

**A RESOLUTION AUTHORIZING THE REMOTE CONDUCT OF CERTAIN PUBLIC MEETINGS OF CITY COUNCIL, CITY COUNCIL SUBCOMMITTEES, BOARDS, AND COMMISSIONS FOR THE CITY OF COMMERCE CITY IN THE ABSENCE OF A DECLARED EMERGENCY**

**NO. 2021-63**

WHEREAS, pursuant to the Charter of the City of Commerce City (“Charter”), the City Council of the City of Commerce City (“City”) has all legislative powers and functions of municipal government as reserved to it by the Colorado Constitution and the laws of the state of Colorado;

WHEREAS, the City Council has created subcommittees of the City Council as well as certain boards and commissions pursuant to Chapter XI of the City Charter;

WHEREAS, C.R.S. 24-6-402(2)(b) requires that “[a]ll meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times,” but does not define the phrase “open to the public” or mandate the physical presence of the public or members of the local public body;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

**SECTION 1. Findings.** The City Council finds and determines that during that:

- a. Conducting virtual subcommittee meetings of the City Council and of board or commission meetings not involving quasi-judicial authority promotes efficiency and public participation;
- b. Conducting such meetings, and City Council meetings where public attendance is restricted, in a manner that provides either telephonic or video access to the discussion of public business provides for meetings that are open to the public and a reasonable opportunity to be heard, consistent with the Charter and the Colorado Open Meetings Law; and
- c. This resolution is necessary for the preservation of the public health, safety, and welfare and in the public interest.

**SECTION 2. City Council Subcommittees; Boards & Commissions.**

- a. City Council subcommittees and City boards and commissions, excluding the Planning Commission, Board of Adjustment, and Board of Building Appeals when acting in a quasi-judicial capacity, are authorized to conduct public meetings through Electronic Means, as defined below, if the City Manager determines that: (i) adequate staff and technology resources are available to conduct a meeting through Electronic Means, in whole or in part; and (ii) that conducting the meeting through Electronic Means is necessary and appropriate for the protection and safety of the public, Council or other body, and staff or the preservation of City resources, Provided, the body may determine to disapprove the use of Electronic Means as proposed for the meeting by an affirmative vote of a majority of the entire membership of the body at the time of the vote. If the body votes to disapprove the use of Electronic

Means, the body shall determine how the next meeting shall be held and the meeting shall be adjourned, with all matters shall be automatically continued to the next meeting of the body. Any public hearings and actions on quasi-judicial matters may be conducted prior to such adjournment.

- b. During a meeting held pursuant to this section, members of the body or the public shall not be entitled or permitted to be present in any physical location where the meeting occurs unless the City Manager determines that adequate staff and technological resources are available to accommodate a hybrid-format meeting.
- c. A quorum may be established by the attendance of members of the body through Electronic Means.
- d. The Liquor Authority and Marijuana Authority may continue to conduct hearings and meetings through Electronic Means pursuant to their rules of procedure.

### **SECTION 3. Public Comment at City Council Meetings.**

- e. Except for providing testimony for quasi-judicial hearings, members of the public may be restricted from being present in person at any in-person regular or special meeting or study session of the City Council or any body for which the City Council serves as all or the majority of the governing board, if:
  - (1) the in-person meeting is made available to the public by Electronic Means, including public comment on non-quasi-judicial matters;
  - (2) the City Manager determines: (i) that adequate staff and technology resources are available to make the meeting available to the public through Electronic Means; and (ii) that limiting the public's presence is necessary for the protection and safety of the public, Council or other body, and staff and the preservation of City resources,

Provided, the City Council or other body may determine to authorize the in-person attendance of the public at the meeting by an affirmative vote of not less than a majority of the members the City Council or other body in office at the time the vote is taken. If the City Council or other body votes to authorize the in-person attendance of the public at the meeting, the City Council or other body shall determine how the next meeting shall be held and the meeting shall be adjourned, with all matters automatically continued to the next regular or special meeting or study session, as applicable. Any public hearings and actions on quasi-judicial matters may be conducted prior to such adjournment.

### **SECTION 4. General Provisions.**

- a. For purposes of this resolution, Electronic Means includes any telephonic, video conferencing, or other electronic systems as are made available by the City Manager that allow for real-time participation and visibility (audio or video) by the meeting participants and the public. Except where not consistent with the Colorado Open Meetings Law, Electronic Means must:
  - (1) Allow all members of the body and City staff to see (to the extent possible), hear, and communicate with each other;
  - (2) Allow the public to hear and view, if the meeting is visible and the person has adequate technological connection, the meeting, public statements by members

of the body and staff, voting, and materials presented to members of the body;  
and

- (3) Allow for oral public comment, if any, and written public comment (including before a meeting) that can be visible or audible, as applicable, to the public and body as would be allowed by applicable council policies, subject to the limitations of this resolution and as determined by the chairperson to preserve the orderly conduct of the meeting – provided written public comment shall be entered into the record but may be relied upon by any member of the body.
- a. During a meeting held pursuant to this resolution, members of the body shall not engage in any discussions of the business unless such discussions are visible to the public through Electronic Means, except for executive sessions.
  - b. All votes shall be conducted in a manner consistent with the City Charter and the Colorado Open Meetings Law. Any votes not conducted as roll call votes must not conceal the identity of the person voting and that person’s vote except where permitted by law.
  - c. Executive sessions and study sessions may be conducted by Electronic Means if held in accordance with the Colorado Open Meetings Law and City policies applicable to such meetings.
  - d. If any member of the body’s ability to participate by Electronic Means is disconnected or delayed, the body may elect to proceed with the meeting provided a quorum remains present.
  - e. No public hearings on quasi-judicial matters and no votes taking quasi-judicial actions shall be taken during a meeting held through Electronic Means pursuant to this resolution, unless all persons testifying in such hearing are permitted to attend the hearing and testify at the hearing in person. Testimony shall not be taken in any quasi-judicial hearing through Electronic Means. All live testimony shall be given in person and the hearing shall be open to in-person attendance. Written testimony shall still be accepted. The Liquor Authority and Marijuana Authority are not subject to this provision.

**SECTION 5. Effect on Existing Law.** All resolutions and policies of the City that are inconsistent with this resolution are superseded by this resolution to the extent of such inconsistency. Ordinance 2291 is not modified by this resolution.

RESOLVED AND PASSED THIS 2ND DAY OF AUGUST 2021.

CITY OF COMMERCE CITY, COLORADO

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Benjamin A. Huseman, Mayor

ATTEST

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Dylan A. Gibson, City Clerk