

RESOLUTION NO. ____-20

A RESOLUTION EXTENDING THE SUSPENSION OF THE RULES OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS AUTHORIZING THE CONDUCT OF ELECTRONIC OR TELEPHONIC QUASI-JUDICIAL HEARINGS AND EXECUTIVE SESSIONS DURING THE PERIOD OF THE STATE OF EMERGENCY DECLARED FOR THE CITY OF COLORADO SPRINGS AND RESULTING FROM A PUBLIC HEALTH EMERGENCY CAUSED BY THE 2019 NOVEL CORONAVIRUS

WHEREAS, the Governor of the State of Colorado issued a declaration of emergency effective as of March 10, 2020, as the result of the public health emergency caused by confirmed cases in the State of Colorado of the contagious 2019 Novel Coronavirus (“COVID-19”); and

WHEREAS, pursuant to City Code § 8.7.103(A), the Mayor of the City of Colorado Springs issued a Proclamation and Declaration of Emergency within the City of Colorado Springs, effective as of March 10, 2020, as the result of COVID-19; and

WHEREAS, the City Council of the City of Colorado Springs has determined that as a result of the public health emergency caused by COVID-19 it is necessary to suspend certain Rules and Procedures of City Council (the “City Council Rules”) requiring City Councilmembers to be physically present at meetings of the City Council; and

WHEREAS, Rule 10-3 of the City Council Rules permits City Council to suspend its rules by a majority vote of all members of City Council; and

WHEREAS, on March 18, 2020, the City Council passed Resolution No. 19-20 authorizing electronic or telephonic participation for Councilmembers and the public until May 1, 2020, and postponing all pending quasi-judicial matters to a date after April 20, 2020; and

WHEREAS, on April 28, 2020, the City Council passed Resolution No. 23-20 which superseded Resolution No. 19-20, continued to suspend the Council Rules to permit electronic or telephonic meetings and participation, permitted electronic or telephonic quasi-judicial hearings, and permitted electronic or telephonic Executive Sessions until September 30, 2020; and

WHEREAS, on June 9, 2020, the City Council passed Resolution No. 40-20 which superseded Resolution Nos. 23-20 and 19-20, continued to suspend the Council Rules to permit electronic or telephonic meetings and participation, permitted electronic or telephonic quasi-judicial hearings, and permitted electronic or telephonic Executive Sessions until September 30, 2020; and

WHEREAS, City Council finds that it is necessary and appropriate as a result of the continuing declaration of emergency related to COVID-19 to continue to suspend provisions of Part 2 of its City Council Rules in order to permit electronic or telephonic meetings, including, but not limited to providing for electronic or telephonic attendance and participation by the public for meetings of City Council beyond September 30, 2020; and

WHEREAS, City Council further finds that during the period of the continuing declared emergency, a City Councilmember's presence may be achieved through that City Councilmember's electronic or telephonic participation in a meeting such that the Councilmember's physical presence at the meeting is not required; and

WHEREAS, the City Council wishes to extend the authorization for electronic or telephonic participation for Councilmembers and the public at its meetings for an additional period of time, continuing through December 31, 2020; and

WHEREAS, the City Council hereby authorizes the continuing use of electronic or telephonic quasi-judicial hearings through December 31, 2020, which are to be conducted pursuant to the standards set forth in this Resolution; and

WHEREAS, the City Council hereby authorizes the continuing use of electronic or telephonic Executive Sessions through December 31, 2020, which are to be conducted pursuant to the standards set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. In accordance with Rule 10-3 of the City Council Rules, City Council hereby suspends those sections of City Council Rules 2-1, 2-2, 2-3, 3-2, and 3-7 which require City Councilmembers to attend Work Session, Regular Session, and Special Session City Council meetings in person, and hereby authorizes electronic or telephonic meetings and electronic or telephonic attendance, including, but not limited to providing for electronic or telephonic attendance and participation by the public. The City Council President shall determine whether a meeting will be held electronically or telephonically or whether it should be held in person, and will provide notice of the President's

decision in the notice of the meeting posted pursuant to City Charter § 3-60(d), and its incorporated Open Meetings Law, C.R.S. § 24-6-402.

Section 2. City Council hereby authorizes all of its advisory boards and commissions established pursuant to City Code §§ 1.2.901 *et seq.*, and appointed officers, licensing officials and hearing officers of the City, to conduct meetings electronically or telephonically, to permit board or commission member, appointed officer, licensing official, and hearing officer attendance by electronic and telephonic means, and to provide for electronic or telephonic attendance and participation by the public.

