scheduled regular meeting date, time and location shall be designated by consensus of the Mayor and Council, and if there is no such consensus, then such re-scheduled meeting shall be set by majority vote of Council motion at a special or regular meeting ~~and determined by majority vote.~~~~

(3) ~~Council and the Mayor may also, by consensus, or by a majority vote of Council motion at a special or regular meeting, designate the date of additional regular meetings as it may determine by majority vote.~~

(4) Any such determination shall be made at least seven (7) calendar days prior to such regular meeting date. ~~The Clerk of Council shall cause notice of any changes in regular meeting dates to be noted on the calendar of monthly meetings in accordance with Section 115.05(a).~~

(b) Special Meetings of Council. A special meeting of Council may be called by the Mayor or by any three (3) ~~Councilmen~~ Members. At least twenty-four (24) hours' notice of a special meeting shall be given to each ~~Councilman~~ Council Member ~~and the Mayor.~~ Notification shall be by

~~electronic mail, or in any other manner that is intended to provide prompt personal notice, including which notice may be in writing delivered to the person to be notified or left at his residence, or by~~ oral notice delivered directly or by telephone to the person to be notified.

(c) Emergency Meetings of Council. An emergency meeting of Council may be held at any time upon the call ~~of~~by the Mayor or any two (2) Councilmen Members provided notice is given to each ~~Councilman~~Council Member, the Mayor, and the news media that have requested such notification, which notice shall be by electronic mail, or in any other manner that is intended to provide prompt personal notice, including may be in writing delivered to the person to be notified, or left at his residence, ~~or~~ oral notice delivered directly or by telephone to the person to be notified.

(d) Adjournment. A regular, special or emergency meeting of Council may be adjourned to any time not later than that of the next regular meeting.

(e) Public Access. All meetings of Council and Council committees shall be open to the public and any resident shall have access to the minutes and records at all reasonable times, provided the Council and Council committees may hold executive sessions in accordance with Chapter 115 of the Administrative Code.

(f) Location of Meetings. Unless otherwise determined by a rule of Council, meetings and hearings of Council and any Council committee may be held, and members may attend meetings and may conduct and attend hearings of Council or any Council committee, in-person, and/or by means of teleconference, video conference, or any other similar electronic technology, or any combination of in-person and electronic technology, as set forth in Chapter 115. For a meeting held in-person, the City is not required to provide a virtual or electronic option for attendance. Council may establish rules of conduct for its meetings and hearings, as long as such rules are in compliance with this Chapter and Chapter 115.

113.04 ENFORCEMENT OF ATTENDANCE AND PRESERVATION OF ORDER AT MEETINGS.

(a) The ~~Councilmen~~Council Members present at any regular meeting or any special meeting for which proper call has been made and notice given, or at any adjourned meeting properly held, may summarily inquire into the reasons for the absence of any absent ~~Councilman~~Council Member, in such manner as they deem practicable, and if by unanimous vote of those ~~Councilmen~~Council Members present they find such absence to be intentional and without reasonable cause, they may designate one ~~(1)~~ or more police officers, ~~firemen~~ or other suitable persons, to require such ~~Councilman~~Council Member forthwith to attend the meeting, if such Member~~he~~ is found within the City and is not physically unable to attend.

(b) Any ~~Councilman~~Council Member who shall be absent from any of the meetings above mentioned may, upon the concurrence of all the ~~Councilmen~~Council Members present at the next regular meeting, if they find such absence to have been intentional and without reasonable cause,

be subjected to a penalty not to exceed twenty-five dollars (\$25.00) for such absence, which penalty shall be deducted from the compensation of the ~~Councilman~~Council Member.

(c) Any person, whether a ~~Councilman~~Council Member or not, who disturbs, hinders or prevents a Council meeting, committee meeting or any meeting of any public body of the City, by disorderly conduct, or profane, indecent, abusive or threatening language, shall be deemed guilty of a first degree misdemeanor and upon conviction thereof shall be punished as provided in Section 101.99 of the Administrative Code. In addition, any such person may be summarily removed from the meeting. If the meeting is held virtually the person may be removed from such meeting electronically. If the meeting is in-person, the person may be removed from the location of the meeting~~Council chamber~~ by any police officer, ~~firefighter~~ or other person designated for that duty by the person presiding at the ~~Council~~ meeting, and may be detained in such manner as to prevent such person~~him~~ from further disturbing the meeting, ~~and for one hour after its adjournment~~.

