

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2021

COUNCIL BILL NO. 21-0572

FINANCE AND GOVERNANCE COMMITTEE

A BILL

For an ordinance amending the local open meetings laws to authorize electronic participation and electronic meeting methods during emergencies and making other conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That section 2-32, D.R.M.C. shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

Sec. 2-32. - Definitions.

For the purpose of this article, the following words and phrases shall have the meanings ascribed to them:

(1) *Emergency.* An emergency means any state of local disaster or emergency declared by the mayor, a public health order issued by the executive director of the department of public health and environment or other unforeseen circumstances that clearly threatens public health, safety, welfare or life.

(42) *Meeting.* Any assemblage of a quorum of any public body, whether in person, electronically, or by other means of communication, whose central purpose is the discussion of public business or the adoption of any proposed policy, position, resolution, rule, regulation, standard, ordinance, or other official action or enactment. The term "quorum" shall mean that portion of a public body defined by its by-laws or rules as the minimum number of its members who must be present at a meeting for business to be transacted legally.

(23) *Public body:*
[see insert]

(34) *Public business.* Any matter relating to governing or the government of the city or of the public business regulated by the respective public bodies.

Section 2. That section 2-33, D.R.M.C. shall be amended by adding the language underlined to read as follows:

1 **Sec. 2-33. - Open meetings required; exceptions.**

2 (a) All meetings ~~of a quorum of a public body~~ shall be open to the public at a designated
3 physical location or broadcast through electronic means.

4 (b) No chance meeting or social gathering shall be used to circumvent the intent or the
5 provisions of this article.

6 (c) The provisions of subsection (a) shall not apply to any of the following:

7 (1) Any collective bargaining conference, which for the purposes of this article is a meeting
8 between the mayor and members of the council, at which the sole purpose is the discussion of the
9 position of, and of related measures to be taken by or in behalf of, the mayor and council in collective
10 bargaining with employees of the city, pursuant to appropriate provisions of the Charter;

11 (2) Any internal staff meeting of or between personnel of a department, agency or other
12 authority of the city; including any meeting of the mayor and cabinet, of the civil service commission
13 with its staff, or of the career service board with its staff;

14 (3) Any meeting whose sole purpose is the discussion of the existing or prospective
15 personnel of a public body or of a department, agency or authority; including such meetings of the
16 police advisory review committee, any oral interview of, or deliberations concerning the nomination,
17 selection or promotion of, or adverse action against, persons under such consideration by the civil
18 service commission, career service board or a judicial nominating commission, or duly appointed
19 committees or boards thereof;

20 (4) Any chance meeting or social gathering of officials or personnel of the city, at which
21 discussion of public business is not or does not become the central purpose; and

22 (5) Any internal staff meeting of or between personnel of a department, agency or other
23 authority of the city and the audit committee, or the audit committee with its staff or independent
24 auditors, ~~however, the audit committee may, upon notice and publication of an agenda hold open,~~
25 ~~public meetings to discuss non-confidential materials and discuss final findings as contained in~~
26 ~~completed audits or materials which the audit committee has released pursuant to D.R.M.C. section~~
27 ~~20-281.~~

28 (d) Meetings shall be conducted in person at a designated physical location except in the
29 following circumstances:

30 (1) The president of city council or the chair of any board or commission has the discretion
31 to conduct a meeting including any hearings by electronic means in an emergency under 2-32 of this
32 code. Meetings conducted by electronic means must provide the members of the public and city

1 staff access to deliberations of the public body and meaningful opportunity to participate
2 electronically in meetings of the public body.

3 (2) A member of a public body may request to participate in a meeting including any public
4 hearings by electronic means if otherwise authorized by this code, rules or bylaws duly adopted by
5 a public body.

6 **Section 3.** That section 2-34, D.R.M.C. shall be amended by adding the language underlined
7 to read as follows:

8 **Sec. 2-34. - Executive sessions.**

9 (e) Notwithstanding section 2-33 of this code, attendance at executive sessions must be
10 in person at a designated location and no member or participant is authorized to attend by electronic
11 means.

