



CITY OF BOSTON IN CITY COUNCIL

ORDINANCE PROVIDING FOR REMOTE PARTICIPATION IN MEETINGS OF PUBLIC BODIES

- WHEREAS*, On March 10, 2020, Governor Baker declared a state of emergency due to the outbreak of the 2019 novel Coronavirus (COVID-19), and on March 12, 2020, he issued an Executive Order Suspending Certain Provisions of the Open Meeting Law enabling public bodies to carry out responsibilities while providing remote access to the public; *and*
- WHEREAS*, On May 28, 2021, Governor Baker issued an Executive Order, effective June 15, 2021, terminating the Massachusetts state of emergency and the March 2020 Executive Order suspending provisions of the Open Meeting Law; *and*
- WHEREAS*, On June 16, 2021, Governor Baker signed into law Chapter 20 of the Acts of 2021, section 20 of which extended provisions for remote meetings and hearings by public bodies until April 1, 2022, and on February 12, 2022, Governor Baker signed into law Chapter 22 of the Acts of 2022, sections 8 through 10 of which further extended provisions for remote meetings and hearings by public bodies until July 15, 2022; *and*
- WHEREAS*, The Governor's Executive Orders and guidance of the Attorney General demonstrate the capability of permitting the convening of a public body through virtual means and allow real-time public access to the activities of the public body; *and*
- WHEREAS*, Many important functions of municipal governance are executed by public bodies in meetings that are open to the public in order to ensure active public engagement with, contribution to, and oversight of the functions of government; *and*
- WHEREAS*, Since prior to the COVID-19 pandemic, meetings of certain public bodies in the City of Boston are already broadcast live on Comcast Xfinity, RCN, Verizon Fios, and online, but these provisions do not make remote participation through public comment possible; *and*
- WHEREAS*, Remote access is the latest instance of universal design—alongside curb cuts, elevators, closed captioning, audiobooks, and other features—that began as accommodations and expanded to universal popularity as permanent features eliminating hindrances; *and*
- WHEREAS*, Remote access to meetings of public bodies serves to advance the public good, removing long-standing barriers to participation in policymaking for residents with disabilities, seniors, people with limited access to transportation, and people with work and family obligations that otherwise prevent them from spending hours at municipal buildings; *and*
- WHEREAS*, Live streaming and remote participation allow for members of the public to tune in and participate remotely from every corner of the City of Boston, regardless of what conditions may keep them from physically attending in-person; *and*
- WHEREAS*, COVID-19 pandemic-related provisions for remote participation demonstrate the potential for the future of work and the importance of equitably accessible civic engagement in public processes through virtual access in a 21st century democracy; *and*
- WHEREAS*, For some, remote participation is a matter of convenience, but for too many, such options opened the door to meaningful engagement for the first time, and as pandemic restrictions are lifted, it is imperative to codify remote participation provisions beyond the July 15, 2022 deadline, particularly for those previously left out; *NOW, THEREFORE*

Be it ordained by the City Council of Boston, as follows:

SECTION 1.

The City of Boston Code, Ordinances, Chapter I, General Provisions, is hereby amended by inserting after Section 1-7, the following new section: –

Section 1-8 Provisions for Remote Participation in Meetings of Public Bodies.

Section 1-8.1 Definitions.

For the purposes of this section the following words shall, unless the context otherwise requires, have the following meanings:

- a. *Adequate, alternative means of public access* and *Remote participation* shall mean measures that provide transparency and permit timely and effective remote public access to the deliberations of a public body; provided, however, such means include but are not limited to providing public access through telephone, internet, or satellite-enabled audio or video conferencing or any other technology that enables the public to clearly follow and participate in the proceedings of the public body as they are occurring, and must be available without any subscription, toll, or similar charge.
- b. *Emergency* shall mean a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.
- c. *Interpretation* and *Translation* shall be consistent in meaning as appearing in Chapter 6, Section 10, Language and Communications.
- d. *Open session* shall mean all portions of public body meetings, except those Executive Sessions provided for in Section 21 of the Open Meeting Law, G.L. c. 30A.
- e. *Post Notice* shall mean to place a written announcement of a meeting on a bulletin board, electronic display, website, or in a loose-leaf binder in a manner conspicuously visible to the public, including persons with disabilities, at all hours.
- f. *Public body* shall have the meaning consistent with that of G.L. c. 30A § 18, namely, a multiple-member agency, authority, board, commission, committee or subcommittee, or other instrumentality of the City or Commonwealth, however created, elected, appointed or otherwise constituted, established to serve a public purpose; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.
- g. *Public comment* or *Public testimony* shall mean oral, recorded, or written input submitted by members of the public to a public body regarding the deliberation of proposed legislation, policies, quasi-judicial proceedings, regulations, or other business within the duties of a public body; provided, however, that such public comment occurs at the appropriately designated time, if any, of a public meeting as determined by the presiding officer of the public body.
- h. *Public meeting* shall mean any meeting of a City governing body, agency or board conducted pursuant to G.L. Chapter 30A, Sections 23A and 23B, Chapter 34 Sections 9F and 9G and Chapter 39 Sections 23A and 23B.

