



BY THE DETROIT CITY COUNCIL

**RESOLUTION ESTABLISHING PROCEDURES FOR CITY OF DETROIT
PUBLIC BODIES TO CONTINUE TO PROVIDE REMOTE PUBLIC ACCESS TO
OPEN MEETINGS, IN ACCORD WITH THE HEALTH DEPARTMENT'S
"DECLARATION OF CONTINUED EMERGENCY DUE TO COVID-19"**

WHEREAS, As a result of the ongoing and continuing COVID-19 pandemic, the City of Detroit's public bodies, including City Council, have been meeting remotely through electronic means, since March 2020; and

WHEREAS, As amended, the Open Meetings Act (OMA) allowed public bodies to hold meetings electronically, under *any circumstances*, retroactive to March 18, 2020, through March 30, 2021 (MCL 15.263a(1)(a)), and further provided that on or after March 31, 2021 through December 31, 2021, public bodies could meet remotely through electronic means pursuant to a "local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by . . . a local official, governing body, or chief administrative officer"; and

WHEREAS, On March 30, 2021, the Chief Public Health Officer of the Detroit Health Department (DHD) issued *Emergency Order for Control of Epidemic* (Emergency Order) determining that "action is necessary to reduce transmission of COVID-19 and to protect the public's health in Detroit", noting that cases in Detroit have been on a significant upward trend and that "certain in-person open meetings pose a substantial risk to members of the public and governmental bodies in the City of Detroit"; and

WHEREAS, On May 20, 2021, June 23, 2021, and August 25, 2021, the City's Chief Public Health Officer issued continuing Emergency Epidemic Orders in Response To The COVID-19 Pandemic Per MCL §333.2453, to provide for virtual meetings of public bodies "to continue to protect the public health from further transmission of COVID-19 within the City of Detroit." The Orders further recognized the need to provide maximum access by the public to public meetings through remote, hybrid, and in-person meetings when a body determines that in-person meetings may be safely held within public health capacity guidelines; and

WHEREAS, The OMA amendments allowing public bodies to meet remotely expired on December 31, 2021, thus requiring in-person meetings after that date; however, the Detroit City Council, as well as other City public bodies, do not have meeting facilities of sufficient size to allow for safe and adequate social distancing of all attendees, nor can a Body limit attendance at in-person meetings without violating the Open Meetings Act. In fact, City Council Members and staff alone, not including any members of the public, could easily reach or exceed the capacity for a safe, socially distanced meeting space. Other City public bodies similarly lack large enough meeting facilities to allow for safe social distancing. The ongoing, unabated pandemic requires maximum efforts to provide for hybrid meeting settings that can afford the public full access to virtual attendance and participation for the protection of all concerned; and

WHEREAS, On December 16, 2021, the Chief Public Health Officer of the City of Detroit issued a renewed *Declaration of Continued Emergency Due to COVID-19*, based upon findings, including, “many areas of Detroit have vaccination rates below the level required to achieve community immunity to limit spread of the virus” and “may result in emerging and more dangerous variants, such as B.1.617.2 (Delta) and B.1.1.529 (Omicron) becoming higher proportionally through the interactions of vaccinated and unvaccinated individuals, all of whom can become infected with COVID-19.”; and

WHEREAS, The Emergency Order operates to “limit gatherings in public meetings and establishes procedures to be followed to insure continuation of essential public health services and enforcement of health laws until March 31, 2022.” **NOW, THEREFORE, BE IT**

RESOLVED, Pursuant to the Detroit Health Department’s *Declaration of Continued Emergency Due to COVID-19*, the Detroit City Council adopts and concurs in the Emergency Order, that “all meetings of public bodies of the City of Detroit subject to the OMA shall continue to allow for remote public participation by electronic means in compliance with the OMA, as follows:

- Members of the public participating remotely must be considered present and in attendance at the meeting and may participate in the meeting as if physically present at the meeting.
- All members of the public must be permitted to remotely participate in any meeting of a public body, except as otherwise provided in the OMA.
- In complying with the notice requirements of the OMA, a public body must include both detailed procedures by which the public may participate in the meeting remotely, including a telephone number, internet address, or both, and procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.
- A public body may not require a person as a condition of remotely participating in a meeting of the public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to remotely participate in a public comment period of the meeting.
- A person remotely participating must be permitted to address a meeting of a public body under rules established and recorded by the public body. A person remotely participating must not be excluded from a meeting of a public body open to the public except for a breach of the peace actually committed during the meeting.
- Members of the public otherwise remotely participating in a meeting of a public body may be excluded from participation in a closed session of the public body during that meeting if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.
- Except as otherwise provided by law, a public body holding a meeting subject to the OMA shall limit the number of people physically gathered in that

meeting place to the extent necessary to ensure that individuals present remain at least six feet apart.

- Nothing in this order permits a public body to limit or restrict the rights of the press or other news media. Public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held and to members of public bodies.”

AND, BE IT FURTHER

RESOLVED, The Detroit City Clerk is directed to send this resolution to Mayor Mike Duggan, and to publicly and electronically post and distribute copies of the resolution widely.

December 20, 2021