12 **Section 4.** That section 2-35, D.R.M.C. shall be amended by adding the language underlined
13 to read as follows:

14 **Sec. 2-35. - Public notice; exception for emergencies.**

15 (a) Except as provided in the Charter and in sections 2-33 and 2-34, any meeting of or
16 between a public body of the city, at which a quorum of the public body is expected to attend, shall
17 be held only after notice thereof is given to the public not less than forty-eight (48) hours in
18 advance of such meeting; and

19 (1) ~~Such~~ Public notice shall be satisfied by:

20 a. include prominent Electronic posting on the public website of the city and county of
21 Denver or website of the applicable local public body; or,

22 b. Posting by the means available whether in electronic or physical format at the
23 principal office of such public body, or if no such office exists, at the building in which the meeting
24 is to be held; and

25 ~~(2) Such public notice shall also be filed with and posted on a bulletin board located in a~~
26 ~~conspicuous place accessible to the public on the first floor of the City and County Building at~~
27 ~~Golfax Avenue and Bannock Street, Denver, Colorado; and~~

28 ~~(3)~~ (2) The contents of the public notice shall include but shall not necessarily be limited to
29 the date, time and place of the meeting and a general description of the subject to be discussed.

30 (b) Whenever the requirements for public notice respecting the meetings described
31 herein are not complied with, such meetings shall be cancelled forthwith or postponed until such
32 time as such requirements are met.

1 (c) Notwithstanding any of the provisions of this article, an emergency meeting may be
2 held without advance notice to the public when the person chairing the public body that is involved
3 determines that an emergency situation exists; and the person may determine that such meeting
4 shall be either open to the public or an executive session, as circumstances may require, without
5 taking a vote as otherwise required by section 2-34(a); provided that the nature of the emergency
6 and the action taken at such meeting shall be made known to the public within forty-eight (48)
7 hours thereafter, in accordance with the provisions for posting of public notices of subsection (a).

8 **Section 5.** That section 20-282, D.R.M.C. shall be amended by adding the language
9 underlined to read as follows:

10 **Sec. 20-282. - Audit committee meetings.**

11 (a) The schedule of regular meetings of the audit committee shall be established by a
12 majority of the membership, but the committee must meet no less frequently than quarterly.

13 (b) Additional meetings shall be called as needed by the city auditor.

14 (c) ~~Audit committee meetings may be staffed by city personnel or may have city~~
15 ~~personnel in attendance to provide information to the audit committee at its request; however audit~~
16 ~~committee meetings shall still be deemed internal staff meetings and are not open meetings.~~

17 [INTENTIONAL PAGE BREAK]

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Section 6. That Chapter 13 of the D.R.M.C. is hereby repealed and replaced to read as follows:

ARTICLE I. IN GENERAL

Sec. 13-1. -Council meeting schedule.

City council shall meet each Monday of the year in regular session except on the following observed holidays:

(a) City council shall not meet in regular session on any Monday falling on or closest to Memorial Day, the 4th of July, and Labor Day. Council shall not meet in regular session on any date that falls between December 24 and January 1, inclusive.

(b) Whenever a Monday falls upon any city holiday as defined in sections 18-142 and 18-143 other than Memorial Day, the 4th of July, Labor Day or Christmas, council shall meet in regular session on Tuesday of that week.

(c) In years when New Year's Eve falls on a Monday, council shall meet in regular session on the Wednesday following New Year's Day.

Nothing in this section shall be deemed to prevent the president of council from canceling a meeting due to an emergency under 2-32 of this code, nor prevent the calling of a special meeting of the council as provided by section 3.3.2 of the charter.

ARTICLE II. COUNCIL PROCEDURES

Sec. 13-2. -Council rules governing meetings and procedures.

(a) City council shall keep a public record of its proceedings.

(b) City council shall enter every vote taken at a regular meeting by roll call.

