

ORDINANCE 2020-01

EMERGENCY ORDINANCE NO. 2020-01 AN EMERGENCY ORDINANCE TO CREATE AND ENACT EMERGENCY ORDINANCE NO. 2020-01 OF THE MOORHEAD MUNICIPAL CODE RELATING TO OPEN MEETING AND PUBLIC HEARING ALTERNATIVES

BE IT ORDAINED by the City Council of the City of Moorhead as follows:

PUBLIC HEARING ALTERNATIVES

SECTION 1: PREAMBLE, PURPOSE AND INTENT:

A. On March 13, 2020, the State of Minnesota issued Emergency Executive Order 20-01, declaring a peacetime emergency due to the presence of Coronavirus Disease 2019 ("COVID-19"). The City recognizes the manner in which COVID-19 is transmitted, and in light of the incubation period during which symptoms may not be apparent, poses a threat to the public health and welfare and recognizes that numerous governmental entities, including the State of Minnesota have cancelled or restricted public gatherings to reduce the spread of COVID-19.

B. On March 16, 2020, the Mayor issued an official Declaration of Emergency, which was confirmed and continued by the City Council on March 19, 2020, pursuant to Minn. Stat. § 12.29.

C. Section 3.06 of the Moorhead City Charter provides, "An emergency ordinance is an ordinance adopted for the immediate preservation of the public peace, health or safety. The emergency must be defined and declared in a preamble to the ordinance. The preamble must be voted on separately. An emergency ordinance may be introduced and adopted at a regular, special or adjourned meeting of the council."

D. Section 3.01, subd. 1 of the Moorhead City Charter provides that meetings of the City Council and its committees are public meetings. However, the Charter does not mandate the physical presence of the public in all circumstances and specifically allows the City Council to determine rules and regulations for its citizens to be heard.

E. Section 1.00, subd. 2 of the Moorhead City Charter further provides that the City of Moorhead shall have all powers which may now or hereafter be possible for a municipal corporation in this state to have and exercise in harmony with the constitutions of this state and of the United States not inconsistent with the specific limitations found in the City's Charter. Minn. Stat. § 13D.021 allows for meetings to be conducted by telephone or other Electronic Means if in-person meetings are not practical or prudent because of a health pandemic or an emergency.

F. In an effort to promote social distancing while still allowing interested persons to provide public comments, the City deems it necessary for the health, safety, and welfare of its members and citizens to adopt alternative methods for interested persons to provide public comment to the governing body; and

G. This Ordinance establishes guidelines to ensure that City business can be conducted and residents can be represented during a declared state of emergency without

endangering public health, including the health of the public, the City Council, and City staff and the community at large, while retaining the maximum transparency, openness, and public participation consistent with Minnesota Open Meetings Law the City Charter.

SECTION 2: DEFINITIONS:

Except as may otherwise be provided or clearly implied by context, all terms will be given their commonly accepted definitions. For the purpose of this Ordinance, the following definitions will apply:

CITY: The City of Moorhead, Minnesota.

CORONAVIRUS DISEASE 2019 (“COVID-19”): An infectious disease caused by a novel coronavirus now called severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which causes respiratory illness with symptoms such as a cough, fever, and in more severe cases, pneumonia.

DECLARED EMERGENCY: A national security or peacetime emergency declared by the governor under Minn. Stat. § 12.31 or the President of the United States.

ELECTRONIC MEANS: Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a radio, telephone, video, or web-based conferencing means.

EMERGENCY: An unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.

SECTION 3: PUBLIC HEARINGS AND OPEN MEETINGS:

1. During a Declared Emergency relating to a health pandemic where the nature of the physical environment presents a risk to public health, the governing body may provide for public hearings by telephone or other Electronic Means to ensure openness and accessibility for members of the public who wish to attend, subject to the provisions of this section.

2. The City Council will limit the length of meetings or, if necessary, postpone or cancel any meetings that are deemed non-essential. If meetings cannot be postponed or cancelled, only essential business of the governing body will be considered at the meeting (e.g. paying bills, approving contracts, hearings or other actions required to be heard pursuant to the 60-day rule, and other business operation items).

3. The Mayor, City Attorney, or City Manager for the affected governing body determines that an in-person meeting or a meeting conducted under Minn. Stat. §13D.02 is not practical or prudent because of a health pandemic or a Declared Emergency.

