

August 14, 2020

Ordinance Number 20-06 passed by City Council allows for council members to continue meeting from their basements, while Montgomery, Milford and Loveland city councils have been meeting in their respective council chambers, PUBLIC MEETINGS!

City Managers report, April 13th justifying ordinance number 20-06, effectively ending public meetings.

Home Rule Charter, shredded by Madeira City Council members.

ORDINANCE NO. 20-06

**AMENDING PORTIONS OF SECTION 30.02 OF THE MADEIRA CODE OF
ORDINANCES; AUTHORIZING REMOTE ATTENDANCE, PARTICIPATION, AND
VOTING FOR MEMBERS OF PUBLIC BODIES; AND ESTABLISHING GUIDELINES
FOR CONDUCTING MEETINGS IN THE CITY OF MADEIRA, OHIO**

WHEREAS, there has been an outbreak of Coronavirus Disease 2019 (“COVID-19”) across the United States of America and in the State of Ohio; and

WHEREAS, thousands of cases of COVID-19 have been reported across the State of Ohio, including many in Hamilton County; and

WHEREAS, the President of the United States Donald J. Trump has declared a national State of Emergency and the Governor of the State of Ohio, Michael DeWine, has declared a State of Emergency in Ohio (Executive Order 2020-01D); and

WHEREAS, by Director’s Order dated March 12, 2020 and pursuant to authority granted to her under R.C. 3701.13, Dr. Amy Action (Director of the Ohio Department of Health) banned mass gatherings and issued guidance pertaining to avoiding the spread of COVID-19; and

WHEREAS, Governor DeWine’s Declaration follows the Center of Disease Control and Prevention “Interim Guidance,” recommending that all employers consider how best to decrease the spread of COVID-19, including the review of guidance from state and local health officials; and

WHEREAS, Governor DeWine signed Am. Sub. H.B. 197 into law, a portion of which expressly authorized: (i) political subdivisions such as the City of Madeira, Ohio (hereinafter, “Madeira” or “City”) to conduct meetings and hearings by means of teleconference, video conference, or any other similar electronic technology; and (ii) members of the Madeira’s public bodies to remotely attend, participate, and vote during such meetings and hearings; and

WHEREAS, Section 12(B) of Am. Sub. H.B. 197 further provides that when the political subdivisions such as Madeira conduct meetings remotely, “[a]ny resolution, rule, or formal action of any kind shall have the same effect as if it had occurred during an open meeting or hearing of the public body,” and that members of Madeira’s public bodies who participate remotely “shall be counted for purposes of determining whether quorum is present;” and

WHEREAS, Section 30.02 of the Madeira Code of Ordinances contains certain provisions relating to the procedure and rules of Council, which Council desires to revise; and

WHEREAS, there is an urgent and immediate need for Madeira to undertake this emergency measure in connection with the foregoing to maintain essential municipal operations, protect lives, homes, and property, and to ensure that basic needs of City residents are met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Madeira, Ohio as follows:

Section 1. While Executive Order 2020-01D remains in effect and for so long as Council determines thereafter to conduct public business allowing for remote attendance, participation, and voting:

(A) The City of Madeira shall conduct all of its public meetings and hearings by means of teleconference, video conference, or any other similar electronic technology.

(B) Members of the City of Madeira's public bodies are hereby authorized to remotely attend, participate, and vote during public meetings and hearings.

(C) Regardless of whether members of Madeira's public bodies participate in person or remotely, such members shall be counted present for purposes of determining whether quorum is present, provided: (i) the member affirmatively responds when roll is called at the outset of the subject meeting or hearing; or (ii) the member's participation is audibly referenced on the record during the meeting or subsequently denoted on the approved minutes for the subject meeting.

(D) At least twenty-four (24) hours in advance of the start of any meeting or hearing, Madeira's public bodies shall provide notification of the time, location, and the manner by which the meeting or hearing will be conducted to the public *via* the City of Madeira's website – www.madeiracity.com, and the City of Madeira's Facebook page; to the news media that have requested notification of a meeting; and to the parties required by the Madeira Code of Ordinances to be notified of a hearing. In the event of an emergency requiring immediate official action, Madeira's public bodies shall immediately provide notification of the time, place, and purpose of the emergency meeting to the news media that have requested notification or, if applicable, to the parties required by the Madeira Code of Ordinances to be notified of an emergency hearing.

