



## AGENDA ITEM SUMMARY

City Council

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### STAFF

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Paul Sizemore, Director of Community Development and Neighborhood Services  
Noah Beals, Development Review Manager  
Anissa Hollingshead, City Clerk  
Brad Yatabe, Legal

### SUBJECT

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**First Reading of Ordinance No. 143, 2022, Amending Section 2-73 of the Code of the City of Fort Collins to Allow City Commissions to Conduct Quasi-Judicial Hearings Using Remote Technology.**

### EXECUTIVE SUMMARY

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The purpose of this item is to amend provisions of Article III of Chapter 2 of the City Code to permit boards and commissions considering quasi-judicial matters to incorporate participation by remote technology into proceedings. The proposed amendments would enable the presiding officer of the board or commission, upon consultation with the staff liaison, to allow remote participation by members of the public, parties-in-interest, and members of the board or commission.

### STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

### BACKGROUND / DISCUSSION

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During the declared COVID-19 local emergency the City made use of remote technology to allow participation in public meetings by members of the public, parties-in-interest, board and commission members, and staff. Typically, this occurred in the form of hybrid meetings where some parties were present in-person and others participated remotely.

When the emergency declaration was lifted in October of 2022, boards and commissions were required to align their operations with the provisions in Article III of Chapter 2 of the City Code. Currently, Chapter 2 permits boards and commissions that are not considering quasi-judicial items to use remote technology for participation. However, quasi-judicial proceedings require in-person attendance by all commission members, all members of the public, and all parties-in-interest.

The City has six commissions that consider quasi-judicial items. These are: the Building Review Commission, Historic Preservation Commission, Human Relations Commission, Land Use Review Commission, Planning and Zoning Commission, and Water Commission. Some of these bodies consider quasi-judicial items at every meeting, while others only hear them occasionally.

Beginning in October 2022, commissions ended remote participation for quasi-judicial items. Since this time, staff has heard from members of the public, applicants, and commission members that there were many positive aspects of remote participation that should be preserved.

This proposed ordinance addresses remote participation by three types of participants in quasi-judicial proceedings. Staff has noted positive outcomes from remote participation by each participant type:

1. **Members of the public.** Staff observes that remote participation has opened opportunities for members of the public to provide comment who otherwise would not or could not participate due to other obligations, lack of convenience, or simply the time required to participate in an in-person proceeding.
2. **Parties-in-interest (applicant teams).** Staff observes that it is more likely that specialist professionals who worked on the project will be available for commission questions if they can participate remotely. For some commissions, this has also made it easier to get projects scheduled for hearings because coordinating attendance by applicant teams is less complicated.
3. **Commission members.** Staff observes that the option for remote participation allows commissioners to participate even if they are out of town or feeling unwell and has not detracted from the quality of participation.

The proposed ordinance modifies the Code to allow remote participation that is like how commissions operated under the COVID-19 emergency declaration. The presiding officer of the commission, upon consultation with the staff liaison, may determine that the meeting will be conducted in whole or in part with the use of remote technology. Each commission may determine how and under what circumstances commission members may participate remotely, as part of rules of procedure adopted pursuant to Section 2-78 of the City Code. When remote participation is authorized by a commission, an applicant will be informed about the intention to hold the proceeding using remote technology. If this is not acceptable to the applicant, they may elect to delay the meeting until the applicant, decision maker, and staff can all be present in-person. If, during the conduct of a hearing using remote technology, the presiding officer determines that the technology is not functioning adequately to meet all conditions outlined in the code, the commission must continue the hearing to make other arrangements.

## **CITY FINANCIAL IMPACTS**

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Staff does not anticipate a financial impact to the City because the technology and staff expertise to implement these measures already exist.

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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The following Commissions made recommendations regarding the proposed ordinance to allow remote participation by commissions considering quasi-judicial matters:

- The Building Review Commission recommended approval at their November 17, 2022, meeting.
- The Historic Preservation Commission recommended approval, with encouragement that commission members attend in-person whenever possible, at their November 16, 2022, meeting.
- The Planning and Zoning Commission recommended approval of remote participation for the public and parties-in-interest and took no position on remote participation by commission members, at their November 17, 2022, meeting.

Staff liaisons for the Land Use Review Commission, Water Commission, and Human Relations Commission have been consulted regarding the proposal; however, these commissions have not made formal recommendations on this topic.

## **PUBLIC OUTREACH**

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Since the switch to all in-person participation in October, members of the public who have contacted staff seeking the ability to participate in hearings remotely have been informed about this proposal. No proactive public outreach was conducted.

## **ATTACHMENTS**

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1. Ordinance for Consideration
2. Planning and Zoning Commission Recommendation