

City Council Special Meeting *Agenda*

Tuesday, May 26, 2020

6:00 PM

Electronic Meeting

This meeting will be held electronically. Residents interested in listening to the meeting should visit the City's website here to link to the meeting:

louisvilleco.gov/government/city-council

The Council will accommodate public comments as much as possible during the meeting. Anyone may also email comments to the Council prior to the meeting at Council@LouisvilleCO.gov.

1. **CALL TO ORDER & ROLL CALL**

2. **RESOLUTION NO. 36, SERIES 2020 – A RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF PORTIONS OF MAIN STREET IN DOWNTOWN LOUISVILLE FOR OUTDOOR DINING AREAS (EXPANDED OUTDOOR DINING PROGRAM)**
 - Staff Presentation
 - Public Comments (Please limit to three minutes each)
 - Council Questions & Comments
 - Action

3. **RESOLUTION NO. 37, SERIES 2020 – A RESOLUTION AUTHORIZING APPLICATIONS FOR TEMPORARY MODIFICATIONS OF LIQUOR LICENSED PREMISES TO BE ADMINISTRATIVELY APPROVED**
 - Staff Presentation
 - Public Comments (Please limit to three minutes each)
 - Council Questions & Comments
 - Action

Citizen Information

If you wish to speak at the City Council meeting, please fill out a sign-up card and present it to the City Clerk.

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager's Office at 303 335-4533. A forty-eight-hour notice is requested.

City of Louisville

<i>City Council</i>	<i>749 Main Street</i>	<i>Louisville CO 80027</i>
<i>303.335.4536 (phone)</i>	<i>303.335.4550 (fax)</i>	<i>www.LouisvilleCO.gov</i>

- 4. RESOLUTION NO. 38, SERIES 2020 – A RESOLUTION AMENDING PROCEDURES TO BE UTILIZED FOR QUASI-JUDICIAL HEARINGS AT MEETINGS CONDUCTED BY ELECTRONIC PARTICIPATION**
 - Staff Presentation
 - Public Comments (Please limit to three minutes each)
 - Council Questions & Comments
 - Action

- 5. DISCUSSION/DIRECTION – CONSIDERATION OF IN-PERSON MEETINGS DURING COVID-19 RESTRICTIONS**
 - Staff Presentation
 - Public Comments (Please limit to three minutes each)
 - Council Questions & Comments
 - Action

- 6. ADJOURN**

SUBJECT: RESOLUTION NO. 36, SERIES 2020 – A RESOLUTION APPROVING THE TEMPORARY CLOSURE OF PORTIONS OF MAIN STREET IN DOWNTOWN LOUISVILLE FOR OUTDOOR DINING AREAS (*EXPANDED OUTDOOR DINING PROGRAM*)

DATE: MAY 26, 2020

PRESENTED BY: MEGAN E. PIERCE, ECONOMIC VITALITY DIRECTOR

SUMMARY:

Louisville’s food and beverage establishments have been significantly impacted by the closure requirements from the COVID-19 pandemic. Many local establishments attempted to quickly transition to carry-out and delivery models, and some establishments closed temporarily or for an extended period. City staff has been interacting with business owners as well as the Downtown Business Association (DBA) on ways to assist in the transition for food and beverage establishments to re-open and begin to recover.

DISCUSSION/DIRECTION/ACTION:

Food and beverage establishments, while identified as critical businesses, were very limited in their allowed operations for both the Stay-at-Home mandate and the current Safer-at-Home phase. On May 19, the State released draft guidelines for restaurant and food services (please see *Attachment #2*). On May 25, the State is anticipated to announce if those business types will be able to move forward with final guidelines (once finalized) starting on May 26; that determination will be based on the public health status and decline of COVID-19 cases.

In anticipation of a transition that will allow these businesses to expand operations though still under strict requirements for spacing, capacity, and health/sanitation practices, staff has outlined alternative models for outdoor dining. Since Louisville has diverse food and beverage businesses throughout our community, we have envisioned several components to expanded outdoor dining, including:

- Closure of Main Street to vehicular traffic for an extended period;
- Designation of curbside take-out areas for Downtown food and beverage establishments;
- Potential “food hall areas” in City-owned parking lots; and
- Streamlined process for food and beverage establishments outside of Main Street to designate additional outdoor seating capacity.

The City Attorney has prepared a Resolution (please see *Attachment #1*) that if approved by City Council, authorizes the block-by-block closure of Main Street from Walnut Street to Elm Street. We anticipate keeping all eastbound and westbound

streets open to vehicular traffic; each intersection would also remain open to facilitate pedestrian and bicycle traffic. The closure is expected to be in place for an extended period, because it is not currently known how long we will remain in this next stage of public health requirements. The City Attorney drafted the ordinance to allow the closure until Council takes action to remove the closure. The closure would not commence until all State guidance has been finalized and all participating businesses have been approved (described in further detail below). At this time we are seeking a 24/7 closure, but the hours of operation will be further refined. Our annual Downtown Patio Program, which deploys approximately 26 12-foot patios as “parklets” on Main and Front Streets between late April and early November, is unfortunately not feasible with meeting physical distancing needs.

Attachment #3 includes base maps for each of the blocks of the anticipated closure. Staff has noted all of the existing food and beverage establishments with labels. There are 17 existing businesses that may wish to participate in the program. We envision blocking each intersection and using signage there to also make the sidewalks for one-way traffic. This method will keep access to all Main Street businesses via a safe means of physical distancing.

In developing the program to accompany the closure, staff has worked with the DBA and held a virtual meeting with downtown restaurant stakeholders on May 20. The businesses were in support of the closure. The more complex piece of the closure is the determination of the street layout that will meet State public health requirements, regulations from the Colorado Liquor Enforcement Division (LED), and provide comfort and safety to residents. Staff has experimented with several layouts, but we also have asked the DBA to take a lead in coordinating this program component. The DBA can interact with all of the food and beverage establishments to determine if they wish to participate, what hours they would operate, and how to equitably distribute the number of tables each participating business is allowed. Businesses wishing to use the ROW for expanded seating would be asked to provide their own tables.

The Resolution is crafted for Council approval of the road closure, but staff asks to have administrative approval of the actual street layout in order to be flexible and efficient to respond to State regulations and timeframes. We anticipate the DBA would recommend the street layouts to be approved by Staff, and then that information also forms the basis of what businesses can use to apply for a temporary modification of premise through the State for their liquor license. Each food and beverage establishment would be responsible for maintaining their designated seating area, including sanitizing tables and chairs between each seating. The City would develop a licensing agreement for the participating businesses, similar to what our patio program participants sign each year.

The closure of Main Street would require the re-routing of the RTD bus. Staff has verified this is possible, even for the extended time period proposed. We also continue to coordinate with Fire Marshal from the Louisville Fire Protection District, Police,

Planning and Building Safety, and Public Works departments on these program approaches for the various resources that will be required as we refine how each component might work.

While much of Main Street is normally closed to parking during the annual Downtown Patio Program, staff realizes that our food and beverage establishments are more dependent on curbside pick-up than in the past. One of the only concerns expressed on our DBA virtual meeting was the loss of access for curbside services with the closing of Main Street. Staff proposes that we would work to designate curbside pick-up areas, likely on the eastbound and westbound streets in Downtown since they would remain open to vehicular traffic. We envision assigning businesses from each block to these designated areas and employing signage to help educate residents and visitors where to access these areas. These designated areas would likely remain in place for the duration of the Main Street closure. Staff would also coordinate with the DBA and business owners on this program component.