(c) A member of city council may participate in a meeting including any public hearings by electronic means during work travel, personal or medical emergency, or if authorized by the President of council. To establish presence for purposes of the charter § 3.1.6 and to establish a quorum under charter § 3.3.4, a member participating by electronic means must:

- (1) Appear live on camera when establishing quorum, when speaking, and when voting;
 - (2) Appear using electronic means that includes video capability; and,
 - (3) Appear on video when casting a vote or such vote will not be recorded.
- (d) City council shall adopt additional rules governing its procedure.

1 **Sec. 13-3. -Bills for ordinances.**

2 (a) *Filing of bills.* All bills for ordinances shall be filed in the council office in their entirety,
3 unless otherwise authorized by the president of council, no later than 12:00 noon on the Thursday
4 preceding the meeting of the council at which such bills shall be introduced; or, if Thursday is a
5 legal holiday, then such bills shall be so filed no later than 12:00 noon on the Wednesday
6 preceding such meeting of the council.

7 (b) *Late filings.* Bills for ordinances may be introduced as late filings, provided that a
8 unanimous vote of the council present at a meeting of the council approves a suspension of the
9 rules of council procedure to permit introduction of such bills.

10 (c) *Introduction of bills.* Subject to the provisions of subsections (a) and (b), bills for
11 ordinances may be introduced by any council member, and any such bill for an ordinance shall,
12 when introduced, have the name of the council member introducing it plainly written thereon. Bills
13 for ordinances shall be numbered from the first of January in each year in the order of their
14 introduction.

15 (d) *Printing bills.* Before the final consideration of any bill for an ordinance, or before the
16 same shall have been put upon its final passage, it shall be the right of a majority of the council
17 members to require such bill to be printed and copies thereof to be distributed among the members
18 of the council.

19 **Sec. 13-4. -Revising, reenacting, and amending ordinances.**

20 (a) Any bill for an ordinance that amends an appropriating ordinance to appropriate
21 additional funds, to rescind funds, or to transfer funds shall show the manager of finance
22 accounting code of the affected agency or appropriation account, the appropriation account's or
23 agency's name, and the amount to be appropriated, rescinded or transferred.

24 (b) Any bill for an ordinance that amends an ordinance authorizing the acquisition of
25 capital equipment to alter the list of items that an agency is authorized to acquire shall contain the
26 manager of finance accounting code of the affected agency, the agency's name, and the items
27 being added or deleted.

28 (c) Any bill for an ordinance, other than those listed in subsections (a) and (b) of this
29 section, that amends, revises, or reenacts an existing ordinance shall set forth at length the
30 section, subsection, or lesser subdivision that is being changed by the bill. No bill shall amend or
31 revise an existing ordinance by reference to the title only or by merely striking, substituting, or
32 adding words.

1 (d) Bills for ordinances that amend or revise the Revised Municipal Code shall indicate
2 the proposed changes in the code in formats agreed to by the city attorney and the city council
3 president. Bills referring charter amendments to the voters shall indicate the proposed changes in
4 the charter in formats agreed to by the city attorney and the city council president. The city attorney
5 and council president may provide for this requirement to be waived for certain bills or types of
6 bills.

7 **Sec. 13-5. -Publication of ordinances.**

8 (a) After introduction by city council but prior to the date scheduled by the council for
9 passage, the clerk and recorder shall:

10 (1) Publish notice of all bills by reference to their assigned numbers, in a newspaper
11 approved by the manager of general services for official publications of the city. The notice shall
12 advise that the title, the description, and the full text of these bills are available in electronic form
13 on the city's official website or in printed form in the clerk and recorder's office. The notice shall
14 include instructions for obtaining the title, the description, and the full text of such bills in electronic
15 and printed form; and

16 (2) Publish the title, the description, and the full text of all such bills and resolutions on
17 the official website of the city.

