

EMERGENCY ORDINANCE NO. 20-07

An Emergency Ordinance of the City Council of the City of Whitefish, Montana, amending Ordinance Nos. 20-04 and 20-06 to clarify rules for public participation in remote meetings, waiving second reading.

WHEREAS, on March 11, 2020, the World Health Organization declared a global pandemic due to the spread of Novel Coronavirus "COVID -19;" and

WHEREAS, on March 12, 2020, Governor Steve Bullock declared a state of emergency related to COVID-19; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency related to COVID-19; and

WHEREAS, on March 16, 2020, the City of Whitefish adopted emergency Ordinance No. 20-04, enacting measures to reduce the spread of COVID-19 and waiving a second reading; and

WHEREAS, among other things, Ordinance No. 20-04 provided that in the event the Flathead City-County Health Department directed or suggested a moratorium on public gatherings, or in the event of a confirmed case of COVID-19 within Flathead County, City Council and Planning Board meetings would be cancelled through April 30, 2020; and

WHEREAS, on March 18, 2020, the Flathead County Board of Commissioners declared a state of emergency related to COVID-19; and

WHEREAS, on March 19, 2020, Mayor John Muhlfeld declared a state of emergency related to COVID-19; and

WHEREAS, on March 24, 2020, Governor Steve Bullock issued a Directive Implementing Executive Orders 2-2020 and 3-2020, providing measures for the operation of local government ("the Directive"); and

WHEREAS, the Directive allows local governments to modify office hours and certain conditions of employment dictated by state law, to toll and hold in abeyance certain statutory deadlines dictated by state law and other regulations, and to find ways to provide for the right of public participation consistent with social distancing, including virtual participation; and

WHEREAS, on March 27, 2020, the Montana Attorney General issued a letter of advice stating local governments may conduct public meetings by means including electronic communication or other forms of remote participation during the COVID-19 emergency and approving guidelines for such meetings; and

WHEREAS, on April 6, 2020, the City adopted Ordinance No. 20-06 to amend Ordinance No. 20-04 and thereby implement the Directive and the Montana Attorney General's letter of advice; and

WHEREAS, in accordance with Ordinance No. 20-06, the City has held City Council and Planning Board meetings remotely and provided for public participation; and

WHEREAS, the City desires to clarify the guidelines set forth in Ordinance No. 20-06 regarding public participation in order to conduct more effective and efficient remote meetings; and

WHEREAS, § 7-5-104, MCA, authorizes the City Council to waive the second reading of an ordinance passed in response to an emergency and provides such ordinance is effective upon passage; and

WHEREAS, an emergency ordinance requires a two-thirds vote of the whole City Council for passage and remains effective for no more than 90 days; and

WHEREAS, §§ 2-3-103 through 2-3-111, MCA, provide that public agencies must ensure that prior to a final agency decision is taken that is of significant interest to the public, adequate notice is given and the public is allowed a reasonable opportunity to participate; and

WHEREAS, § 2-3-112, MCA, provides §§ 2-3-103 through 2-3-111, MCA, do not apply to an agency decision that must be made to address an emergency situation affecting the public health, welfare, or safety; and

WHEREAS, COVID-19 constitutes an emergency situation affecting the public health, safety and general welfare and implementing the Directive, attached hereto as Exhibit A, is in the best interests of the City and its inhabitants; and

WHEREAS, amending Ordinance Nos. 20-04 and 20-06 to clarify the rules for public participation in remote meetings is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whitefish, Montana:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: Ordinance Nos. 20-04 and 20-06 are hereby amended as set forth in Exhibit A. All other portions of the Ordinances remain unchanged.

Section 3: This Emergency Ordinance shall take effect immediately upon its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 4TH DAY OF MAY 2020.



John M. Muhlfeld, Mayor

ATTEST:



Michelle Howke, City Clerk

Exhibit A

Section 4: During City Council and Planning Board meetings, occupancy of the City Council Chambers will be limited in accordance with the recommendations of the CDC (or other federal authority) or as otherwise dictated by the Flathead City-County Health Department or state or federal law. If occupancy at meeting is greater than that recommended or dictated, the City will accommodate individuals in other locations within City Hall and provide the opportunity for public comment in a rotating manner. The public is encouraged to submit written comments ~~rather than physically attend meetings~~ prior to the packet deadline. ~~Any written comments received after the packet has been published but prior to the start of the meeting will be read aloud at the meeting by City Staff.~~ All written comments received prior to the packet deadline will be included in the packet and available on the City's website for City Council, Planning Board, and Architectural Review Committee meetings. All comments received up to one hour prior to the scheduled meeting will be provided to the City Council, Board or Committee members and appended to the packet following the meeting. Public comment by those attending the meeting "live" via WebEx will be limited to three minutes per individual. At the end of "live" comment, the City Clerk, or designee, will read the name and address of each individual providing written comment and state whether such individual supports or opposes the proposal/application before the City Council, Board or Committee.