Another way to provide for expanded outdoor areas that meet public health physical distancing requirements is the creation of “food hall areas” in City-owned parking lots. Instead of these areas being designated for specific food and beverage establishments to use, patrons to businesses would be able to get food to-go at a place of their choice and find outdoor seating that is set-up to meet physical distancing requirements. Staff has not fully analyzed how much seating could be deployed because we are not quite certain of demand, especially if there is already expanded seating on Main Street. However, it may be possible to use tables and chairs owned by the DBA and normally used for Street Faire, and to occupy areas that otherwise might not be in use (Steinbaugh Pavilion). A component such as this might be much more temporary or intermittent, such as Friday through Sunday, and would also require more maintenance. For instance, the establishments on Main Street would be responsible for their seating, trash, and guests, but here, the City and/or DBA would need to facilitate the set-up and take-down as well as increased trash collection and cleaning.

It is also important to be clear that outdoor dining and expanded seating is not just for our Downtown food and beverage establishments. The City Clerk’s office has already been reaching out to those establishments with liquor licenses about what will be required by LED and offering assistance to try to streamline the process to temporarily modify their premise to add seating on sidewalk areas and in parking lots. Staff will assist food and beverage establishments in other areas with site plans, determining the number of tables and required spacing, and ensure there is appropriate emergency access and fire lanes. Please note that for these businesses, they will need to have proof of permission to use any adjacent area; if the establishment is in a strip mall with shared parking, they will need to interact with the landlord and property manager to obtain such permission.

These expanded dining programs to assist our businesses to recover will also require a thoughtful and engaging communication strategy. Our communications will aim to educate the public about the requirements that food and beverage businesses must operate under and how they can continue to contribute to re-opening our economy while protecting the public health. Through the DBA, we will need robust and ongoing communications with all businesses, but especially those in Downtown or near the Main Street closure. We also foresee this as a great opportunity to proactively encourage more walking and bicycling to Downtown as it will assist with traffic flow and parking.

FISCAL IMPACT:

The exact fiscal impact is not known at this time, since we are still working out the details about street layout, closures, and signage. We do anticipate some expenses specifically for creating safe and accessible street closures as well as directional and educational signage.

PROGRAM/SUB-PROGRAM IMPACT:

Expanded outdoor dining for our food and beverage establishments seeking to recover from the COVID-19 pandemic is directly tied to the City’s goal to promote a thriving business climate that produces reliable revenue to support City services.

RECOMMENDATION:

Staff recommends adoption of the Resolution to allow the temporary closure of Main Street for outdoor dining. We also seek Council input on the other components of expanded outdoor dining (designated curbside areas, food hall areas, and streamlined process for modified expanded layouts) that we believe will assist businesses to remain viable and stabilize.

ATTACHMENTS:

- 1. Resolution
- 2. State Guidelines for Food and Beverage Services (DRAFT, May 19, 2020)
- 3. Downtown Street Closure Maps

STRATEGIC PLAN IMPACT:

<input checked="" type="checkbox"/>	 Financial Stewardship & Asset Management	<input type="checkbox"/>	 Reliable Core Services
<input checked="" type="checkbox"/>	 Vibrant Economic Climate	<input type="checkbox"/>	 Quality Programs & Amenities
<input type="checkbox"/>	 Engaged Community	<input type="checkbox"/>	 Healthy Workforce

SUBJECT: RESOLUTION 36, SERIES 2020

DATE: MAY 26, 2020

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<input type="checkbox"/>		Supportive Technology	<input type="checkbox"/>		Collaborative Regional Partner
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**RESOLUTION NO. 36
SERIES 2020**

**A RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF PORTIONS OF
MAIN STREET IN DOWNTOWN LOUISVILLE FOR OUTDOOR DINING AREAS**

WHEREAS, the Novel Coronavirus 2019 (COVID-19) Pandemic is causing widespread human and economic impacts to the City of Louisville; and

WHEREAS, on March 10, 2020, the Governor of the State of Colorado issued a Declaration of Statewide Emergency in response to COVID-19; and

WHEREAS, on March 15, 2020, the Mayor of the City, pursuant to Chapter 2.32 of the Louisville Municipal Code and C.R.S. § 24-33.5-709, executed a Declaration of Local Disaster Emergency in and for the City (the “Mayor’s Declaration”) in response to COVID-19; and

WHEREAS, by Resolution No. 27, Series 2020, adopted on March 16, 2020, the City Council continued in effect the Mayor’s Declaration until terminated by resolution of the City Council; and

WHEREAS, on March 16, 2020, the Colorado Department of Public Health and Environment (CDPHE) issued Public Health Order 20-22 closing bars, restaurants and similar establishments to the public except for delivery and take-out; and

WHEREAS, on May 15, 2020, the Colorado Liquor Enforcement Division (LED) issued Bulletin 20-07 and adopted Emergency Regulation 47-302(F) to allow liquor licensed businesses to apply for temporary modifications with State and local licensing authorities and to pre-plan for temporary outdoor seating areas that support social distancing requirements; and

WHEREAS, one of the stated purposes of Emergency Regulation 47-302 is to permit liquor licensed businesses to “temporarily expand their licensed premises into sidewalks, streets, and parking lots to increase social distancing measures while being able to operate a productive and economically sustainable business;” and

WHEREAS, CDPHE has issued draft guidelines for the gradual re-opening of restaurants, which include minimum spacing and maximum capacity requirements for indoor and outdoor seating areas; and

WHEREAS, the City’s bars, restaurants and other food and beverage establishments significantly contribute to the overall fabric of the City’s economy and the health, welfare, and enjoyment of its residents; and

WHEREAS, COVID-19 has had significant financial impacts on the City’s bars, restaurants, and their many employees; and

WHEREAS, the City Council believes it is important to take actions intended to help its residents and businesses with the impacts of COVID-19; and

WHEREAS, the City Council finds that allowing food and beverage establishments to offer expanded outdoor dining areas in the City right-of-way will assist with the re-opening of those businesses in a manner that complies with social distancing, capacity and spacing requirements; and

WHEREAS, the City has broad authority to regulate the use of its streets and rights-of-way pursuant to its home rule authority and state law, including C.R.S. § 31-15-702; and

WHEREAS, the City Council finds that it should authorize the closure of certain portions of Main Street to vehicular traffic in order to encourage and allow restaurants and bars to utilize portions of the City right-of-way for outdoor dining areas.

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

Section 1. The City Council hereby authorizes the closure of the following portions of Main Street to vehicular traffic: Walnut Street to Spruce Street, Spruce Street to Pine Street, and Pine Street to Elm Street (the “Designated Blocks”), with the east/west streets remaining open to traffic. The Designated Blocks shall remain open for emergency vehicular access.

Section 2. The City’s Planning Department is hereby authorized and directed to implement procedures allowing food and beverage establishments to utilize the City right-of-way within the Designated Blocks for outdoor seating and dining areas. Any such use of the City right-of-way shall be subject to approval by the City’s Planning Department and shall be in compliance with applicable State and County public health orders, laws, and regulations. An establishment serving alcohol within such areas shall also obtain approval for a temporary modification of its liquor licensed premises.

Section 3. The Designated Blocks shall be closed commencing on a date to be determined by the City Manager or her designee based on approval of street layouts and shall remain closed until the closures are lifted by resolution of the City Council.

