

ORDINANCE NO. 123-2021 (AS), *First Reading*

By Council Member Seren

An Ordinance approving and authorizing members of certain public bodies of the City of Cleveland Heights to hold and attend meetings, conduct and attend hearings, to be counted for purposes of the quorum for such body, and to vote on matters before such body, by means of teleconference, video conference or other similar electronic technology; amending Section 107.01(b) of the Codified Ordinances of the City of Cleveland Heights; and declaring an emergency.

WHEREAS, as a result of the COVID-19 pandemic, the Ohio General Assembly enacted H.B. 197, effective on March 27, 2020, which declared that, under Ohio law, public bodies could hold and attend meetings and conduct and attend hearings by means of teleconference, video conference, or any other similar electronic technology during the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, but not beyond December 1, 2020; and

WHEREAS, the Ohio General Assembly enacted H.B. 404, effective on November 22, 2020, which extended the authority under Ohio law for members of a public body to hold and attend meetings and to conduct and attend hearings by means of teleconference, video conference, or other similar electronic technology until July 1, 2021; and

WHEREAS, pursuant to Article XVIII, Sections 3 of the Ohio Constitution, the City has the authority to adopt, and has adopted, a Charter and Ordinances governing the organization and operations of the City, including the time, place, and manner of meetings of public bodies of the City; and

WHEREAS, although the state-provided authority granted in H.B. 197 and H.B. 404 allowing members of a public body to hold and attend meetings and conduct and attend hearings by means of teleconference, video conference, or similar electronic technology expired on July 1, 2021, the COVID-19 pandemic continues, with cases and hospitalizations in Ohio hitting the highest single-day numbers since mid-January due to the Delta Variant of the COVID-19 virus, despite vaccination efforts, with the 21-day new case average increasing rapidly; and

WHEREAS, based on the foregoing, in an effort to continue to curtail the spread of COVID-19, including the highly contagious Delta Variant, and to allow the City's public bodies to conduct the public's business in a manner that promotes and protects the health of the members of these public bodies as well as the health and safety of the public, this Council has determined to grant authority to the members of certain public bodies of the City of Cleveland Heights to hold and attend meetings and to conduct and attend hearings, to be counted for purposes of the quorum for such body, and to vote on matters before such body, either in-person or by means of teleconference, video conference, or other similar electronic technology.

BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. This Council reaffirms that the COVID-19 pandemic, including the highly contagious Delta Variant, continues to constitute an emergency in the City of Cleveland Heights, and that additional efforts to safeguard the health, safety and welfare of the public are required. In so reaffirming, it is Council's intention to exercise and avail itself, on behalf of the City of Cleveland Heights, to the fullest extent of its power and authority under Article XVIII, Section 3 of the Ohio Constitution as well as the laws of the State of Ohio and the Charter and Ordinances of the City of Cleveland Heights.

SECTION 2. Pursuant to its Home Rule authority under Article XVIII, Section 3 of the Ohio Constitution and the Charter and Ordinances of the City of Cleveland Heights as well as the laws of the State of Ohio, this Council determines that the following amendments and rules governing meetings of public bodies of the City of Cleveland Heights shall be in effect:

- (a) Section 107.01(b) of the Codified Ordinances of Cleveland Heights shall be, and is hereby, amended to read as follows:
 - (b) Unless otherwise provided in the Codified Ordinances, all meetings of Council, boards and commissions, and other public bodies of the City shall be held at the Cleveland Heights City Hall, or at other public buildings or properties within the City.
Subject to the approval of the City's chief executive officer, boards, commissions, and other public bodies of the City, unless otherwise provided in the Charter, until April 1, 2022, may hold meetings, and members may attend and vote at meetings and may conduct and attend hearings, in-person and/or by means of teleconference, video conference, or other similar electronic technology, or any combination of in-person and electronic technology. All such meetings shall be open to the public and are deemed to be held at such public places as specifically prescribed in the Codified Ordinances, including the Cleveland Heights City Hall and/or at other public buildings or properties within the City, even if such meetings are held, or members of such public bodies attend and vote, by means of the technologies described above. Meetings held in executive session may be held at locations other than the City or school properties so long as proper notice of such meeting is given in the manner provided by Section 107.02.
- (b) Any resolution, ordinance, rule, decision or other formal action of any kind made or taken during any meeting or hearing conducted entirely or in-part with members attending, participating, and voting by electronic technology shall have the same effect as if it had occurred during an in-person meeting or hearing of the public body; and
- (c) Members of a public body who attend meetings or hearings by means of teleconference, video conference, or other similar electronic technology, shall be

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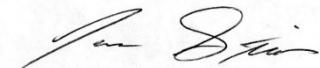
considered present as if in-person at the meeting or hearing, shall be permitted to vote, and shall be counted for purposes of determining whether a quorum is present at the meeting or hearing; and

(d) Public access must be provided to all public meetings or hearings, whether by electronic technology or in-person. The public shall be able to observe and hear the discussions and deliberations of all the members of the public body, whether members are attending in-person or virtually.

SECTION 3. The amendments and rules provided in this Ordinance shall apply notwithstanding any conflicting provision of the Codified Ordinances of the City of Cleveland Heights. Nothing in this Ordinance is intended to, nor shall it be construed or applied in a manner so as to, negate or conflict with any provision of the Charter of the City of Cleveland Heights.

SECTION 4. Notice of passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to permit certain public bodies of the City to conduct business by electronic means in a continued attempt to curtail and minimize the spread of COVID-19, including the highly contagious Delta Variant. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.



JASON S. STEIN
President of Council



AMY HIMMELEIN
Clerk of Council

PASSED: September 13, 2021