(E) Madeira's public bodies shall provide the public access to meetings and hearings commensurate with the method in which the meeting or hearing is being conducted, ensuring the public can observe and hear the discussions and deliberations of all the members of Madeira's public bodies, whether the member is participating in person or electronically.

Section 2. Sections 30.02(A) and (C) of the Madeira Code of Ordinances are hereby repealed, renumbered, and replaced with the following:

(A) *Council Meetings.*

(1) **Definition.** For purposes of Chapter 30 of the Madeira Code of Ordinances, “*Preferred Electronic Platform*” shall mean: the teleconference, video conference, or any other similar electronic technology the City of Madeira specifically selects to conduct its meetings to allow for remote participation.

(2) *Conducting Meetings.* Council shall conduct its regular and special meetings by means of teleconference, video conference, or any other similar electronic technology. Members of Council are hereby authorized to remotely attend, participate, and vote during all public meetings and hearings.

(3) *Quorum.* Regardless of whether a member of Council participates in person or remotely, such member shall be counted present for purposes of determining whether quorum requirements are satisfied, provided: (a) the member affirmatively responds when roll is called at the outset of the subject meeting or hearing; or (b) the member’s participation is audibly identified on the record during the meeting or subsequently denoted on the approved minutes for the subject meeting

(4) *Timing.* Regular Council meetings shall be held on the second and fourth Monday of each month, unless Council exercises discretion to otherwise cancel one of its regular monthly meetings. Regular Council meetings shall convene at 7:30 p.m. In December, there shall be one regular meeting of Council which shall be held during the first week of the month on the day designated by Council or, in an election year, as provided in division (A)(6) below. If a holiday falls on a Monday in which a regular meeting of Council is scheduled, that meeting shall be held on Tuesday of the same week.

(5) *Notice.* At least twenty-four (24) hours in advance of the start of all regular and special meetings, Council shall provide notification of the time, location, and the manner by which the meeting will be conducted to the public *via* the City of Madeira’s website – www.madeiracity.com and the City of Madeira’s Facebook page, and to media that have requested notification of meetings. Such notification shall provide a link to the Preferred Electronic Platform so that the public and media requesting notification can access the discussions and deliberations of Council.

(6) *Installation Meeting.* Council, following its election, shall hold an installation and organizational meeting on the first day of December following such election. Unless notice is provided to the contrary, that meeting shall convene at 7:30 p.m.

(C) *Additional Procedure.* In addition to any legislative procedure prescribed by the City Charter, the following additional rules are hereby adopted for the expeditious functioning of Council.

(1) *Meeting Minutes.* As Council deliberates whether to approve minutes for previous meetings, the proposed minutes need not be read in full. Instead, any member of Council may suggest specific corrections to the proposed meeting minutes, which shall be considered by Council before voting whether to approve the subject minutes.

(2) *Titles and Voting.* Ordinances and resolutions shall be read aloud by title only unless any Council member requests that it be read in full. Attachments or exhibits to ordinances or resolutions need not be read aloud in full unless specifically requested by any Council member. The Clerk of Council shall read ordinances and resolutions as directed by the Chairperson. The vote on any ordinance, resolution or motion shall be by voice on roll call. The vote on the election or confirmation of the appointment of any person to any office shall be by voice on roll call as aforesaid. The Clerk shall call the roll in order that alters the sequence of votes by Council members.

(3) *Consent Agenda.* The agenda for all meetings of Council shall be prepared under the direction of the City Manager. Routine and noncontroversial items appearing on the Council agenda may be designated by the City Manager to signify such items are a part of the consent agenda. There will be no separate discussion of any consent agenda item unless a Council member so requests, in which case, the item will be removed from the consent agenda and shall be acted upon as a separate matter, subject to discussion and debate. In the absence of such request, consent agenda items may be collectively approved by one motion of Council. Any request to remove a matter from the consent agenda must be made prior to the Council vote collectively approving all matters on the consent agenda.

Section 3. Section 30.02(F) of the Madeira Code of Ordinances is hereby repealed, renumbered, and replaced with the following:

(1) *Agendas.* Depending on the nature of the subject meeting, Council may choose to organize its agenda for regular meetings based on the following general outline of items:

- (a) Call to order by Mayor or Vice-Mayor.
- (b) Invocation and/or Pledge of Allegiance.
- (c) Roll call by Clerk.
- (d) Approval of agenda, including adoption of Consent Agenda items.
- (e) Approval of meeting minutes for the preceding meeting.
- (f) Notices of other meetings or upcoming events.