PASSED AND ADOPTED this 26th day of May, 2020.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk

THESE GUIDELINES ARE DRAFT, AND FOR THE PURPOSES OF STAKEHOLDER INPUT ONLY. THEY ARE SUBJECT TO CHANGE, AND DO NOT INDICATE ANY DATE TO TAKE EFFECT. FEEDBACK IS WELCOME, PLEASE PROVIDE [HERE](#)

DRAFT
5/19/20

RESTAURANT AND FOOD SERVICES - PICK UP ONLY

SPACE	EMPLOYEES	CUSTOMERS
<ul style="list-style-type: none"> ● Limit restaurant service to walk up/ window/ curbside pick up, or delivery only -- all bars to remain closed to in-person patrons (take-out permitted, e.g. beer sales/cocktail kits from a brewery) ● Elevate and increase frequency of cleaning practices, including sanitization of high touch areas ● Conduct daily temperature checks and monitor symptoms in employees, logging all results. Refer symptomatic employees to the CDPHE Symptom Tracker ● Post signage for employees and customers on good hygiene and other sanitation practices ● Clearly designate pick-up waiting areas with markers for proper distancing between parties and ensure they do not interfere with in-establishment dining - whether indoors or outside 	<ul style="list-style-type: none"> ● Provide guidance and encouragement on maintaining 6 foot distancing between employees ● Wear gloves and facial coverings during customer interactions and whenever possible during meal-prep and other activities ● Institute frequent breaks to wash hands ● Require employees to stay home when showing any symptoms or signs of sickness ● Provide PPE (masks and gloves as appropriate)for employees who are managing deliveries, returns, etc. 	<ul style="list-style-type: none"> ● Implement 6 foot distancing measures (i.e., marked space in check-out lines) ● Provide contactless payment options (whenever possible) ● Deny service to customers who fail to adhere to hygiene and social distancing guidelines

RESTAURANT AND FOOD SERVICES - INDOOR AND OUTDOOR ON PREMISE DINING

All dining spaces must stop service no later than 10pm

SPACE	EMPLOYEES	CUSTOMERS
<ul style="list-style-type: none"> ● Restaurants may continue curbside pick up/delivery, including alcohol pick up/delivery. ● Outdoor dine-in service can be held with limited capacity, TBD based on the science, if the following requirements can be met: 	<ul style="list-style-type: none"> ● Conduct daily temperature and checks and monitor symptoms in all employees, logging all results. Refer symptomatic employees to the CDPHE Symptom Tracker. ● Require employees to stay home and refer to employer or state support when 	<ul style="list-style-type: none"> ● Consider providing an option for customers to “sign in” to facilitate notifying them if an exposure occurs ● Utilize a reservation system as much as possible to help aid in contact tracing ● Provide contactless payment options (whenever possible) ● Ask customers to wait outside of restaurant and away from outside dining areas until seated in clearly marked area

- Minimum of 8 feet of spacing between parties - table to table.
 - All employees must wear facial coverings and gloves
 - Sanitization and deep-cleaning of all shared surfaces between seatings
 - **Indoors dine-in service can be held at a limited capacity, TBD based on the science,** if the following requirements can be met:
 - Minimum of 8 feet of spacing between parties - table to table
 - All employees must wear facial coverings and gloves
 - Proper ventilation per OSHA guidance
 - Sanitization and deep-cleaning of all shared surfaces between parties/at each turnover
 - Limit party size to **six people or less**
 - Make efforts to reduce congregating inside and outside the establishment including:
 - Encouraging reservations, and preferably only utilizing a reservation system if feasible
 - No communal seating
 - No self service stations or buffets
 - No seat yourself options
 - No bar seating if the bar is being used for food or beverage service; if it's not being used for service then parties could sit there under same requirements as a regular table
 - Clearly mark floor and ground for queue spacing and foot traffic suggestions
 - Place pylons, table tents or clearly marked decor or signage on tables not available for seating customers
 - Post clear signage notifying patrons and employees of hygiene and sanitation expectations, including not entering if they are experiencing any symptoms.
 - Minimize objects touched by multiple patrons including:
 - Remove/close games and dance floors that require or encourage standing around (darts/pool
 - showing any symptoms or signs of sickness [ADD CDLE SICK LEAVE].
 - Provide guidance, systems, and encouragement on maintaining 6 foot distancing between employees to the greatest extent possible
 - Require employees to wear gloves and facial coverings during customer interactions and whenever possible during other activities
 - Require facial coverings and gloves for vendors, suppliers, and contract workers entering the licensed establishment
 - Encourage frequent breaks to wash hands (at least every 30 minutes) including upon arrival and departure
 - Strict adherence to the hygienic practices listed in the *Colorado Retail Food Regulations* including:
 - Frequent hand washing
 - Changing of gloves between tasks, and
 - Use a fresh pair of gloves after each hand washing
 - Implement policies to limit group interactions including staggering of shift changes, breaks, etc
 - Considering modifying the menu to create additional space in the kitchen and promote social distancing. Implement social distancing where practicable
 - "All staff" meetings must follow social distancing. Consider virtual meetings or meetings outside with appropriate distancing.
 - Only disposable cups. Leave personal water bottles at home.
 - Family meals or shift meals should not be consumed onsite.
 - separate from food pick-up space, and maintain proper social distancing from other guests waiting to be seated
 - Restrict standing and/or congregating in the bar area, entrance/exit, and any interior spaces.
 - Continue curbside pick up/delivery options and recommend for vulnerable individuals
 - Request facial coverings are worn by customers when not eating or drinking i.e., walking past other tables to get to the delivery. Consider refusing service to customers who refuse to adhere to hygiene and social distancing guidelines (*restrictions based off of denial of service guidelines for alcohol*)
 - Make accommodations for individuals unable to adhere to hygiene and social distancing requirements, such as takeout or
- IF THERE IS A CONFIRMED CASE AMONG CUSTOMERS OR EMPLOYEES the restaurant must notify and cooperate with their local public health agency on next steps.**
- Local public health agency contacts can be found [here](#).**

- tables/shuffle board, arcade games);
remove board games
 - Discontinue use of table cloths, or
move to single-use or remove and
replace laundered table cloths
between patrons
- Clean and disinfect any shared objects
thoroughly between uses
- Increase cleaning and disinfection protocols
and track with publicly posted cleaning logs
including:
 - Use disposable single-use menus,
menu boards, or create on-line
menus for guests to review from
their electronic device
 - Provide single use or single serving
condiments
 - Sanitize restrooms every 30 minutes
 - Block off stalls and urinals with
proper signage to support 6ft
between patrons. This may require
reduced bathroom capacity or even
only 1 person in a bathroom at a
time.
- Provide hand sanitizer at check-in table/desk
and throughout the venue





One Way Walks -
Pedestal Sign and
Taped Arrow at East
End of Block

Double Happy

The Melting Pot

Table layout
in ROW to
be
determined

Traffic
Barricades and
Road Closure
Sign

Huckleberry

por wine house

Lulu's

024 40ft

041 041 041

640 040



**SUBJECT: RESOLUTION NO. 37, SERIES 2020 – A RESOLUTION
AUTHORIZING APPLICATIONS FOR TEMPORARY
MODIFICATIONS OF LIQUOR LICENSED PREMISES TO BE
ADMINISTRATIVELY APPROVED**

DATE: MAY 26, 2020

PRESENTED BY: MEREDYTH MUTH, CITY CLERK

SUMMARY:

Staff anticipates many of the local restaurants may want to expand their licensed premises into parking lots or streets to help give them additional seating that meets social distancing requirements during the COVID-19. A restaurant cannot extend its liquor service area outside of its defined premises without approval from both the Local Licensing Authority and the State Liquor Enforcement Division

In normal circumstances, the temporary modification of premise application is submitted to the City Clerk's Office. Staff holds the application until the next Local Licensing Authority (LLA) meeting and once approved by the LLA the application is sent to the State for their approval.

The proposed resolution would change this process to allow the Secretary to the LLA to approve temporary modification of premises applications administratively without a hearing from the LLA. Should the Secretary deny an application, the applicant may request a hearing in front of the LLA. This would significantly shorten the time it takes to get local approval for such an application.

The State is also working to shorten its application review process by accepting and reviewing applications prior to getting local approvals, accepting payments online, and taking electronic submission of applications.

It should be noted that all permanent modification of premise applications will continue to require a hearing at the LLA.

RECOMMENDATION:

Approval of Resolution No. 37, Series 2020.