18 The clerk and recorder shall maintain printed records of these publications.

19 (b) Within five days after passage by council and the approval by the mayor, the failure
20 to veto by the mayor, or the overriding of a mayoral veto by council, the clerk and recorder shall:

21 (1) Publish notice of all ordinances by reference to their assigned numbers, in a
22 newspaper approved by the manager of general services for official publications of the city. The
23 notice shall advise that the title, the description, and the full text of these bills are available in
24 electronic form on the city's official website or in printed form in the clerk and recorder's office. The
25 notice shall include instructions for obtaining the title, the description, and the full text of bills in
26 electronic and printed form; and

27 (2) Publish the title, the description, and the full text of all such ordinances on the official
28 website of the city.

29 The clerk and recorder shall maintain printed records of these publications in the clerk and
30 recorder's office.

1 (c) In addition to the requirements of subsections (a) and (b) of this section, the clerk and
2 recorder shall also comply with any other publication requirements imposed by federal, state, or
3 local law as may be applicable to a particular type of ordinance.

4 (d) The clerk and recorder shall provide a copy of the full text of any bill or ordinance to
5 any person who requests a copy; provided, however, that the clerk and recorder may establish
6 charges for the copies which are, in the clerk and recorder's opinion, reasonable.

7 **Sec. 13-6. -Resolutions.**

8 (a) *Action by resolution allowed.* The council shall act by bill and ordinance on any
9 matter requiring the approval of the council, except as otherwise provided by this section. In lieu of
10 a bill and ordinance, council may act by resolution upon the following matters:

11 (1) An appointment or confirmation of an appointment to any board or commission or to
12 any other office or position of employment for which council is the appointing authority, and the
13 removal of any such appointee or employee;

14 (2) The adoption or amendment of any council rule of procedure pursuant to section 13-2
15 of this code.

16 (3) Approval of any action required by state or federal law, when approval by resolution is
17 permitted by the applicable state or federal law.

18 (4) The approval of any temporary license or permit in or to any street, alley or public place
19 pursuant to section 3.2.7 of the charter.

20 (5) The approval of any plat and dedication of any street, alley or other public highway
21 pursuant to section 1.1.12 of the charter.

22 (6) The establishment of any right of way for streets, alleys, highways or other
23 thoroughfares pursuant to section 2.3.3(A) of the charter.

24 (7) The approval of the settlement of a liability claim as provided in section 20-1(d) of the
25 code.

26 (8) The approval of a lease or contract pursuant to section 3.2.6 of the charter; provided,
27 however; that intergovernmental agreements that require council approval or that contracts for the
28 sale or conveyance of property owned by the city shall be approved by ordinance.

29 (b) *Filing of resolutions.* All resolutions shall be filed in the council office in their entirety,
30 unless otherwise authorized by the president of council, no later than 12:00 noon on the Thursday
31 preceding the meeting of the council at which such resolutions shall be introduced; or, if Thursday

1 is a legal holiday, then such resolutions shall be so filed no later than 12:00 noon on the
2 Wednesday preceding such meeting of the council.

3 (c) *Special notice rule for right-of-way approvals.* No resolution approving any action
4 related to streets, alleys and other public places as set forth in paragraphs (3), (4) and (5) of
5 subsection (a) of this section shall be filed unless the manager of transportation and infrastructure
6 has provided written notice of the proposed action to the council member representing the district
7 in which the affected right of way is located. The notice shall be delivered between fifteen (15) and
8 thirty (30) days in advance of the filing of the resolution.

9 (d) *Late filings.* Resolutions may be introduced as late filings, provided that a unanimous
10 vote of the council present at a meeting of the council approves a suspension of the rules of
11 council procedure to permit introduction of such resolutions.

12 (e) *Introduction and approval of resolutions.* Subject to the provisions of subsection (b),
13 resolutions may be introduced by any council member, and any such resolution shall, when
14 introduced, have the name of the council member introducing it plainly written thereon. Any
15 resolution may be moved and voted upon singly or in a block vote with other resolutions, and shall
16 be deemed approved upon the affirmative vote of at least seven (7) members of council. Any
17 resolution so approved shall be signed and dated by the president of council and attested by the
18 clerk. Resolutions shall be numbered from the first of January in each year in the order of their
19 introduction.