(d) No proceeding or decision of Council or any of its members or officers taken pursuant to this section to require the attendance of or to assess a penalty against a Council Member shall be deemed a resolution or ordinance, or subject to the terms of the Charter or Sections 113.02 to 113.05 covering resolutions or ordinances.

Chapter 115. Open Meetings.

115.02 DEFINITIONS.

As used in this ~~Chapter~~ and in Chapter 113, certain terms are defined as follows:

- (a) "Public body" means the City Council, Council committees, City commissions or boards, and citizen advisory committees to Council.
- (b) "Meeting" means any prearranged discussion of the public business of ~~the~~ public body by a majority of its members, at a set time and place, whether the discussion is held in-person or virtually, or both, where formal action is or may be taken.
- (c) "Formal action" means:
 - (1) A vote resulting in the enactment, defeat or other disposition of legislation proposed and pending before the public body;
 - (2) The adoption of a rule or recommendation as to matters submitted to or considered by the public body as part of its normal or designated functions; or
 - (3) The approval of appointments by the public body where such approval is required.
- (d) "Place" means, when referring to a public meeting or hearing, and unless otherwise specified, either a physical (in-person) location, or a virtual location such as an electronic forum used for meetings which is generally accessible by members of the public body and the public through an electronic and/or telephonic device, as long as such meeting or hearing is held in compliance with this Chapter and Chapter 113.

115.03 PUBLIC MEETINGS.

(a) All meetings of public bodies shall be open to the public except for executive sessions from which the public is excluded. -Nothing herein contained shall mandate that any public body permit public participation in its meetings.

(b) Subject to rules established as permitted in this Section, meetings and hearings of any public body may be held, and members may attend meetings and may conduct and attend hearings of any public body, in-person, and/or by means of teleconference, video conference, or any other similar electronic technology, or any combination of in-person and electronic technology. Council, or a public body in the absence of a Council rule, may establish rules of conduct for the meetings and hearings of such public body, as long as such rules are in compliance with this Chapter and Chapter 113.

(c) Public access must be provided to all meetings and hearings of any public body. For a meeting held only in-person, the City is not required to provide a virtual or electronic option for attendance. If no in-person access to the public for a particular meeting or hearing is feasible due to health or safety concerns, or if any member of a public body is permitted to attend, participate and vote at a meeting or hearing by electronic technology, then public access shall be provided to the public by electronic technology during such meeting or hearing.

(d) The City may determine the method of attendance and participation, if permitted, by the public through electronic technology, and such method need not be the same as the method of electronic technology used by a member of the public body to attend, participate and vote at such meeting. The methods of electronic technology allowing attendance and/or participation by the public may include, but are not limited to, live-streaming by means of the internet, local radio, television, cable, or public access channels, call in information for a teleconference, or by means of any other similar electronic technology. When the public is allowed to attend and/or participate electronically, the public body shall ensure that the public can observe and/or hear the discussions and deliberations of all the members of the public body, whether the member is participating in-person or electronically.

(e) Virtual Meetings.

- (1) Any resolution, ordinance, rule, decision or other formal action of any kind made or taken during any meeting or hearing conducted entirely or in-part with members attending, participating, and voting by electronic technology, shall have the same effect as if it had occurred during an in-person meeting or hearing of the public body.
- (2) Unless otherwise determined by a rule of Council, members of a public body who attend meetings or hearings

by means of teleconference, video conference, or any other similar electronic technology, shall be considered present as if in-person at the meeting or hearing, shall be permitted to vote, and shall be counted for purposes of determining whether a quorum is present at the meeting or hearing.

(3) Notice of any meeting or hearing conducted entirely or in-part with members attending, participating, and voting by electronic technology, shall be provided as required by Sections 115.05 and 115.06.

Section 3. 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, and to allow for the continuity of public meetings and public access thereto through virtual attendance at public meetings, because the virtual meeting authority heretofore granted by Council, most recently in Ordinance 22-02, expires on April 8, 2022, and, therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

Enacted March 22, 2022.

Approved this _____ day of _____, 2022.

DAVID E. WEISS, Mayor

Attest:

JERI E. CHAIKIN
Clerk of Council

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