ATTACHMENT(S):

1. Resolution No. 37, Series 2020

STRATEGIC PLAN IMPACT:

<input type="checkbox"/>	 Financial Stewardship & Asset Management	<input checked="" type="checkbox"/>	 Reliable Core Services
<input checked="" type="checkbox"/>	 Vibrant Economic Climate	<input type="checkbox"/>	 Quality Programs & Amenities
<input type="checkbox"/>	 Engaged Community	<input type="checkbox"/>	 Healthy Workforce
<input type="checkbox"/>	 Supportive Technology	<input type="checkbox"/>	 Collaborative Regional Partner

**RESOLUTION NO. 37
SERIES 2020**

**A RESOLUTION AUTHORIZING APPLICATIONS FOR TEMPORARY
MODIFICATIONS OF LIQUOR LICENSED PREMISES TO BE ADMINISTRATIVELY
APPROVED**

WHEREAS, the City Council has established a Local Licensing Authority to act on liquor license applications, including applications for temporary modifications of premises submitted by liquor licensed business; and

WHEREAS, in response to the Novel Coronavirus 2019 (COVID-19) Pandemic, the Colorado Liquor Enforcement Division has adopted an emergency rule to allow liquor licensed businesses to apply for temporary modifications of their premises to allow outdoor seating areas that support social distancing; and

WHEREAS, in order to efficiently and expeditiously process applications for temporary modifications of premises, the City Council desires to authorize the Secretary of the Local Licensing Authority to administratively approve said applications, as set forth herein.

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

Section 1. The Secretary of the Local Licensing Authority, or his or her designee, is hereby authorized to administratively approve applications for temporary modifications of liquor licensed premises. If an application is denied by the Secretary, the licensee may request a hearing before the Local Licensing Authority pursuant to 1 CCR 203-2, Regulation 47-302. Applications for permanent modifications of liquor licensed premises shall continue to be referred to and acted on by the Local Licensing Authority.

Section 2. If any portion of this resolution is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions hereof.

PASSED AND ADOPTED this 26th day of May, 2020.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk

SUBJECT: RESOLUTION NO. 38, SERIES 2020 AMENDING PROCEDURES TO BE UTILIZED FOR QUASI-JUDICIAL HEARINGS AT MEETINGS CONDUCTED BY ELECTRONIC PARTICIPATION

DATE: MAY 26, 2020

**PRESENTED BY: KATHLEEN KELLY, CITY ATTORNEY
HEATHER BALSER, CITY MANAGER**

SUMMARY:

Attached is a proposed resolution amending procedures to be utilized for quasi-judicial hearings at meetings conducted by electronic participation. The draft amends the previously approved Resolution No. 30, Series 2020 regarding electronic quasi-judicial hearings adopted by City Council on April 7, 2020. Also attached is a blackline showing changes. The attached revisions to the previous resolution seek to clarify City Council's policy regarding quasi-judicial hearings, particularly as it relates to matters that may be heard by electronic participation.

Highlights of the changes include the following:

Matters for which Electronic Quasi-Judicial Hearings may be Held. Only the following types of quasi-judicial hearings may be held at a meeting by Electronic Participation:

- 1. Land use applications the final decision regarding which is not subject to referendum: Public hearings before City Council and all Appointed Bodies may be held by Electronic Participation. These types of applications include, but are not limited to, Planned Unit Development, subdivision plats, and special review uses.*
- 2. Land use applications the final decision regarding which are subject to referendum: Public hearings before all Appointed Bodies may be held by Electronic Participation, but City Council hearings must be held at an in-person meeting. These types of applications include, but are not limited to, zoning and rezoning applications, including applications for General Development Plans and amendments thereto.*
- 3. Historic Preservation applications. These types of applications include, but are not limited to, landmark designations, landmark alteration certificates, and demolition reviews.*
- 4. New license applications and applications for renewals of existing licenses where a public hearing is required or ordered by the applicable licensing authority. These types of applications include, but are not limited to, liquor license*

applications, medical marijuana license applications, and retail marijuana license applications.

Additionally, a new Section 1.G was added to the Resolution to expressly address accessibility. The Americans with Disabilities Act (“ADA”) requires local governments to communicate effectively with people who have communications disabilities, with the goal of ensuring that communication with people with disabilities is equally effective as communication with people without disabilities. The City is required to ensure effective communication regardless of whether a meeting is held in person or by electronic participation.

One means of providing effective communication is to provide auxiliary aids and services when needed to communicate effectively with people who have communication disabilities. Because people with disabilities may have different needs, a key aspect to determining what aid or service is needed to communicate effectively is to consider the person’s normal method(s) of communication. Additionally, the City is required to give primary consideration to the choice of aid or service requested by the person who has a communication disability. For this reason, City Council meeting agendas have long contained the following statement at the bottom:

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager’s Office at 303 335-4533. A forty-eight-hour notice is requested.

Section 1.G would require this statement be included on the agendas for all meetings conducted by electronic participation.

Some information from the Rocky Mountain ADA Center regarding Virtual Meetings for People with Disabilities, can be found here:

<https://www.rockymountainada.org/news/blog/virtual-meetings-people-disabilities>.

Legal Committee reviewed the amended resolution at its May 20, 2020 meeting and added some language under Section C to clarify that copies of meeting materials will be provided to anyone who is unable to access the online documents. They also asked staff to include for reference some guidelines for public participation in virtual public hearings utilized by other cities. There was discussion on whether to include such procedures in the amended ordinance or to allow for some discretion. Specifying the particular procedures would ensure a high level of control over meetings held by boards and commissions, and would further provide participants at the meeting with a clear understanding of requirements and expectations. But prescribing overly specific procedures could have an unintended effect of placing barriers to effective public participation.

Following discussion, the Legal Committee agreed to move this resolution forward for City Council consideration without a recommendation by a vote of 2-1.

FISCAL IMPACT:

There is some financial impact related to closed captioning and the holding of electronic meetings.

PROGRAM/SUB-PROGRAM IMPACT:

This resolution will help the City meet its goals of inclusive, transparent, and efficient governance during the COVID-19 pandemic.

RECOMMENDATION:

Approve Resolution No. 38, Series 2020

ATTACHMENT(S):

1. Clean Resolution
2. Blackline Resolution
3. Guidelines for Public Participation in Virtual Public Hearings from Commerce City and Westminster

STRATEGIC PLAN IMPACT:

<input type="checkbox"/>	 Financial Stewardship & Asset Management	<input checked="" type="checkbox"/>	 Reliable Core Services
<input type="checkbox"/>	 Vibrant Economic Climate	<input type="checkbox"/>	 Quality Programs & Amenities
<input type="checkbox"/>	 Engaged Community	<input type="checkbox"/>	 Healthy Workforce
<input type="checkbox"/>	 Supportive Technology	<input type="checkbox"/>	 Collaborative Regional Partner

RESOLUTION NO. 38
SERIES 2020

A RESOLUTION AMENDING PROCEDURES TO BE UTILIZED FOR QUASI-JUDICIAL HEARINGS AT MEETINGS CONDUCTED BY ELECTRONIC PARTICIPATION

WHEREAS, on March 15, 2020, the Mayor of the City of Louisville, pursuant to Chapter 2.32 of the Louisville Municipal Code and C.R.S. § 24-33.5-709, executed a Declaration of Local Disaster Emergency in and for the City of Louisville (the “Mayor’s Declaration”) in response to the widespread pandemic Novel Coronavirus (COVID-19); and

WHEREAS, by Resolution No. 27, Series 2020, adopted on March 16, 2020, the City Council continued in effect the Mayor’s Declaration until terminated by resolution of the City Council; and