(g) *Public Comment.* The Chairperson may choose to allow members of the public to address Council subject to the following conditions:

(1) In order for an individual to address Council, he or she must: (i) include both first and last name and residential address upon joining the subject meeting through the Preferred Electronic Platform such that the Chairperson and Preferred Electronic Platform moderator can identify the participant among the other meeting attendees; and (ii) provide the Chairperson and Preferred Electronic Platform moderator with advance notice of his or her desire to participate in the public comment portion of the meeting by sending an email to madeirameetings@madeiracity.com at least two (2) hours prior to the commencement of the subject meeting.

(2) The Chairperson may limit public comments to five minutes per person.

(3) After the Chairperson identifies the member of the public who has satisfied the conditions set forth in Subsection (1)(i)-(ii) hereof, the individual should begin their comments by audibly identifying themselves and providing their residential address.

(4) At meetings with large attendance, the Chairperson may impose additional rules based upon the business before Council and the number of individuals wishing to address Council.

(5) The Chairperson shall discourage debate between members of Council and audience members providing public comment, but may refer matters raised during this portion of the meeting to the appropriate committee, or public official.

(h) The Chairperson may acknowledge and reference communications the City or its officials have received, which are determined to be additive to Council's execution of public business.

(i) Reports from Standing Committees: Administration and Personnel; Budget and Finances; Public Works; Safety and Senior Services; Legislative Review and Insurance; Economic Development; Parks and Recreation; Reports of any special committees; and additional reports or announcements of Council members.

(j) Ordinances and resolutions.

(k) Old business.

(l) New business.

(m) Executive session(s) may be placed on the agenda in any order deemed appropriate for the orderly conduct of business by Council.

(n) Adjournment.

(2) *Responsive Agendas*. Notwithstanding the foregoing, Council may choose to reorder or forego discussion pertaining to any of the aforementioned agenda items during any meeting upon affirmative approval of Council. Agendas should conform and be responsive to the Council's need to conduct public business in an expeditious manner.

Section 4. Consistent with requirements articulated by Section 12(C) of Am. Sub. H.B. 197 and the imperatives of this Ordinance, Council hereby directs the Planning Commission and Board of Zoning Appeals, in collaboration with the Law Director and City zoning staff, to pass a Code of Regulations specifying the process (and attendant deadlines) for conducting hearings by means of teleconference, video conference, or any other similar electronic technology such that: (i) members of the Planning Commission and Board of Zoning Appeals may converse with witnesses on the record; (ii) applicants, stakeholders with legal standing to participate in a hearing, or their counsel of record may provide direct testimony and cross examine witnesses; and (iii) the Planning Commission and Board of Zoning Appeals may receive documentary testimony and physical evidence for purposes of preserving the record.

Section 5. In light of the well-known emergency circumstances surrounding the COVID-19 pandemic's impact on communities across Ohio more particularly described in the recitals above, each of which is incorporated herein by this reference, Council – by an affirmative vote of at least five members – hereby dispenses with the requirement that this “[O]rdinance...be read on 3 separate days before its passage,” pursuant to Article III, Section 4 of the Madeira City Charter.

Section 6. Furthermore and given the foregoing, Council – by an affirmative vote of at least five members – also declares the necessity of putting this emergency measure into “immediate force and effect in order to preserve the public peace, order, safety, health or welfare of the municipality, or in order to provide for the usual daily operation of a department or office of the municipality,” pursuant to Article XI, Section 1(B) of the Madeira City Charter.

PASSED ON THE ___ DAY OF ____, 2020 BY THE FOLLOWING _____ VOTE:

YEA:	NAY:	ABSTAIN:	ABSENT:
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Traci Theis			
Nancy Spencer			
Chris Hilberg			
Scott Gehring			
Brian Mueller			
Doug Moormann			

Thomas Henning

Nancy Spencer, Mayor

CERTIFICATE

The undersigned, Clerk of Council of the City of Madeira, hereby certifies this to be a true and exact copy of Ordinance No. 20-__, adopted by the Council of the City of Madeira on _____.

