

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2020-R-6858

DECLARING CERTAIN EMERGENCY PROCEDURES NECESSARY FOR THE CONTINUED GOVERNANCE OF THE CITY DURING THE CURRENT NATIONAL STATE OF EMERGENCY.

WHEREAS, the Constitution of the State of Ohio, in Article XVIII, Section 3, grants municipalities the authority to exercise all powers of local self-government and to enforce local police, sanitary, and other similar regulations as are not in conflict with the general laws; and

WHEREAS, pursuant to this constitutional home rule authority, the people of the City of Huber Heights, Ohio, have adopted a Charter and Codified Ordinances to exercise the powers of local self-government and enforce local police power regulations; and

WHEREAS, in Executive Order 2020-01D, Ohio Governor Mike DeWine declared a state of emergency for the entire State to protect the well-being of the citizens of Ohio from the dangerous effects of COVID-19 and to assist in protecting the lives, safety, and health of the citizens of Ohio; and

WHEREAS, subsequent to Executive Order 2020-01D the Governor has initiated other requirements greatly limiting in person social contact; and

WHEREAS, the President of the United States has declared a national state of emergency due to the COVID-19 pandemic; and

WHEREAS, City Council of Huber Heights has substantial, legitimate interests in continuing governmental services to the fullest extent necessary throughout the current national and state emergency; and

WHEREAS, holding Council meetings and obtaining City Council approvals are needed for the furtherance of governmental services and functions; and

WHEREAS, the Ohio Attorney General in opinion No 2009-034 indicated that with respect to Townships, the open meetings laws, including allowing public access and Councilmembers to be physically present, apply even during a state of emergency; and

WHEREAS, in a letter dated March 13, 2020, the Ohio Attorney General informally indicated:

The Ohio Attorney General's Office has received numerous questions regarding the applicability of Ohio's Open Meetings Act (OMA) during this time of a COVID-19 declared emergency. Under this very limited fact pattern, there may be a basis for local public bodies to use electronic means to meet and comply with the law. You should discuss this matter with your legal counsel before making any decisions; and

WHEREAS, the Law Director has agreed that the City has the authority under its home rule authority, and further based on the reasoning of the Ohio Attorney General as set forth in the March 13 letter which provides:

In this limited circumstance, where the Governor has declared a state of emergency and the Director of the Ohio Department of Health is limiting gatherings so as to prevent the spread of COVID-19, but the business of government must continue, it is reasonable to read the OMA's "in person" requirement as permitting a member of a public body to appear at a public meeting via teleconference. This interpretation gives effect to both R.C. 121.22 and R.C. 3701.13. It is also consistent with the United States Centers for Disease Control's recent guidance, issued in response to the national COVID-19 epidemic, to use videoconferencing for meetings when possible; and

WHEREAS, the City of Huber Heights has the technology to have any and/or all Councilmembers take part in a meeting electronically whereby all members of Council and others that are signed into the meeting can be seen and heard and the meeting can be live broadcast to the public (the "Remote Meeting"); and

WHEREAS, the City Council of the City of Huber Heights believes that it is in the best interest of the citizens of Huber Heights, to make available and utilize Remote Meetings to transact necessary business of the City during the course of the state of emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. For such time as the state of emergency within the State of Ohio exists under Executive Order 2020-01D the City Council of Huber Heights may conduct its public meetings without the physical presence of all Councilmembers through the Remote Meeting process provided (1) proper notice is provided as required under Ohio law for a public meeting; (2) a quorum is present, whether in person, or electronically through the Remote Meeting process; (3) in the event that a member appearing via the Remote Meeting Process is disconnected, the City Council shall cease all discussions and deliberations until the member can be reconnected; (4) the public is able to hear the discussions and deliberations of all of the members, even those who are present via electronic means; (5) all other requirements of the open meeting act will apply, including those that govern executive session, and the taking of meeting minutes.

Section 2. At the first meeting in which a quorum of Council may be physically present, the City Council shall ratify the past action taken during a Remote Meeting process.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall go into effect at the earliest time provided by law.

Passed by Council on the 15th day of March, 2020;

7 Yeas; 0 Nays.

Effective Date: March 15, 2020

AUTHENTICATION:


Deputy Clerk of Council

03/15/2020
Date


Mayor

3/17/20
Date