WHEREAS, by Resolution No. 26, Series 2020, also adopted on March 16, 2020, the City Council amended its Rules of Procedure to provide for electronic meeting participation in certain situations, including when meeting in person is not practical or prudent due to a health epidemic or pandemic; and

WHEREAS, on March 25, 2020, the Governor of the State of Colorado issued Executive Order D2020-17, ordering the Colorado Department of Health and Environment (“CDPHE”) to issue a state-wide “Stay at Home” public health order; and

WHEREAS, also on March 25, 2020, the CDPHE issued an Amended Public Health Order 20-24 Implementing Stay at Home Requirements, which Order has since been updated twice, and which Order requires all individuals currently living within the State of Colorado to stay at home whenever possible, and only to leave to perform or utilize “Necessary Activities,” as defined in the Order; and

WHEREAS, by Resolution No. 29, series 2020, adopted on March 31, 2020, the City Council authorized boards, commissions, and committees established by the City Council (“Appointed Bodies”) to also hold meetings by electronic participation when meeting in person is not practical or prudent due to a health epidemic or pandemic; and

WHEREAS, by Resolution No. 30, Series 2020, adopted on April 7, 2020, the City Council amended its Rules of Procedure to allow quasi-judicial hearings to be conducted during a health epidemic or pandemic or other state of emergency affecting the City that is or will be extraordinary, according to procedures set forth in Resolution No. 30; and

WHEREAS, Resolution No. 30 likewise authorized Appointed Bodies of the City to hold quasi-judicial hearings in accordance with the procedures set forth therein; and

WHEREAS, on April 26, 2020, Colorado Governor Polis issued Executive Order D2020-44, adopting a “Safer at Home” approach to the COVID-19 Pandemic, which loosened certain restrictions that were in effect under the Stay at Home order, in order to allow many people within Colorado to return to work while maintaining sustainable levels of social distancing, while still recommending most people residing in the state to remain in their residences except when engaging in Necessary Activities; and

WHEREAS, also on April 26, 2020, the CDPHE issued Public Health Order 20-28 to implement the Governor’s Safer at Home order, which will be in effect until May 26, 2020 unless extended, rescinded, superseded, or amended in writing by the CDPHE; and

WHEREAS, the City Council and Appointed Bodies have not been able to meet in person for an extended period of time and it is unclear when in-person meetings may safely be resumed, thus the nature and extent of the COVID-19 Pandemic is extraordinary; and

WHEREAS, the City Council finds that holding quasi-judicial hearings constitutes an important function of City government; that not holding such hearings for an extended period of time may present a burden to City residents, property owners, and businesses; and that the public health, safety, and welfare of the City will best be secured and protected during this COVID-19 Pandemic by permitting quasi-judicial hearings to proceed at electronic meetings in accordance with the procedures set forth herein; and

WHEREAS, the City Council desires by this Resolution to clarify its policy regarding quasi-judicial hearings, particularly as it relates to the matters that may be heard by Electronic Participation.

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

Section 1. The City Council and Appointed Bodies are hereby authorized to hold quasi-judicial hearings at a meeting by Electronic Participation, subject to the procedures set forth in this Resolution.

A. Matters for which Electronic Quasi-Judicial Hearings may be Held. Only the following types quasi-judicial hearings may be held at a meeting by Electronic Participation:

1. Land use applications the final decision regarding which is not subject to referendum: Public hearings before City Council and all Appointed Bodies may be held by Electronic Participation. These types of applications include, but are not limited to, Planned Unit Development, subdivision plats, and special review uses.

2. Land use applications the final decision regarding which is subject to referendum: Public hearings before all Appointed Bodies may be held by Electronic Participation, but City Council hearings must be held at an in-person meeting. These types of applications include, but are not limited to, zoning and rezoning applications, including applications for General Development Plans and amendments thereto.

3. Historic Preservation applications. These types of applications include, but are not limited to, landmark designations, landmark alteration certificates, and demolition reviews.

4. New license applications and applications for renewals of existing licenses where a public hearing is required or ordered by the applicable licensing authority. These types of applications include, but are not limited to, liquor license applications, medical marijuana license applications, and retail marijuana license applications.

B. Applicant's Written Request. For any application set forth in Section A, above, a written request for a hearing by Electronic Participation shall be made by the applicant on a form provided by the City. The applicant shall acknowledge that holding a quasi-judicial hearing by Electronic Participation presents certain legal risks and involves an area of legal uncertainty, and the applicant shall agree that moving forward with a quasi-judicial hearing by Electronic Participation shall be at their own risk. Applicants requesting a hearing by Electronic Participation pursuant to Section A.1 or A.2 above shall additionally agree to defend and indemnify the City in any action that may arise out of, or in connection with, conducting the hearing by Electronic Participation; if such is not provided, no public hearing will be held until in-person meetings have resumed and the applicant will be deemed to have consented to a delay in the holding of a public hearing.

C. Notice Requirements.

1. The required notice for the hearing and the agenda for the meeting at which the hearing will be held shall each include information about how the hearing will be conducted and how the public can access, observe, and participate in the hearing. If such notice as required by the Louisville Municipal Code or otherwise by law has already been provided for a hearing to be held in person, such additional notice shall be given as to reasonably inform interested persons that such hearing will instead be held by Electronic Participation; provided, however, this additional notice shall not be deemed jurisdictional.

2. The notice shall advise that relevant documents will be made available online and that any interested party may contact the City Clerk to receive a paper copy if unable to access the online documents. Interested parties will be encouraged to submit written comments in advance of the hearing, which comments will be made a part of the record of the hearing.

D. Documents. The City Clerk or Secretary of the applicable board or commission shall set deadlines for submission of documents depending on the nature of the hearing. Materials relevant to the hearing, including but not limited to materials related to specific applications and other documents to be shown electronically during the hearing, will be made available online at least 72 hours in advance for public inspection prior to, during, and after the hearing.

E. Hearing Procedures. At the outset of the hearing, the presiding officer of the Public Body shall describe the hearing procedure, including how testimony and public comment will be received. The applicant shall be given an opportunity to object to the hearing procedure. The presiding officer shall rule on any such objection, and the decision of the presiding officer shall be final.

F. Record. The City Clerk or Secretary of the applicable board or commission shall ensure that all equipment used for the hearing is adequate and functional for allowing clear communication among the participants and for creating a record of the hearing as required by law. Provided, however, the City Clerk or Secretary shall not be responsible for resolving any technical difficulties incurred by any person participating in the hearing.

G. Accessibility. All hearings conducted pursuant to this Resolution shall be held on an electronic platform generally meeting Web Content Accessibility Guidelines (“WCAG”) 2.1 and the agenda for such meeting shall contain the following notice:

Persons with disabilities planning to participate in the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or closed captioning should contact the City Manager’s Office at (303) 335-4533. A forty-eight hour notice is requested.

H. Hearing May be Vacated or Continued. The procedures adopted by this Resolution create no right in any party to a quasi-judicial matter to have a hearing conducted by Electronic Participation. If at any point the City Manager, the Mayor, or the Chair of the Appointed Body, as the case may be under the particular circumstances, determines that technological, accessibility, or other issues prevent a hearing from being held by Electronic Participation while meeting due process requirements, the hearing may be vacated or continued until such time as it may be held at an in-person meeting.

Section 2. Resolution No. 30 is hereby repealed to the extent of any inconsistency with this Resolution.