Clerk of Council

**Pursuant to Article XII, Section 3 of the Madeira City Charter, the passage of this measure as an emergency shall not make the referendum inapplicable, however, the emergency measure shall take effect immediately pending any outcome thereof.*

10200127.1

CITY MANAGER REPORT

Thomas W. Moeller

April 13, 2020

We are entering a new world of public meetings as we continue to practice social/physical distancing during the COVID-19 Pandemic. Technology is allowing us to meet from remote locations rather than gathering in the Municipal Building Council Chambers. State Laws have been amended during this emergency period to permit the regular conduct of city business whereas under previous laws, all members of a public body must be present in one location in order to deliberate and vote on matters and legislation. City Council and members of other public bodies are now permitted to deliberate and vote while using technology that allows for "teleconferencing". The public can also view the meeting via this teleconferencing capability. We ask for everyone's patience and understanding as we use this technology. While it is certainly very useful, there are always technical issues that can occur from time to time with Wi-Fi signals and hardware issues, which reduce the clarity of the audio and video of the meeting. We are appreciative of the State of Ohio's action in allowing us to meet remotely to deliberate our more urgent matters that cannot wait until the Pandemic has subsided.

CORRESPONDENCE

- Letter from State of Ohio, Division of Liquor Control regarding Objections to Renewal of a Liquor Permit. This is the annual renewal letter from the State of Ohio that allows local jurisdictions to file an objection to a license renewal of any establishment which has been a "problem" for the community. This may include underage sales/consumption violations, etc. To date, we have no issue with any of the local establishments in that regard.

GUESTS AND REGISTERED VISITORS

- No one has pre-registered to address City Council at this time. *Note: With our use of a teleconferencing platform, we will have the meeting host mute all visitors until this time on the agenda.*

COMMITTEE AND OFFICIAL REPORTS

- Public Works Committee

March 18, 2020

ORDINANCES AND RESOLUTIONS

- **Proclamation. Emergency Declaration Related to COVID-19 Pandemic.** The purpose of this proclamation is to join with the Hamilton County Emergency Management Agency along with all other local jurisdictions to declare an emergency so that any approved federal funding that may be available can be pursued as reimbursements for our expenses related to the pandemic. We have already filed the

CITY MANAGER INTERIM REPORT

Thomas W. Moeller

April 6, 2020

- **COVID -19 Update.** Not much new to report on the City's activities except for the following:
 - ✓ We are keeping track of all COVID-19 related expenses (cleaning supplies, etc.) that will be reimbursable under the Federal Emergency Declaration. As noted previously, it is in our best interest for City Council to approve a Madeira specific emergency declaration in conjunction with the County's declaration. We have received the funding application for reimbursements which will be submitted directly to Hamilton County EMA for processing.
 - ✓ We have directed 1st shift police to increase patrols in the parks to remind any groups that may gather to maintain the social/physical distancing. As of this report, people seem to be complying with this.
 - ✓ We have posted both walking tracks with signs asking residents to observe a "one-way" direction of travel to help maintain the distancing.
 - ✓ We are still operating with nearly all staff in the office. Again, I must thank the staff for their cooperation in keeping our operations ongoing through this time period. We have modified shifts for some positions in the Administrative Offices to maintain distancing. As well, we continue to maintain an increased level of sanitation on common surfaces in the building.
 - ✓ Public Meetings. Lori Thompson, Brian Fox and I are working on a protocol to use teleconferencing for our future public meetings. Brian will be sending a proposed policy to City Council and we will then do a trial run of the system. We would like to do that early this week with the potential for going "live" for a council meeting on April 13th.
- **Euclid Avenue Project.** In case you get questions, the pink and orange paint markings on Euclid between Camargo and Hosbrook are survey locations for surface appurtenances such as catch basins, manholes, valves, etc. These are used to develop and prepare the construction drawings for the street project.
- **Road Salt Update.** We are going to be replenishing our salt supply in the next 2-3 weeks. Our best estimate is that we can have delivered 200 tons. This will fall short by the total of 800 tons our minimum delivery volume (1,000 tons) required by the contract. I have contacted the supplier to make the necessary arrangements to have them store the remaining amounts for the 2020-2021 Winter Season. Cost for storage is estimated to be \$30,000-\$40,000. This is still less expensive than if we had purchased and used the salt in a typical winter season.
- **Muchmore and Hosbrook House Paint.** Dave Ballweg is assisting me with obtaining quotes for painting both structures this year. We are working on this in anticipation of being able to complete the work sometime this summer. With the COVID-19 issues, scheduling with some contractors has been less easily accomplished.

