

FLOOR SUBSTITUTE

BILL NO. 20-84

ORDINANCE NO. 20.84

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, ADOPTING A NEW SECTION 110.300 OF THE OSAGE BEACH CODE OF ORDINANCES TO MANAGE MEETINGS OF THE BOARD OF ALDERMEN HELD BY VIDEO CONFERENCE, VOTES OFFERED BY VIDEO CONFERENCE AND PUBLIC COMMENTS OFFERED AT PUBLIC HEARINGS AND THE BOARD'S PUBLIC COMMENT PERIOD DURING SAID MEETINGS AND AMENDING SECTIONS 110.110, 110.160, 110.210 AND 110.260 AS NECESSARY FOR THE IMPLEMENTATION OF MEETINGS OF THE BOARD OF ALDERMEN VIA VIDEO CONFERENCING TECHNOLOGY

WHEREAS; video conference meetings have been necessary in the past due to the COVID-19 Pandemic and,

WHEREAS, the Board of Aldermen hereby finds that the hardware and software technology exists and is constantly under change and improvement to allow for meetings of the Board remotely through the internet which technologies allow for public observation and participation; and,

WHEREAS, the Board of Aldermen conclude that it is in the best interest of the city to set out the terms and condition of remote meeting, remote participation by individual board members and participation over the internet by members of the public and that such an ordinance is necessary to regulate and codify such terms and procedures:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. That a new Section 110.300 titled Board of Aldermen Meetings Utilizing Video Conference Technology of the Osage Beach Code of Ordinances be and is hereby enacted as follows:

Section 110.300: Board of Aldermen Meetings Utilizing Video Conference Technology.

1. Policy Statement. It is the intention of the City to utilize video conference technology in connection with meetings of the Board of Aldermen for the following purposes:
 - a. To expand the opportunities of the citizens and members of the public to access Board meetings as those meetings are happening and to observe the Board of aldermen during the public meetings;
 - b. The primary purpose of attendance by video conference connection is to accommodate the Board of Aldermen and allow meetings to occur when

circumstances would otherwise prevent the physical attendance of a member or members of the Board;

- c. To ensure that members of the public have access to the public hearing opportunities for land use, budget, water and sewer fees and all other matters where required by state statute;
- d. To ensure that members of the public may access the meeting online and make comments within the public comment period under reasonable terms and conditions consistent with the Board performing its functions;
- e. A further purpose of attendance by video conference is to ensure that all members may participate in business of the public governmental body that is an emergency or highly important in nature and arose so quickly as to make attendance at a regular meeting practically impossible;

2. Definitions

- a. "Video conference" or "videoconferencing" shall refer to a means of communication where at least one member of a public governmental body participates in the public meeting via an electronic connection made up of three components:
 - i. a live video transmission of the member of the public governmental body not in physical attendance;
 - ii. a live audio transmission allowing the member of the public governmental body not in physical attendance to be heard by those in physical attendance; and
 - iii. a live audio transmission allowing the member of the public governmental body not in physical attendance to hear those in physical attendance at a meeting.

3. Interruption in transmission.

- a. If at any time during a meeting one or more of the elements of a video conference becomes compromised or if any participants are unable to see, hear, or fully communicate, then the video conference participant is deemed immediately absent and this absence should be reflected in the minutes.
- b. A video conference participant's absence may compromise a quorum in which case the applicable Missouri laws shall take effect regarding a broken quorum.
- c. Any elected official for whom transmission has lost video but for which audio continues may continue to participate in the meeting, except that no elected official shall vote via video conference unless both audio and video connections are present and fully functional at the time of their vote. All

matters put to a vote shall be decided immediately upon the end of the roll call and no votes may be held open or delayed because of transmission difficulties.

4. Use of Video Conference Attendance. A member of the Board of Aldermen shall not attend more than four meetings via video conference in a rolling twelve-month period, unless excused by the Mayor. This section shall not apply to any meeting in which a majority of the members of the Board of Aldermen participate through video conference as defined in Section 110.300.2.
5. Members of the Board of Aldermen and the Mayor must appear personally for swearing in before taking their offices.
6. Physical Location. Members of the public may participate in a public meeting of the Board of Aldermen via video conference under the following terms and conditions:
 - a. Public hearing or comments required by statutes shall be heard and reflected in the minutes as if made in a physical present meeting. Member of the public shall have the opportunity to make comment on any matter for which a public hearing is required by law, in person or through video conference for a period of three minutes, or more when permitted by the Mayor. The Mayor shall have the authority to terminate any public comment offered in person or via video conference after three minutes.
 - b. Citizen comments. Members of the public shall have the opportunity to make comment on any matter in person or through video conference for a period of three minutes, or more when permitted by the Mayor. The Mayor shall have the authority to terminate any public comment offered in person or via video conference after three minutes.
 - c. The members of the public wishing to attend a meeting, and elected officials not participating via videoconferencing of a meeting, shall participate at the physical location where meetings of the Board of Aldermen are typically held, or as provided in a notice provided in accordance with the Sunshine Law.
 - d. The communication equipment at the physical location of the meeting must allow for all meeting attendees and members of the public to see, hear, and fully communicate with the videoconferencing participant.
7. Voting.
 - a. Aldermen physically present. Members of the Board of Aldermen attending a public meeting in person are deemed present for purposes of participating in the meeting upon responding in the affirmative to the roll call for attendance at the beginning of the meeting, or when they later announce their presence. They may then vote in all voice and roll call votes.
 - b. Aldermen not physically present. Aldermen attending a public meeting of the Board of Aldermen via video conference are deemed present for purposes of

