

SUBSTITUTE BILL NO. 20-65

AN ORDINANCE ADJUSTING MAYORAL SUCCESSION, THE PROCEDURES FOR DECLARING OPEN AND CLOSED EMERGENCY MEETINGS, AND THE PROCESS FOR RESTRICTING PUBLIC ACCESS TO MEETINGS DURING EMERGENCY SITUATIONS IN THE CITY OF LEE'S SUMMIT, MISSOURI, PROVIDING FOR THE CODIFICATION OF THE SAME, AND INCLUDING AN EMERGENCY CLAUSE.

WHEREAS, the spread of novel viruses, the occurrence of natural and man-made disasters, and other emergent events that threaten the health, safety and welfare of the community can create emergency situations that adversely affect the conduct of regular City operations and the conduct of City Council meetings; and

WHEREAS, the City Council recognizes the necessity for anticipating and making advance provisions to care for the unusual and extraordinary burdens imposed on the City by disasters and emergencies, and to meet such situations, it is the intention of the City Council to adjust the rules to deal with leadership and mayoral succession and the procedures for holding open and closed meetings during such emergency situations.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, AS FOLLOWS:

SECTION 1. **Mayoral Succession**. In the event that a state of emergency has been declared in the City pursuant to Chapter 10 of the Code of Ordinances (Emergency and Disaster Planning and Response), or in the event that the City Manager and the Fire Chief determine that an undeclared state of emergency exists in the City where the Mayor and the Mayor Pro Tempore are unable to perform the functions and duties of their positions due to absence, incapacitation or disability, then the following shall apply to the succession and exercise of mayoral powers as authorized by the City Charter and the Code of Ordinances:

A. **First Acting Mayor**. In the event that the person holding the office of Mayor and Mayor Pro Tempore shall both be unable to perform the functions and duties of their position due to absence, incapacitation or disability, the Councilmember with the longest continuous tenure holding a councilmember seat within the last eight (8) year period, measured by the number of continuous days that such person has filled any councilmember seat, shall serve as the First Acting Mayor until any of the persons holding the office of Mayor or Mayor Pro Tempore returns to service and is able to perform such functions and duties. In the event that more than one Councilmember has the same amount of continuous tenure in a councilmember seat, the Councilmember selected to serve as First Acting Mayor shall be determined by drawing lots among such persons.

B. **Second Acting Mayor**. In the event that person holding the office of Mayor, Mayor Pro Tempore and First Acting Mayor shall all be unable to perform the functions and duties of their position due to absence, incapacitation or disability, the Councilmember with the next longest continuous tenure holding a councilmember seat within the last eight (8) year period, measured by the number of continuous days that such person has filled any councilmember seat, shall serve as the Second Acting Mayor until any of the persons holding the office of Mayor, Mayor Pro Tempore or First Acting Mayor returns to service and is able to perform such functions and duties. In the event that more than one Councilmember has the same amount of continuous tenure in a councilmember seat, the Councilmember selected to serve

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as Second Acting Mayor shall be determined by drawing lots among such persons. The process of determining the person who shall occupy the position of Second Acting Mayor shall continue through the rank of the remaining available councilmembers until an available, capable and able councilmember is identified to fill such position.

SECTION 2. Voting during Emergency Situations.

A. If a City Council meeting has not been declared to be an emergency meeting, then all roll call votes may be cast by members who are physically present or who are participating by videoconferencing.

B. In the event that a state of emergency has been declared in the City pursuant to Chapter 10 of the Code of Ordinances (Emergency and Disaster Planning and Response), any open or closed meeting of the City Council may be declared to be an emergency meeting of the City Council by the Mayor or the Mayor Pro Tempore, First Acting Mayor or Second Acting Mayor as such positions may be filled due to the absence, incapacitation or disability of the Mayor, as a result of the ongoing and continuous threat to the health, safety and welfare of the community. At each emergency open or closed meeting, all votes may be conducted using the emergency voting procedures as authorized by in the Sunshine Law as set forth in Chapter 610 of the Revised Statutes of Missouri, which provides that roll call votes may be cast by a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via video conferencing, telephone, facsimile, internet, or any other voice or electronic means. The minutes of each emergency such meeting shall state that the meeting was conducted as an emergency meeting which justifies a departure from the normal requirements due to the ongoing and continuous threat to the health, safety and welfare of the community. Emergency meetings may be held by teleconferencing as allowed by the Sunshine Law in Chapter 610 of the Revised Statutes of Missouri.