HOME RULE CHARTER

OF

MADEIRA

OHIO



Madeira - Charter**ARTICLE I. PURPOSE, NAME, AND BOUNDARIES**

We, the people of the municipal corporation of Madeira, Ohio, in order to determine for ourselves the form of its government and the manner in which its powers of home rule are to be exercised, do hereby adopt the following as the charter of our municipality.

The present municipality known as the Village of Madeira, Ohio, shall continue to be a body politic and corporate, under the name of the Village of Madeira, or the City of Madeira, as its population requires. The boundaries of the municipality shall upon adoption of this charter be the same as those immediately theretofore existing, but without limitation upon the future exercise by the municipality all of such power and authority as may be provided it by the general laws of Ohio in connection with the change of municipal boundaries by annexation or detachment.

ARTICLE II. FORM OF GOVERNMENT AND MUNICIPAL POWERS

Under the Council-Manager form of government provided by this charter all legislative powers of the municipality, except as reserved in this charter to the electors, shall be vested in an elected Council and the administrative powers of the municipal government shall be vested in a Manager appointed by such Council.

Under this charter the municipality shall have home rule and all the powers of local self-government and all other powers possible for it to have under the Constitution of the State of Ohio, and all powers that now are or may hereafter be granted it by the laws of Ohio.

Except in those cases in which the manner of the exercise of such powers may not be modified by or pursuant to charter or ordinance, they shall be exercised in the manner prescribed by this charter, or, if such manner is not herein prescribed, in such manner as may be prescribed by ordinance, or, if not prescribed by ordinance, in such manner as may be prescribed by general law.

ARTICLE III. COUNCIL**§ 1 MEMBERS AND TERMS.**

The municipal Council shall consist of 7 members, elected at large for a term of 4 years, commencing on the first day of December next after such election, except that for the first election after passage of this charter amendment, 3 members shall be elected for 4 year terms and 4 members shall be elected for 2 year terms. Thereafter, an election shall be held every 2 years. The members of Council shall serve until their successors are chosen and qualified. A member who has served more than half of a term shall be credited with having served that term. A member shall not be eligible to serve more than 3 consecutive terms either as a Council member and/or Mayor.

(Amendment passed by the voters 11-2-1981)

§ 2 QUALIFICATIONS.

Members of Council shall be electors of the municipality and shall, as of the date of their election, have resided therein since at least the next preceding general election.

§ 3 MEETINGS.

Council shall hold not less than one meeting in each calendar month at such time and place as may be designated for its regular meetings by rule or ordinance. In addition, on the first day of December after its election, Council shall hold an installation and organizational meeting. Unless notice is provided to the contrary, that meeting shall be held at 7:30 p.m. at the municipal building. Special meetings may be called by the Mayor or by any three members of Council on notice in writing delivered to each other member in person or left at the Council member's home at least 24 hours in advance thereof.

(Amendment passed by the voters 11-3-1998)

§ 4 QUORUM AND VOTING.

A majority of the members of Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members as provided by ordinance. Every ordinance and every resolution having the force or effect of law shall be read on 3 separate days before its passage, unless such requirement is dispensed with by affirmative vote of at least 5 members of Council. The affirmative vote of at least 4 members, except as otherwise prescribed in this charter, shall be necessary to the passage of any such measure having the force or effect of law, and all votes thereon shall be taken by roll call and the yeas and nays entered upon the journal. Council may adopt rules, not inconsistent with this charter, governing its own proceedings and other matters pertaining to the exercise of its powers and performance of its duties.

§ 5 REMOVALS AND VACANCIES.

During the term of their office, Members of Council shall not be employed by the government of this municipality, but may hold any other compatible public office or employment. Any member who ceases to be a resident of this municipality shall thereby forfeit his office as such. Council may, after notice and hearing, and with the concurrence of five of its members, declare vacant the seat of any member who at any time fails, for 90 days and without reasonable cause, to attend any regular meeting of Council or who is guilty of misconduct in his office as Councilman. When the seat of any member becomes vacant, it shall be filled for the unexpired term by Council, at least 4 four of its members concurring in the election of the successor. If Council fails within 60 days to fill such vacancy, the Mayor shall select the successor.

(Amendment passed by the voters 05-02-2017)