20 (f) *Printing of resolutions.* Before the vote on any resolution, it shall be the right of a
21 majority of the council members to require such resolution to be printed and copies thereof to be
22 distributed among the members of the council.

23 **Sec. 13-7. -Recordation.**

24 (a) All ordinances shall, after having passed and received the signature of the mayor, be
25 recorded by the clerk in the record books prepared for that purpose, and the clerk shall also certify
26 with such records the date of publication and the paper wherein the same was published, or
27 whether the same was published in book or pamphlet form by authority of the council.

28 (b) All resolutions shall, after having passed and received the signature of the president
29 of council, be attested and recorded by the clerk in the record books prepared for that purpose.

30 **Sec. 13-8. -Waiver of approval of certain contracts and leases related to the department of**
31 **aviation.**

1 (a) *Leases.* Pursuant to charter section 3.2.6(H), the city council hereby waives the
2 requirement that the following leases, as defined in charter section 3.2.6(A), be submitted to city
3 council for approval or disapproval under charter section 3.2.6:

4 (1) Leases for the purpose of conducting farming operations on Denver Municipal Airport
5 System ("airport") property;

6 (2) Residential leases on airport property, provided the lease does not exceed a term of
7 one (1) year and one hundred thousand dollars (\$100,000.00) in annual rent payments;

8 (3) Storage, office, or support space leases on airport property, provided the lease is
9 ancillary to and in support of an existing concession or airline lease which has been submitted to
10 city council for approval;

11 (4) Leases or licenses to place vending machines on airport property;

12 (5) Leases or licenses not exceeding a term of one (1) year for the purpose of offering
13 seasonal services or information to the public on airport property;

14 (6) Leases, licenses, or easements for the privilege of placing utility lines or pipes,
15 conducting surveys or investigations, or accessing construction sites, on, under, or adjacent to
16 airport property.

17 (b) *Contracts.* Pursuant to charter section 3.2.6(H), the city council hereby waives the
18 requirement that the following contracts, as defined in charter section 3.2.6(A), be submitted to city
19 council for approval or disapproval under charter section 3.2.6:

20 (1) Contracts for the design or construction of airport facilities or improvements, provided
21 the contract does not exceed five million dollars (\$5,000,000.00);

22 (2) Grant agreements with the federal government for airport purposes provided the
23 agreement does not require any contribution or matching funds from the city's general fund.

24 (c) *Monthly reports.* The department of aviation shall provide monthly reports to city
25 council listing all planned and pending contracts for the design or construction of airport facilities or
26 improvements, including contracts recently awarded and in process, pending bids and proposals,
27 and upcoming projects. This report may be provided by electronic email to city council, although
28 printed copies will be delivered to council members upon request.

29 **Sec. 13-9. -Reference to city attorney.**

30 (a) *Examination as to form.* All bills for ordinances and resolutions introduced for
31 passage shall, unless the rules are suspended for their passage, be referred to the city attorney,

1 and it shall be the duty of the city attorney to make an examination thereof and to report to the
2 council, in writing, any irregularity in form thereof, or legal objection thereto.

3 (b) *Numbering of amendments.* The city attorney shall examine any and all bills for
4 amendments to this Code or bills for general ordinances affecting or supplemental hereto before
5 their introduction in city council and assign to every section of each such bill an appropriate section
6 number in harmony with the general plan of this Code. The city attorney shall insert in such bill
7 appropriate repeal or repeal and reenactment clauses if the context so required.

8 **Sec. 13-10. -Subpoenas.**

9 (a) *Issuance.* The president of the council, or the chairperson of a committee of council
10 duly authorized by it, shall issue subpoenas, subpoenas duces tecum and subpoenas and
11 testificandum as necessary to carry out council charter authority under section 3.2.3, to conduct
12 investigations and shall administer oaths to persons so subpoenaed.

13 (b) *Service.* Subpoenas issued by the council president or authorized committee
14 chairperson shall be delivered to the sheriff's department which shall serve such subpoenas in the
15 same manner as process is served in civil actions under this Code except that the usual fees for
16 such service are hereby waived.