Section 1-8.2 Applicability.

- a. This ordinance shall apply to certain public bodies conducting business relating to and on behalf of the City of Boston, including authorities, boards, commissions, committees, councils, task forces, advisory groups, panels, foundations, trusts, initiatives, offices and programs, inclusive of subcommittees or other related divisions, whether or not they are under the jurisdiction of a cabinet chief or officer.

- i. This ordinance shall apply, but not be limited, to the following public bodies:
 1. Age Strong Commission (*CBC Ord. § 12-3*)
 2. Art Commission (*St. 1890, ch. 122; CBC Ord. § 5-9, § 15-9*)
 3. Board of Health (*G.L. c. 111; St. 1995, c. 147*)
 4. Cannabis Board (*CBC Ord. § 8-13.4*)
 5. City Council (*St. 1951, c. 376, s. 1.11; St. 1982, c. 605, s. 1*)
 6. Civic Design Commission (*St. 1956, c. 665; Zoning Code, Article 28*)
 7. Commission for Persons with Disabilities (*CBC Ord. § 12-4*)
 8. Community Preservation Committee (*G.L. c. 44B, s. 5; CBC Ord. § 8-12*)
 9. Fair Housing Commission (*CBC Ord. § 10-3*)
 10. Landmarks Commission (*St. 1975, c. 772*)
 11. Licensing Board (*G.L. c. 138; G.L. c. 140; CBC Ord. § 14-1*)
 12. Neighborhood Housing Trust (*St. 1987, c. 371; CBC Ord. § 10-8*)
 13. Neighborhood Jobs Trust (*St. 1987, c. 371; CBC Ord. § 12-11*)
 14. Parks and Recreation Commission (*CBC Ord. § 7-4*)
 15. Planning Board (*G.L. c. 41, s. 81*)
 16. Public Facilities Commission (*St. 1966, c. 642; CBC Ord. § 8-1*)
 17. School Committee (*St. 1991, c. 108*)
 18. Zoning Board of Appeal (*St. 1966, c. 642; CBC Ord. § 9-4*)
 19. Zoning Commission (*St. 1956, c. 665; CBC Ord. § 9-5*)
- ii. All other public bodies are encouraged to endeavor to provide for remote participation.

- b. Public bodies which are considered quasi-public, independent, or component units of the City of Boston, regardless of their respective structural or financial degree of relationship to the City, and expend any appropriation of City funds or are delegated responsibilities of the City by means of memorandum of agreement, cooperation agreement, or otherwise, shall be subject to the intent of this section and the governing board of such a public body shall adopt bylaws to the effect of the provisions of this section and promulgate such policies as adopted.

Section 1-8.3 *Provision of Remote Participation.*

- a. Except as provided for in Section 21 of the Open Meeting Law, G.L. c. 30A, public meetings of a public body in the City of Boston shall be open to the public in a place that is open and physically accessible, and offer remote participation via adequate, alternative means of public access.
- b. The technology employed for remote participation through adequate, alternative means of public access shall be accessible to persons with disabilities and shall be used in such a manner as to provide equal opportunity to such persons.
- c. A request for translation services shall be made in a timely manner in coordination with the department of language and communication access and the public body.
- d. 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; provided, however, that nothing in this ordinance shall be construed to interpret participation to mean the provision for a member of the public to address a public body unless public comment is provided for by the presiding officer.
- e. 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 their 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 the meeting.

- f. 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 when there is a breach of the peace committed during the meeting.
- g. Members of the public otherwise participating remotely in a meeting of a public body may be excluded from participation in an executive session of the public body during that meeting if the executive session is convened and held in compliance with requirements of the Open Meeting Law.

Section 1-8.4 *Technical Assistance and Implementation Guidelines.*

- a. The chairperson or authorized staff person of the public body may consult the Chief Information Officer and Chief of Community Engagement for technical assistance and guidance in implementing practices related to this section.
- b. The Chief Information Officer, Chief of Community Engagement, and Director of Broadband and Cable shall establish and promulgate guidelines, procedures, and protocols, as well as arrange personnel trainings for implementation of this section, as necessary to effectuate the requirements of the ordinance.

Section 1-8.5 *Publication of Meeting Agenda and Minutes.*

- a. All public bodies are encouraged to endeavor to post notice as early as practicable prior to a meeting and include 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.
- b. Minutes of an open session shall be posted in an online and accessible format on the City website as soon as practicable upon conclusion of the proceedings in accordance with G.L. c. 30A, § 22(a).

Section 1-8.6 *Audio and Video Recording of Meetings and Publication of Recordings.*

- a. Public bodies shall make available a video or clearly audible audio recording of an open session of a meeting, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform attendees of the location to access recordings.
- b. All video and audio recordings of open sessions described shall be posted in an online and accessible format on the City of Boston website as soon as practicable upon conclusion of the proceedings.

SECTION 2.

The provisions of this ordinance are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions, which remain in full force and effect.

SECTION 3.

The provisions of this ordinance shall be effective immediately upon passage.