PASSED AND ADOPTED this 26th day of May, 2020.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk

RESOLUTION NO. 30
SERIES 2020

A RESOLUTION REGARDING AMENDING PROCEDURES TO BE UTILIZED FOR QUASI-JUDICIAL HEARINGS AT MEETINGS CONDUCTED BY ELECTRONIC PARTICIPATION

WHEREAS, on March 15, 2020, the Mayor of the City of Louisville, pursuant to Chapter 2.32 of the Louisville Municipal Code and C.R.S. § 24-33.5-709, executed a Declaration of Local Disaster Emergency in and for the City of Louisville (the “Mayor’s Declaration”) in response to the widespread pandemic Novel Coronavirus (COVID-19); and

WHEREAS, by Resolution No. 27, Series 2020, adopted on March 16, 2020, the City Council continued in effect the Mayor’s Declaration until terminated by resolution of the City Council; and

WHEREAS, by Resolution No. 26, Series 2020, also adopted on March 16, 2020, the City Council amended its Rules of Procedure to provide for electronic meeting participation in certain situations, including when meeting in person is not practical or prudent due to a health epidemic or pandemic; and

WHEREAS, on March 25, 2020, the Governor of the State of Colorado issued Executive Order 2020D2020-17, ordering the Colorado Department of Health and Environment (“CDPHE”) to issue a state-wide “Stay at Home” public health order; and

WHEREAS, also on March 25, 2020, the CDPHE issued an Amended Public Health Order 20-24 Implementing Stay at Home Requirements, which Order has since been updated twice, and which Order requires all individuals currently living within the State of Colorado to stay at home whenever possible, and only to leave to perform or utilize “Necessary Activities,” as defined in the Order; and

WHEREAS, by Resolution No. 29, series 2020, adopted on March 31, 2020, the City Council authorized boards, commissions, and committees established by the City Council (“Appointed Bodies”) to also hold meetings by electronic participation when meeting in person is not practical or prudent due to a health epidemic or pandemic; and

WHEREAS, by Resolution No. 30, Series 2020, adopted on April 7, 2020, the City Council amended its Rules of Procedure, as amended by Resolution No. 26 do not permit to allow quasi-judicial hearings to be held at electronic meetings conducted during a health epidemic or pandemic or other state of emergency affecting the City that is or will be extraordinary, according to procedures set forth in Resolution No. 30; and

WHEREAS, Resolution No. 30 likewise authorized Appointed Bodies also may not of the City to hold quasi-judicial hearings at electronic meetings in accordance with the procedures set forth therein; and

WHEREAS, on April 26, 2020, Colorado Governor Polis issued Executive Order D2020-44, adopting a “Safer at Home” approach to the COVID-19 Pandemic, which loosened certain restrictions that were in effect under the Stay at Home order, in order to allow many people within Colorado to return to work while maintaining sustainable levels of social distancing, while still recommending most people residing in the state to remain in their residences except when engaging in Necessary Activities; and

WHEREAS, also on April 26, 2020, the CDPHE issued Public Health Order 20-28 to implement the Governor’s Safer at Home order, which will be in effect until May 26, 2020 unless and until the City Council adopts a resolution establishing guidelines for such matters that confirm with the requirements of the City’s Home Rule Charter, the Louisville Municipal Code, and constitutional due process requirements extended, rescinded, superseded, or amended in writing by the CDPHE; and

WHEREAS, current available information indicates the City Council and Appointed Bodies may have not been able to meet in person for an extended period of time and it is unclear when in-person meetings may safely be resumed, thus the nature and extent of the COVID-19 Pandemic is extraordinary; and

WHEREAS, the City Council finds that holding quasi-judicial hearings constitutes an important function of City government; that not holding such hearings for an extended period of time may present a burden to City residents, property owners, and businesses; and that the public health, safety, and welfare of the City will best be secured and protected during this COVID-19 Pandemic by permitting quasi-judicial hearings to proceed at electronic meetings in accordance with the procedures set forth herein; and

WHEREAS, the City Council desires by this Resolution to clarify its policy regarding quasi-judicial hearings, particularly as it relates to the matters that may be heard by Electronic Participation.

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

Section 1. — ~~The amended City Council Rules of Procedure are hereby approved in the form accompanying this Resolution.~~

Section 2**Section 1.** The City Council and Appointed Bodies are hereby authorized to hold quasi-judicial hearings at a meeting by Electronic Participation, subject to the procedures set forth in this Section 2; provided, however, no quasi-judicial hearing shall be held for any matter the decision of which is subject to referendumResolution.

A. ~~Applicant's Written Request. In the event a pending~~Matters for which Electronic Quasi-Judicial Hearings may be Held. Only the following types quasi-judicial ~~matter is scheduled for a public hearings may be held at a meeting to be conducted by Electronic Participation, or an applicant wishes to request an as yet unscheduled hearing be conducted:~~

1. ~~Land use applications the final decision regarding which is not subject to referendum: Public hearings before City Council and all Appointed Bodies may be held by Electronic Participation. These types of applications include, but are not limited to, Planned Unit Development, subdivision plats, and special review uses.~~

2. ~~Land use applications the final decision regarding which is subject to referendum: Public hearings before all Appointed Bodies may be held by Electronic Participation, but City Council hearings must be held at an in-person meeting. These types of applications include, but are not limited to, zoning and rezoning applications, including applications for General Development Plans and amendments thereto.~~

3. ~~Historic Preservation applications. These types of applications include, but are not limited to, landmark designations, landmark alteration certificates, and demolition reviews.~~

4. ~~New license applications and applications for renewals of existing licenses where a public hearing is required or ordered by the applicable licensing authority. These types of applications include, but are not limited to, liquor license applications, medical marijuana license applications, and retail marijuana license applications.~~

B. ~~Applicant's Written Request. For any application set forth in Section A, above, a written request for a hearing by Electronic Participation shall be made by the applicant on a form provided by the City. The applicant shall acknowledge that holding a quasi-judicial hearing by Electronic Participation presents certain legal risks and involves an area of legal uncertainty, and the applicant shall agree that moving forward with a quasi-judicial hearing by Electronic Participation shall be at their own risk. Land use applicants~~Applicants requesting a hearing by Electronic Participation pursuant to Section A.1 or A.2 above shall additionally agree to defend and indemnify the City in any action that may arise out of, or in connection with, conducting the hearing by Electronic Participation; ~~if such is not provided, no public hearing will be held until in-person meetings have resumed and the applicant will be deemed to have consented to a delay in the holding of a public hearing.~~

~~B. City Manager to Determine Suitability of Conducting Quasi-Judicial Hearing by Electronic Participation. The procedures adopted by this Resolution create no right in any party to a quasi-judicial matter to have a hearing conducted by Electronic Participation. Upon receipt of a written request, the City Manager or their designee shall determine whether the City has the capability to hold the particular type of hearing by Electronic Participation, what available form of Electronic Participation is most~~

~~appropriate for the type of hearing, and set date(s) for the hearing(s). Such hearings shall be open to the public and provide the ability for interested members of the public to join the hearing electronically. The method chosen by the City Manager or their designee shall ensure the public has the ability to view or listen to the hearing in real time and interested parties may speak. If at any point the City Manager or their designee determines it not possible or prudent to hold the hearing by Electronic Participation, whether due to technical issues or an inability to do so while meeting constitutional due process requirements, the hearing shall be vacated and the matter will be held in abeyance until in person meetings have resumed.~~

C. Notice Requirements.

1. The required notice for the hearing and the agenda for the meeting at which the hearing will be held shall each include information about how the hearing will be conducted and how the public can access, observe, and participate in the hearing. If such notice as required by the Louisville Municipal Code or otherwise by law has already been provided for a hearing to be held in person, such additional notice shall be given as to reasonably inform interested persons that such hearing will instead be held by Electronic Participation; provided, however, this additional notice shall not be deemed jurisdictional.

2. The notice shall advise that relevant documents will be made available online; and that any interested party may contact the City Clerk to receive a paper copy if unable to access the online documents, ~~and that the City will reasonably accommodate interested parties who lack necessary equipment or the ability to access equipment.~~ Interested parties will be encouraged to submit written comments in advance of the hearing, which comments will be made a part of the record of the hearing.