17 (c) *Enforcement.* It shall be the duty of persons subpoenaed under this article to appear
18 and testify and to produce such books, papers, and records as are called for in such subpoena.
19 Should the person subpoenaed fail to appear and testify or produce documentary evidence, the
20 council or its committee may apply to the county court for an order compelling compliance with the
21 subpoena. Failure to obey the order of the court shall be punishable as a contempt of court.

22 (d) *Records.* The council, or its committee, shall keep records of its proceedings in the
23 conduct of investigations which records shall be open to the public. At the conclusion of the
24 investigation such records shall be filed with the city clerk.

25 (e) *Witness fees.* Witnesses who are not in the employ of the city, who are subpoenaed
26 to testify, shall be allowed the fees set forth in section 14-37(b). Such fees shall be paid from the
27 city council operating budget.

28 **Secs.13-11 -13-20 -Reserved**

29 **ARTICLE III. COUNCIL POWERS**

30 **Sec. 13-21. - Office of legislative services.**

1 (a) *Office.* In order to assist and support the council in the execution of its duties as
2 described in article III of the charter and in this chapter 13 of the D.R.M.C., there is hereby created
3 the office of legislative services.

4 (b) *Director and employees.* The office of legislative services consists of the legislative
5 services director, who is hired by council and serves at the pleasure of council, under the direction
6 of the council president. As necessary, the legislative services director may hire additional at-will
7 employees who serve at the pleasure of the legislative services director to fulfill the office's duties
8 and functions described below.

9 (c) *Duties and functions.* The office shall assist and support the council by:

10 (1) Providing the systems and staff expertise to assist council in the preparation and review
11 of legislation;

12 (2) Assisting the city council president in the preparation and administration of agendas and
13 associated materials, ensuring adequate staffing of council meetings and committee meetings, and
14 attending meetings and functions as required by the city council president and city council;

15 (3) In consultation with the city council president and city council, make recommendations
16 about the council budget and support the council president and the city council with the annual
17 budget process in article VII of the charter;

18 (4) Managing the council operations and legislative services budget to allocate funds to
19 accomplish council objectives, and approve charges and expenses, as authorized by the annual
20 budget, for the operations and facilities of the city council and the legislative services director's
21 assistants and clerical positions;

22 (5) Ensuring systems for tracking and implementing the council budget in compliance with
23 city fiscal rules;

24 (6) Communicating the intentions of the city council president and the city council to internal
25 city and external parties, and facilitating communication to the city council president and the city
26 council from internal city and external parties;

27 (7) In consultation with the office of human resources, provide human resources services to
28 city council and city council staff;

29 (8) Interpreting council policies, rules and regulations and advising council members so as
30 to support compliance with member guidelines and supporting the creation of new council policies
31 as needed;

32 (9) Assisting council with responses to Colorado Open Records Act requests;

1 (10) Assisting the city council president and city council with the preparation of annual
2 retreats, goals or strategic plan;

3 (11) Supporting the training and development of council aides and providing them with
4 systems and assistance in fulfilling city administrative requirements; and

5 (12) Performing other duties as determined by the city council or the city council president.

6 **Section 7. Effective Date.** The effective date of this ordinance shall be upon final publication.

7
8
9 COMMITTEE APPROVAL DATE: _____, 2021.

10 MAYOR-COUNCIL DATE: _____, 2021.

11 PASSED BY THE COUNCIL _____ 2021

12 _____ - PRESIDENT

13 APPROVED: _____ - MAYOR _____ 2021

14 ATTEST: _____ - CLERK AND RECORDER,
15 EX-OFFICIO CLERK OF THE
16 CITY AND COUNTY OF DENVER

17
18 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2021; _____ 2021

19
20 PREPARED BY: _____; DATE: _____

21
22 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
23 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
24 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
25 3.2.6 of the charter.

26
27 Kristin M. Bronson
28 City Attorney

29
30 BY: _____, _____ City Attorney DATE: _____