Section 3. City Council finds and declares that a City Councilmember's presence at a City Council meeting may be achieved by participation in the meeting electronically or telephonically such that physical presence is not required. For the duration of this Resolution, City Council further finds and declares that electronic or telephonic participation by a City Councilmember shall satisfy the requirements of City Council Rules 3-2 and 3-7.

Section 4. City Council authorizes City staff to take all actions and provide all public notices needed to effectuate electronic or telephonic City Council, advisory board or commission, appointed officer, licensing official, or hearing officer meetings, hearings and participation.

Section 5. Pursuant to City Council Rules 7-2, 10-2 and 10-4, City Code § 7.5.105, and any other applicable provision of the City Charter or City Code, City Council hereby authorizes public hearings regarding quasi-judicial matters be conducted electronically or telephonically by the City Council, any advisory board or

commission, appointed officer, licensing official, or hearing officer of the City having jurisdiction, subject to the following requirements:

~~a. In the event that a quasi-judicial matter is scheduled for a public hearing at a meeting during the duration of this Resolution, the applicable City department shall advise the applicant of such circumstances and present the applicant with the two (2) options listed below for proceeding with the application. When the quasi-judicial matter is an appeal to the City Council, an advisory board or commission, appointed officer, licensing official, or hearing officer, and the appellant is a party other than the applicant, the applicant shall have the option to select one (1) of the following options without consulting with the appellant. The applicant shall authorize the City, in writing, to proceed with one (1) of the following options:~~

~~1) Conduct the quasi-judicial hearing pursuant to this Resolution with accommodations made for electronic or telephonic public participation and waive any legal challenge to the hearing being conducted electronically or telephonically; or~~

~~2) Suspend scheduling of the quasi-judicial hearing until such time as the local or state-wide emergency is lifted and the City Council, any advisory board or commission, appointed officer, licensing official or hearing officer having jurisdiction over the application schedules a regular meeting at which a quorum will be physically present.~~

ba. All required public notices of quasi-judicial hearings shall comply with the requirements contained in City Code § 7.5.902, or the applicable notice requirements contained within the City Charter or City Code. The required public notice shall set forth the method and time for the conduct of the hearing, provide the applicant and the public with instructions regarding how to participate and present written and verbal testimony pursuant to City Code § 7.5.903, or any other applicable requirement contained within the City Charter or City Code.

eb. If during the course of an electronic or telephonic quasi-judicial hearing the City's means of conducting the hearing fails and results in the loss of either a quorum of the City Council, the advisory board or commission, or presence of the appointed officer, licensing official, or hearing officer, or of the ability of the applicant or the general public to participate, the hearing shall immediately be postponed until such time as the resumption of the electronic or telephonic means for conducting the hearing. Failure of electronic or telephonic capabilities of an applicant or member of the public shall not require the immediate postponement of the quasi-judicial hearing.

dc. All other applicable requirements of the City Charter, City Code and the City Council Rules shall apply to the conduct of quasi-judicial hearings conducted pursuant to this Resolution.

Section 6. Pursuant to City Charter § 3-60(d) and City Council Rule 2-5, the City Council hereby authorizes electronic or telephonic open and closed Executive Sessions of the City Council and its advisory boards and commissions (“Executive Sessions”). All requirements set forth in City Charter § 3-60(d) and its incorporated Colorado Open Meetings Law, C.R.S. § 24-6-402, and City Council Rule 2-5 shall apply to the conduct of any electronic or telephonic Executive Session of the City Council and its advisory boards and commissions conducted pursuant to this Resolution. Prior to entering into any electronic or telephonic Executive Session pursuant to this Resolution, each member of the City Council or the advisory board or commission shall ensure that no other member of the public not authorized to participate in the Executive Session is present or able to hear the matters discussed as part of the Executive Session. As a part of the authorization to enter into the Executive Session, each City Councilmember or member of the advisory board or commission shall affirmatively state for the record that the Councilmember or the member of the advisory board or commission is present, consents to entering into the Executive Session, and that no other member of the public not authorized to participate in the Executive Session is present or able to hear the matters discussed as part of the Executive Session. Councilmembers and members of advisory boards and commissions shall ensure that no unauthorized member of the public is permitted to observe, hear, or participate in any electronic or telephonic Executive Session of the City Council or its advisory boards or commissions, subject to City Council Rule 2-5(C) and City Code § 1.3.113.

Section 7. Upon its passage and effectiveness, this Resolution shall supersede and replace the requirements contained in Resolution No. 40-20.

Section 8. This Resolution shall take effect as of the date and time of its approval and shall be effective through December 31, 2020.

DATED at Colorado Springs, Colorado, this _____ day of _____, 2020.

Council President

ATTEST:

Sarah B. Johnson, City Clerk