D. Documents. The City Clerk or Secretary of the applicable board or commission shall set deadlines for submission of documents depending on the nature of the hearing. Materials relevant to the hearing, including but not limited to materials related to specific applications and other documents to be shown electronically during the hearing, will be made available online at least 72 hours in advance for public inspection prior to, during, and after the hearing.

E. Hearing Procedures. At the outset of the hearing, the presiding officer of the Public Body shall describe the hearing procedure, including how testimony and public comment will be received. The applicant shall be given an opportunity to object to the hearing procedure. The presiding officer shall rule on any such objection, and the decision of the presiding officer shall be final.

F. Record. The City Clerk or Secretary of the applicable board or commission shall ensure that all equipment used for the hearing is adequate and functional for allowing clear communication among the participants and for creating a record of the hearing as required by law. Provided, however, the City Clerk or Secretary shall not be responsible for resolving any technical difficulties incurred by any person participating in the hearing.

G. Accessibility. All hearings conducted pursuant to this Resolution shall be held on an electronic platform generally meeting Web Content Accessibility Guidelines (“WCAG”) 2.1 and the agenda for such meeting shall contain the following notice:

Persons with disabilities planning to participate in the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or closed captioning should contact the City Manager’s Office at (303) 335-4533. A forty-eight hour notice is requested.

H. Hearing May be Vacated or Continued. The procedures adopted by this Resolution create no right in any party to a quasi-judicial matter to have a hearing conducted by Electronic Participation. If at any point the City Manager, the Mayor, or the Chair of the Appointed Body, as the case may be under the particular circumstances, determines that technological, accessibility, or other issues prevent a hearing from being held by Electronic Participation while meeting due process requirements, the hearing may be vacated or continued until such time as it may be held at an in-person meeting.

Section 2. Resolution No. 30 is hereby repealed to the extent of any inconsistency with this Resolution.

PASSED AND ADOPTED this 7th ____ day of ~~April~~, _____, 2020.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk

**RESOLUTION ESTABLISHING POLICIES FOR CONDUCTING PUBLIC HEARINGS
DURING ELECTRONIC MEETINGS**

NO. 2020-30

WHEREAS, the City Council of the City of Commerce City enacted certain policies pursuant to Section 4.27 of the City Charter, including Council Policies 20 and 22 regarding the conduct and order of public hearings;

WHEREAS, the City Council has enacted Ordinance 2271 authorizing the conduct of City Council meetings conducted by Electronic Means during certain declared emergencies or disasters, but a resolution is require to establish guidelines for public hearings on quasi-judicial matters and related votes to ensure conformance with the requirements of the Charter, the Commerce City Revised Municipal Code, and the requirements of due process;

WHEREAS, the City Council finds that this resolution establishes guidelines to ensure that public hearings may continue during prolonged emergencies in an open and impartial manner, that the public has the ability to hear or view the proceedings in real time, that allows interested parties to provide testimony, and allows an opportunity for the City Council to give fair consideration to all issues presented at the public hearing;

WHEREAS, the City Council finds that the guidelines established by this resolution are necessary and appropriate to promote the efficient and orderly conduct of municipal business, to ensure the validity of municipal proceedings, and to protect the health, safety, and welfare of the public;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

1. Application. This resolution is adopted pursuant to Ordinance 2271, as it may be amended, and supplements Council Policies CP-20 and CP-22 and any other policy related to public hearings when a public hearing, as defined in CP-22, is conducted by Electronic Means as provided in Ordinance 2271. All other provisions of applicable Council Policies will apply to a public hearing held pursuant to this resolution to the extent not in conflict with this resolution and Ordinance 2271. References to the “body” means the City Council or applicable board or commission.

2. Applicant Agreement. Except for any public hearing held initiated by the City or based on an appeal of an action initiated by the City, each applicant must request and consent, on a form provided by the City, that a public hearing be conducted pursuant to this resolution. The request form shall provide that, without condition, the applicant: a) acknowledges that holding a quasi-judicial hearing by electronic means presents legal risks and involves an area of legal uncertainty and that the applicant has reviewed this resolution; b) agrees that the applicant assumes all risk of conducting the quasi-judicial hearing by electronic means; and c) agrees to defend and indemnify the City in any action arising from or in connection with any alleged deficiency in the conduct of the hearing as a result of the use of electronic means. If such a request and consent is not provide, no public hearing will be held until in-person meetings resume and the applicant will

be deemed to have consented a delay in the processing of related application and the timing of the public hearing.

3. Special Notice Required. In addition to any notice required by law, the following notice requirements apply:

a. Any agenda including a public hearing that will be conducted remotely must be published at least 3 business days before the hearing (e.g., for a hearing on Monday, the agenda must be posted by Wednesday) and shall include:

i. Materials to be presented by the City and the applicant during the hearing (except for rebuttal materials);

ii. Information about how the hearing will be conducted and how the public can access, observe, and provide testimony for the hearing (including registration requirements); and

iii. Information about how to request paper copies of materials from the City.

The agenda notice will be part of the record. Agendas may be amended. This does not modify the notice requirements of the Land Development Code and will not be deemed jurisdictional.

b. Mailed, published and placard notices (as required by the Land Development Code) for the public hearing shall include a notification that the public hearing may be conducted electronically, that advance registration for testifying will be required, and that information for participation will be provided in the published agenda. Any previously issued notice shall be supplemented to comply with this resolution, but such supplement will not affect the validity of the previously issued ordinance.

4. Public Testimony – Advance Submission or Registration. Testimony other than by the applicant, its consultants, and city staff during the public hearing will be limited to written testimony submitted in advance and oral testimony from previously-registered participant, as follows:

a. For **written testimony**, submit written testimony by mail or through a web-based portal established by the City and identified in the agenda. All written testimony must be received a deadline established by the clerk or secretary that is published in the agenda. Written testimony received or submitted late will not be entered into the record. The clerk or secretary of the body will amend the published materials specific to the matter to include all timely-received written testimony.

b. For **oral testimony**, register to testify through means to be established by the City and identified in the agenda. All persons wishing to testify must register by a deadline to be established by the clerk or secretary that is published in the agenda. Persons who do not register on time will not be permitted to testify. Speakers must have a reliable phone or internet connection and respond when called upon to testify. Persons who submit written testimony may also provide oral testimony. The clerk or secretary will provide a list of registered persons to the chair and will provide speakers with information on connecting to the hearing and providing testimony.

c. **An applicant's written presentation materials and exhibits** must be submitted at least 5 business days before the meeting to be included in the record.

d. No presentations or exhibits other than rebuttal exhibits from the applicant or the City will be accepted during oral testimony by the applicant or any registered speaker.

5. Oral Testimony by Applicant & Public. This section's use of technological terms shall be interpreted according to the capabilities and features of the platform used to conduct the public hearing.

a. The applicant shall appear by video with audio unless only an audio connection is viable and the body consents to an audio-only appearance. The public hearing should be continued in the absence of such consent or if the applicant's connection does not allow the applicant to hear or respond to questions or if the body cannot hear the applicant's presentation.

b. Registered speakers may be limited to audio presentations unless a video connection is technologically feasible and secure. If disconnected or if the connection limits the speaker from being heard, the speaker will forfeit their opportunity to speak unless the body votes to allow the speaker to attempt to re-connect or to continue the public hearing.

c. All presented exhibits and all testimony and questions must be clearly audible and visible (for those using video connections) to the body, City staff, the applicant, and to the public.

d. The applicant and registered speakers must remain muted, with any video disabled, until recognized to speak. Any person who fails to remain muted or uses video, without being recognized, and as a result, disrupts or interferes with the meeting, will forfeit the opportunity to speak and will be disconnected.

e. Once recognized to speak, a registered speaker must promptly state their name and provide their testimony. If the speaker does not promptly begin, the chair may direct the clerk or secretary to mute and disable the video of the speaker and the speaker will forfeit their opportunity to speak. Once a speaker's testimony is concluded or time is expired, the clerk or secretary will mute the speaker and disable the speaker's video.

f. Speakers are asked to disconnect from the meeting platform once they have concluded their testimony and should watch the remainder of the hearing and meeting online or on television. The applicant should remain connected until the conclusion of the hearing.

g. The chair may direct the clerk or secretary to mute, disable, or disconnect any speaker whose time has expired or who violates applicable rules.

h. A member of the public may only speak once during the public hearing.