participating in the meeting when they respond in the affirmative to the roll call at of attendance at the beginning of the meeting or later announce their presence. Such aldermen may then participate in a voice or roll call vote to the same effect as aldermen in physical attendance.

8. If any component of the video conference communication fails during the meeting, the member attending the meeting by video conference whose connection failed shall be deemed absent immediately upon such failure, and if the Board was in the act of voting, the voting shall stop until all of the components of video conference attendance are again restored and the video conference participant's presence is again noted in the minutes
9. Closed Meetings. No aldermen may participate in any closed session by video conference or other electronic means.
10. Minutes. The minutes of any meeting, whether in open or in closed session, should reflect the member, if any, participating via video conference; the members in physical attendance; and which members, if any, who are absent.
11. Emergency meetings. If emergency circumstances create impossibility for the Aldermen or Mayor to physically attend a meeting of the Board, the Board of Aldermen may meet, and if necessary, vote, by video conference. All such meeting shall be conducted in accordance with Chapter 610 of the Revised Statutes of Missouri.

Section 2. That Section 110.110 titled Regular Meetings and is hereby repealed and a new section 110.110 titled Regular Meetings be and is hereby enacted as follows:

The Board of Aldermen shall meet in regular session in the council room of the City Hall at the hour of 6:00 P.M. on the first and third Thursdays of each month. When any such meeting day is a holiday, the regular meeting shall be held at such time as may be provided by the Board. The Board may, by motion, dispense with any regular meeting, but at least one (1) meeting, regular or special, must be held in each calendar month. A video conference meeting or any meeting in which some or all members participate through video conference, held pursuant to Section 110.300, shall count as a regular public meeting.

Section 3. That Section 110.160 titled Compelling Attendance and is hereby repealed and a new section 110.110 titled Compelling Attendance be and is hereby enacted as follows:

In case that a lesser number than a quorum shall convene at a regular or special meeting of the Board of Aldermen, the Mayor is authorized to direct the Chief of Police or other City Officer to send for and compel the attendance of any or all absent members upon such terms and conditions and at such time as such majority of the members present shall agree. Members attending via video conference pursuant to Section 110.300 shall count as part of the quorum so long as the video and audio links joining the member to the meeting are functional.

Section 4. That Section 110.210 titled Permission Required for Members to Leave the Meeting and is hereby repealed and a new section 110.210 titled Permission Required for Members to Leave the Meeting be and is hereby enacted as follows:

No member of the Board of Aldermen may leave the council chamber while in regular or special session without permission from the Presiding Officer. For members attending via video conference this section shall not apply.

Section 5. That Section 110.260 titled Voting Required and is hereby repealed and a new section 110.110 titled Voting Required be and is hereby enacted as follows:

Every member of the Board of Aldermen shall vote upon every question. A member may abstain from voting only after disclosure to be recorded in the minutes, of the actual or potential conflict of interest.

Section 6. Calling a meeting by Video conference. The Mayor or the Board of Aldermen acting by resolution may call or designate a meeting to take place by video conference after proper notice in accordance with Chapter 610 of the Revised Statutes of Missouri and Section 117.040 of this Code.

Section 7. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 8. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 9. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: December 17, 2020 READ SECOND TIME: January 7, 2021

I hereby certify that Ordinance No.20.84. was duly passed on January 7, 2021 by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 6

Nays: 0

Abstentions: 0

Absent: 0

This Ordinance is hereby transmitted to the Mayor for his signature.

Jan. 7, 2021
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Edward B. Rucker
Edward B. Rucker, City Attorney

I hereby approve Ordinance No.20.84.

John Olivarri
John Olivarri, Mayor

Jan. 7, 2021
Date

Tara Berreth
Tara Berreth, City Clerk