

ORDINANCE NO. 143, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
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

WHEREAS, on March 13, 2020, the City Manager proclaimed a local emergency in response to the COVID pandemic; and

WHEREAS, during the COVID local emergency, City Council adopted Ordinance 079, 2020, which authorized, among other things, City commissions to hear quasi-judicial matters using remote technology to hold meetings that were partially or completely attended remotely by the commission members, the public, the applicant, and City staff; and

WHEREAS, in order to hold a partially or completely remote meeting to hear a quasi-judicial matter, commissions were required to ensure that the remote technology and procedure ensured due process rights were honored and that the public could effectively observe and participate; and

WHEREAS, remote participation not only allowed people to safeguard themselves and others from COVID, but made observing and participating in quasi-judicial hearings more convenient for commissioners, parties-in-interest, City staff, and the public; and

WHEREAS, the increased convenience of the ability to attend and participate remotely made meetings more easily accessible to the public; and

WHEREAS, commission quasi-judicial hearings held remotely during the COVID local emergency demonstrated the effectiveness of remote technology, when properly managed, in ensuring due process and effective public observation and participation; and

WHEREAS, in October 2022, the COVID local emergency was declared over and the Ordinance 079, 2020, authorization for commissions to hear quasi-judicial matters partially or completely remotely ended; and

WHEREAS, upon the COVID local emergency ending, Section 2-73 of the City Code went into effect requiring commission members, parties-in-interest, and the public to attend quasi-judicial hearings in-person; and

WHEREAS, in order to restore the benefits described in this Ordinance of allowing commissions to hold quasi-judicial hearings remotely, Section 2-73 of the City Code shall be amended to allow commissions to hold quasi-judicial hearings using remote technology, provided the commission members attend meetings in person in order to participate and vote on quasi-judicial matters; and

WHEREAS, allowing commissions to hold quasi-judicial hearings remotely is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2-73 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-73. Remote meetings.

(a) For meetings where quasi-judicial or non-quasi-judicial matters, or both, are to be considered, the presiding officer of any City board or commission, after consultation with the staff liaison for such board or commission, may determine that such board or commission will conduct any regular meeting or special meeting in whole or in part by remote technology. However, members of a commission must be present in person to participate in and vote on any quasi-judicial matters before the commission. A meeting may be held in whole or in part by remote technology only if any meeting room and remote technology for remote participation ~~to~~ provides reasonably available participation, to the extent participation is permitted for the matters under consideration, by members of the board or commission, the public, parties-in-interest, and City staff. The in person requirement for a commissioner shall not prevent a commissioner who has missed a work session or other meeting related to a quasi-judicial matter not yet decided from reviewing a recording of the missed meeting and materials provided for such meeting in order to subsequently participate in and vote on the matter.

(b) Any applicant seeking a quasi-judicial decision from a quasi-judicial commission shall be notified in writing or by email of the intention to conduct a quasi-judicial proceeding in whole or in part using remote technology at least forty-eight (48) hours prior to the meeting where the quasi-judicial proceeding will occur, and such notification shall be placed into the record of the quasi-judicial proceeding. Upon the applicant's request at least twenty-four (24) hours prior to the commencement of such proceeding, the proceeding shall be delayed until such time as the applicant and City staff can be present in person for the proceeding. Any such request to delay the hearing shall not affect the ability of the public to participate using remote technology to the extent public participation is permitted. Any applicant proceeding with and participating in a quasi-judicial proceeding conducted using remote technology shall be deemed to have consented to such method of conducting the quasi-judicial proceeding.

(c) The chairperson of any committee of any City board or commission, after consultation with the chairperson and staff liaison of such board or commission, may determine that such committee will conduct any committee meeting in whole or in part by remote technology if the meeting room is equipped for remote participation to provide

reasonably available participation by members of the committee and observation by the public.

(d) Participation by a City board or commission member, or a member of a committee thereof, in a meeting conducted by remote technology shall constitute presence and actual attendance for purpose of establishing a quorum, provided the following conditions are met:

(1) All members of the board or commission participating in the meeting can see and hear one another or, if circumstances preclude an arrangement that would allow visual communication, hear one another;

(2) All members of the board or commission participating in the meeting can see, hear or read all discussion, comment and testimony in a manner designed to provide maximum information sharing and, to the extent applicable, participation;

(3) Members of the public have equivalent access to all discussion, comment and testimony, and to all votes and other dialogue, in a manner designed to provide maximum information sharing and participation;

(4) All votes must be conducted by roll call; and

(5) All other meeting-related requirements must be met, including advance notice with an explanation of how members of the board or commission and the public may participate and stating the right of the public to monitor the meeting, as well as the recording and preparation of meeting minutes.

(e) To the extent applicable, boards and commissions shall allow time for citizen participation in remote meetings; however, they shall not use the chat features in remote meetings to conduct public business or take citizen comment.

(f) If during any meeting of a board or commission or a committee thereof the presiding officer determines that the remote technology in use is not functioning sufficiently to meet the conditions above during any particular item or meeting, the board or commission must continue such item or meeting to allow for improved technologies or other arrangements.

Introduced, considered favorably on first reading and ordered published this 6th day of December, A.D. 2022, and to be presented for final passage on the 20th day of December, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 20th day of December, A.D. 2022.

Mayor

ATTEST:

City Clerk