6. Limitation. The City Manager may choose to vacate any public hearing to be conducted by this resolution if and hold the matter in abeyance if the City Manager determines it is not possible or prudent to hold the public hearing by electronic means. This resolution may not be relied upon during an emergency meeting, as permitted by Ordinance 2271, as it may be amended.

7. Severability. If any provision of this resolution or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the resolution that can be given effect without the invalid portion or applications, provided such remaining portions or applications are not determined by the court to be inoperable.

RESOLVED AND PASSED THIS 20TH DAY OF APRIL 2020.

CITY OF COMMERCE CITY, COLORADO



Benjamin A. Huseman

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson

Dylan A. Gibson, Deputy City Clerk

CITY OF WESTMINSTER GUIDELINES FOR PUBLIC PARTICIPATION IN VIRTUAL PUBLIC HEARINGS

TO SUBMIT YOUR TESTIMONY IN ADVANCE:

Email testimony to PublicHearing_ItemXX@cityofwestminster.us

- Send your written testimony no later than 12:00 p.m. (noon) the day of the public hearing.
- Please include your full name and address for the record.
- Your email testimony will be distributed to the City Council for their review and consideration by 1:00 p.m., and added to the official record.

Leave a recorded message to be played during the live the Public Hearing.

- Call (303) 658-XXXX by no later than 12:00 p.m. (noon) on the day of the public hearing.
- After the tone, state your full name and address for the record.
- Your recorded message is limited to 5 minutes, so please be aware of the time as you give your comments.
- There will be no time warnings, and the call will end after the 5 minute limit has expired.

TO GIVE YOUR TESTIMONY DURING THE LIVE VIRTUAL MEETING:

Sign up to speak through the City Clerk's Office.

- Add your name to the list of speakers by emailing the City Clerk's Office at cityclerk@cityofwestminster.us by no later than 12:00 (noon) on the day of the public hearing.
- Provide your full name and address.
- Speakers will be called in the order that they sign up to speak.
- A web link to the live meeting will be sent in response to your email.
- You must have the ability to log in to the virtual meeting using your own computer equipment. In order to speak, you must use your computer's microphone, a headset, or call in on your phone for sound.
- Once you join the meeting, you will be automatically muted.
- During the Public Hearing, the Mayor will call on each person who signed up in order.
- When your name is called, you will be unmuted and may proceed to give your testimony.
 - If you experience technical difficulties when you are called to speak, and are unable to give live testimony:
 - i. To have your comments included as part of the official record, immediately call (303)658-XXXX to leave a recorded message of your testimony.
 - ii. After the tone, state your full name and address for the record.
 - iii. Your recorded message is limited to 5 minutes, so please be aware of the time as you give your comments.
 - iv. There will be no time warnings, and the call will end after the 5 minute limit has expired.
 - v. Your testimony will be played back before the close of the Public Hearing.

SUBJECT: DISCUSSION/DIRECTION – CONSIDERATION OF IN-PERSON MEETINGS DURING COVID-19 RESTRICTIONS

DATE: MAY 26, 2020

**PRESENTED BY: MEREDYTH MUTH, CITY CLERK
KATHLEEN KELLY, CITY ATTORNEY**

SUMMARY:

Staff and the Legal Review Committee have been looking into what options there are for holding public hearings during the COVID-19 outbreak while there are strict limitations on in-person gatherings.

At this time, staff plans to hold meetings electronically for the foreseeable future as the Safer at Home regulations ask people to minimize the number of in-person meetings, maintain the 6-foot distancing, and avoid gatherings of more than 10 people. These rules may be loosened in June; however, even then board members and the public may not be comfortable meeting in-person or coming into a City facility for a meeting even with proper social distancing.

The Third Amended Public Health Order, issued by the CDPHE on May 14, 2020, revised the list of Critical Government Functions that are authorized to continue, notwithstanding the 10-person limit on gatherings, to include “legislative bodies of municipal governments.” So City Council meetings are not subject to the 10-person limit, but boards and commissions of the City are not “legislative bodies” and therefore it appears are still subject to the 10-person limit.

Assuming public participation, transparency, and personal safety are the guiding principles, staff has reviewed a variety of options for how to handle hearings. Staff has also reviewed the options taking into consideration both public participation and due process (for both the applicant and the public).

After considering a large number of ideas and requirements staff is recommending that when the time comes for in-person hearings they be broadcast meetings (Channel 8 and web stream) that also have a phone-in option for public comments. Staff has ordered the equipment necessary to broadcast from the Recreation Center should Council Chambers be too small a room to use.

Staff looked closely at if a Zoom component could be integrated into an in-person meeting and determined there is no way to do this without major technical issues. The phone-in option, however, allows people to stay home and watch the meeting and still participate in the meeting. This option is one way to make people feel safe while still participating.

Additionally, if the Council were to meet in the Recreation Center (in either the Brooks/Crown Room or the Gym) there would be enough space to allow some people to participate in person. Also, if there were a large number of people in attendance, a specific number of people could be allowed in to the room to speak while others could wait in a queue in another room while watching on a monitor, thus keeping everyone socially distant.

Using this option all of the standard Council processes will still apply. Public comments would be limited to specific times on the agenda and everyone who is interested can have a chance to speak (either in person or on the phone) for three minutes. Staff could also add a component to allow people to register to speak so we can better facilitate the process.

It should be noted that many logistical details still need to be worked out for this and staff does not foresee a shift to this process in the immediate future.

For any in-person meeting, the following would be necessary:

- All meetings attendees would be required to undergo the same screenings as required to enter other public buildings; masks and appropriate social distancing would be required.
- Rules related to large gatherings may dictate how many people can attend in-person.

As a reminder, the City always accepts public comments by email for any meeting item and those comments are given to Councilmembers and made a part of the public record of the proceedings. If someone does not want to or cannot participate in the meeting this is always an option.

It should be noted that having City Council meetings in-person does not completely resolve the issue regarding those items that are subject to referendum. The current Safer at Home public health order does not prohibit circulation of referendum petitions, but recommended social distancing practices may present practical difficulties. Council should take this into consideration when the City is ready to proceed with in-person meetings.

The Legal Review Committee discussed this item at their May 26 meeting recommended the City Council consider the in-person meetings for public hearings, except for those matters subject to referendum.

SUBJECT: IN-PERSON HEARING OPTIONS

DATE: MAY 26, 2020

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PROGRAM/SUB-PROGRAM IMPACT:

Determining a process for the resumption of in-person meetings will help the City meet its goals of inclusive, transparent, and efficient governance during the COVID-19 pandemic.

RECOMMENDATION:

Discussion/Direction.

ATTACHMENT(S):

None.

STRATEGIC PLAN IMPACT:

<input type="checkbox"/>	 Financial Stewardship & Asset Management	<input checked="" type="checkbox"/>	 Reliable Core Services
<input type="checkbox"/>	 Vibrant Economic Climate	<input type="checkbox"/>	 Quality Programs & Amenities
<input type="checkbox"/>	 Engaged Community	<input type="checkbox"/>	 Healthy Workforce
<input type="checkbox"/>	 Supportive Technology	<input type="checkbox"/>	 Collaborative Regional Partner