4. All members of the City Council participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony.

5. Members of the public can hear all discussion and testimony and all votes of the members of the City Council, unless attendance at the regular meeting location is not feasible due to the health pandemic or a Declared Emergency.

6. At least one of the following people are present: one member of the City Council, which may include the Mayor, City Attorney, or City Manager is physically present at the regular meeting location, unless unfeasible due to the health pandemic or Declared Emergency.

7. All votes are conducted by roll call, so each City Council Member's vote on each issue can be identified and recorded.

8. A quorum may be established by the attendance of City Council members through Electronic Means.

9. During a public hearing or meeting held pursuant to this ordinance, members of the public shall not be entitled or permitted to be present in the physical location where the meeting occurs.

10. During a public hearing or meeting held pursuant to this ordinance, members of the City Council shall not engage in any discussions of business unless such discussions can be heard by the public through Electronic Means, except for executive sessions.

11. Minutes of the public hearing or open meeting shall be taken and promptly prepared for review and approval by the City Council at the next regular or special meeting.

12. Executive sessions may be conducted by Electronic Means if held in accordance with Minnesota Open Meetings Law and City policies applicable to such meetings. Public comment shall not be required during such meetings and confidentiality of executive sessions shall be maintained.

SECTION 4: MEETING NOTICE REQUIREMENTS:

1. If telephone or other Electronic Means are used to conduct a regular, special, or emergency meeting, the City Council shall provide notice of the meeting in conformance with Minnesota Open Meetings Law and the City Charter.

2. In the event the City Council holds a meeting on a non-scheduled meeting date or holds a meeting via conference call, real time/live streaming, or similar remote access, the City Council shall provide public notice of this alternative access via the City Council's website, informing the newspaper of general circulation, and posting notice on the window or door of the governing body's principal office. The public shall not attend these meetings, but rather participate via conference call, real time/live streaming, or similar remote access.

3. Before accepting the alternative methods of public comment, the City Council shall provide the public with notice informing interested persons where they should send their public comment, the deadline to send public comment, and inform them that their written comments will be taken into consideration at the next regular or special meeting.

SECTION 5: EMERGENCY PUBLIC HEARING ALTERNATIVES:

1. Members of the public shall be able to hear and view, if and only if the meeting is visible and the person has adequate technological connection, the meeting, public statements by members of the City Council, staff, and public, voting, and materials presented to members of the City Council.

2. Members of the public shall be able to make oral public comment, to the extent possible, and written public comment (including before a meeting) that can be visible to the public and City Council as would be allowed by applicable policies, subject to the limitations of this ordinance and as determined by the Mayor, presiding officer, City Attorney, or City Manager to preserve the orderly conduct of the meeting.

3. If a public hearing is required for an agenda item during a special meeting as previously discussed, the City Council will accept public comment via mail, electronic mail, or other written means, by providing a deadline for interested persons to provide public comment after the City Council holds a "public hearing" via call-in numbers, real time/live streaming online, or similar remote means.

4. Before accepting the alternative methods of public comment, the City Staff shall provide the public with notice informing interested persons where they should send their public comment, the deadline to send public comment, and inform them that their written comments will be taken into consideration at the next regular or special meeting.

5. Upon completion of the public comment period, the City Council will consider any public comments received at its next regular or special meeting if the deadline to file comment is prior to a regular or special meeting or after the public hearing is closed at the regular or special meeting. All votes will be conducted by roll call vote that discloses each person's identity.

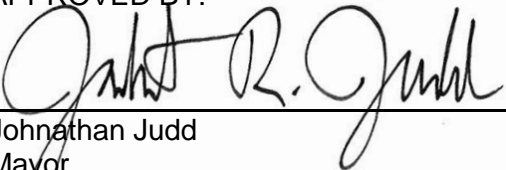
6. The procedure set forth in this Section 4 shall be utilized by other boards or commissions of the City, which the City Manager has deemed necessary to hold public hearings related to essential functions of the City.

SECTION 6:

This ordinance shall take effect immediately and upon first reading. A copy of this ordinance will be published on the City's official website and made available to any person requesting a copy of this Emergency Ordinance 2020-1. This Ordinance shall continue in full force and effect and terminate upon the determination by the City Council that the Declaration of Emergency is no longer needed.

PASSED: March 23, 2020 by the City Council of the City of Moorhead.

APPROVED BY:



Johnathan Judd
Mayor

ATTEST:



Christina Rust
City Clerk

First/ Second Reading: 03/23/2023
E-Post Date: XX/XX/2020
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