SECTION 3. Limiting Public Attendance During Emergency Situations. In the event that House Bill 2725, which is attached hereto as **Exhibit A** and incorporated herein by reference, or an amended version of such bill that deals with the same subject matter, is adopted by the Missouri Legislature after this Ordinance is passed by the City Council, then the following provisions shall apply to invoke the authority granted by such bill to restrict public access to open meetings of the City Council provided that the City Council meeting to which a public restriction applies is being live streamed online or accessible to the public within twenty-four hours after the meeting is concluded:

A. The City Council may, by motion approved by a majority of Councilmembers in attendance at a City Council meeting where a quorum is in attendance by being physically present at the meeting or in attendance by electronic means, restrict public access to future meetings of the City Council during the period of time that a declaration of emergency which has been declared by the governor or general assembly due to an outbreak of contagious illness is in effect. If approved, this restriction shall last (1) for the duration of time stated in the motion or (2) if no duration is stated, then for the duration of the declaration of emergency by the governor or general assembly or until such restriction is removed by a subsequent vote of the City Council where a quorum is in attendance by being physically present at the meeting or in attendance by electronic means. In the alternative, the motion adopted by the

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City Council may apply to one or more specific future City Council meetings, which shall be stated in the motion.

B. The Mayor or his/her successor as set forth in Section 1 of this Ordinance may issue an executive order which restricts public access to all future meetings of the City Council, or one or more specific future City Council meetings, during the period of time that the declaration of emergency is in effect which has been declared by the governor or general assembly. If approved, this restriction shall last for the duration stated in the executive order, but not longer than the period of the declaration of emergency by the governor or general assembly. The Mayor or his/her successor as set forth in Section 1 of this Ordinance may issue a subsequent executive order which provides for the early termination of a prior executive order which limited public access to meetings of the City Council.

C. In the event of any conflict between an executive order of the Mayor or the action of the City Council to restrict public access to City Council meetings, the action of the City Council shall control.

D. In the event that public access to City Council meetings is restricted as set forth in paragraphs A or B of this Section, the following shall apply:

1. The public shall not be allowed to physically attend the meeting. City staff shall be required to attend as directed by the City Manager.

2. The public shall be allowed to submit written testimony on any matter to be considered by the City Council at the meeting. The written testimony shall be presented at the meeting and made a part of the official record. The written testimony shall also be made available to the public within forty-eight hours after the conclusion of the meeting.

3. Bona fide credentialed members of the press shall be allowed to physically attend any meeting in which public attendance is limited pursuant to this Section.

4. All other rules and procedures which apply in non-emergency situations and which do not conflict with this Ordinance shall apply to the meeting.

SECTION 4. **Emergency Ordinance**. The City Council hereby declares that this ordinance is deemed to be an emergency ordinance and may be passed on its day of introduction due to the outbreak of the pandemic coronavirus in the United States and the imminent threats to the health, safety and welfare of the community, due to the declaration of emergency by the Governor of Missouri due to this health pandemic, and due to the need to immediately institute changes to the City Code to provide for the peaceful succession of mayoral powers in the event of the absence, incapacitation or disability of the Mayor or the Mayor Pro Tempore and the need to establish alternative procedures for conducting certain emergency meetings of the City Council.

SECTION 5. This Ordinance shall be in full force and effect from and after the date of its adoption, passage, and approval by the Mayor.

SECTION 6. Sections 1 and 2 of this ordinance shall be codified in Chapter 10 of the Code of Ordinances as new Sections 10-11 and 10-12, respectively.

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SECTION 7. Should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

PASSED by the City Council of the City of Lee's Summit, Missouri, this 17th day of March, 2020.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of March, 2020.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian Head*

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EXHIBIT A

House Bill 2725

[Attached]