

Offered by Councilors Liz Breadon, Ruthzee Louijeune, Arroyo, Bok, Flaherty, Fernandes Anderson, Murphy, Worrell and Flynn



CITY OF BOSTON IN CITY COUNCIL

AN ORDINANCE PROVIDING REMOTE ACCESS TO MEETINGS OF MUNICIPAL PUBLIC BODIES

- WHEREAS*, At the onset of the COVID-19 pandemic Governor Baker issued an Executive Order Suspending Certain Provisions of the Open Meeting Law which enabled public bodies to hold meetings remotely without a quorum of members physically present at a meeting location, while also providing the public with “adequate, alternative” access to remote meetings; *and*
- WHEREAS*, Upon termination of the state of emergency in June 2021, the Massachusetts Legislature enacted and the Governor approved several special acts temporarily extending suspensions of Open Meeting Law provisions to April 1, 2022, July 15, 2022, and March 31, 2023 [*St. 2021, ch. 20, § 20; St. 2022, ch. 22, § 8-10*]; *and*
- WHEREAS*, The Massachusetts Senate and House of Representatives in February 2023 adopted rules for their respective bodies for the two-year legislative session which include a new hybrid committee hearing structure to allow both in-person and remote participation from legislators and the public; *and*
- WHEREAS*, The provision of remote access to meetings of public bodies by virtual means have allowed real-time public access to the activities of public bodies for nearly the past three years, ensuring active public engagement with, contribution to, and continued 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 have already been broadcast live on Comcast Xfinity, RCN, Verizon Fios, and online, yet such provisions alone do not allow remote access to offering public testimony; *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*, Ensuring remote access to public meetings advances the public good by removing barriers to participation in policymaking for all residents, particularly residents with disabilities, seniors, those with limited transit mobility, and those with work and family obligations making it difficult to commute to a meeting location; *and*

WHEREAS, While the suspension of certain provisions of the Open Meeting Law are due to expire on March 31, 2023, the City of Boston may codify policies ensuring permanent remote access for members of the public to attend and testify at meetings of its several boards and commissions; *and*

WHEREAS, Many boards and commissions are subject to the Open Meeting Law as municipal public bodies of the City of Boston, including those which regularly conduct official City business, such as reviewing applications for permits or periodically convening in an advisory capacity, with certain bodies meeting several times per month and others only holding annual or quarterly meetings; *and*

WHEREAS, Permanent amendments to the Open Meeting Law would be required to continue allowing members of public bodies to participate in meetings remotely, whether in a hybrid format or with all members meeting remotely by virtual means, and several such proposals have been filed in the Legislature; *and*

WHEREAS, Remote access provisions initiated as byproducts of the COVID-19 pandemic demonstrate the potential for the future of government functions to become more equitably accessible through virtual access in a 21st century democracy; *and*

WHEREAS, For some, remote access is a matter of convenience, but for too many, such options opened the door to meaningful engagement for the first time, and it is imperative to codify remote access provisions beyond the March 31, 2023 expiration, 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 Remote Access to Meetings of Municipal 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. *Remote access* means measures that ensure public access to the deliberations and proceedings of a public body for interested members of the public through adequate, alternative means, other than physical presence, which may include 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, without subscription, toll, or similar charge.

- b. *Public body* and *Municipal public body* shall have the meanings consistent with that of G.L. c. 30A § 18, namely, a multiple-member body of the City or Commonwealth subject to enforcement of the Open Meeting Law by the Division of Open Government of the Office of the Massachusetts Attorney General, however created, elected, appointed or otherwise constituted, established to serve a public purpose relating to or on behalf of the City of Boston, regardless of whether the body is under the direct oversight of a cabinet or department chief or officer.
- c. *Public comment* or *Public testimony* shall mean oral, recorded, or written input submitted by members of the public to 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.

Section 1-8.2 *Applicability.*

- a. The provisions of this section shall apply to a municipal public body which regularly conducts five or more public meetings in a given calendar year;
- b. A municipal public body which regularly conducts fewer than five public meetings in a given calendar year may elect to conform to the provisions of this section;
- c. The provisions of this section shall not be construed to require conformity of a committee or subcommittee created to advise or make recommendations to a municipal public body; provided, however, that a public body may elect to adopt the provisions of this section for the proceedings of its committees or subcommittees.
- d. The provisions of subsection 1-8.5(a) relative to notices of public meetings shall apply to all municipal public bodies.

Section 1-8.3 *Provision of Remote Access to Members of the Public.*

- a. All meetings, including executive sessions, of public bodies shall be conducted in accordance with the Open Meeting Law relative to the physical location of members of a multiple-member body in attendance. The presiding officer of a public body and adequate personnel shall be physically present at a meeting or hearing location where in-person public testimony is offered.
- b. A municipal public body, in the conduct of its meetings, shall utilize to the extent practicable online platforms or systems that allow for synchronous, audio-visual communication between the presiding officer and individuals offering testimony remotely. The technology employed for remote access shall provide equal opportunity and reasonable access to persons with disabilities and persons requiring language interpretation or translation services.

- c. The presiding officer of any municipal public body conducting a meeting shall use best efforts to prioritize the testimony of those physically present at the hearing location and may, in their discretion, allow individuals participating in-person a greater amount of time to testify than those participating remotely. This section shall not impose on any public body a general requirement to allow the public to speak or to participate in the deliberations of a public body without being recognized by the presiding officer.
- d. Meetings shall be publicly live-streamed on or through the City website and shall display and transmit, in real time, the audio-visual attributes of public testimony offered remotely.
- e. A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide adequate, alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings; provided, however, that a municipal public body consult the Division of Open Government of the Office of the Massachusetts Attorney General prior to determining that it is unable to provide the public with real time access to a meeting.

Section 1-8.4 *Adoption and Promulgation of Remote Access Provisions.*

- a. Within ninety (90) days of the effective date of this act, a municipal public body subject to the provisions of this section shall, and a municipal public body electing to conform to the provisions of this section at any time may, adopt bylaws or establish administrative policies or procedures providing for remote access to its public meetings.
- b. Within thirty (30) days of the effective date of this act, Corporation Counsel, or their designee, shall draft, approve as to form, and promulgate model language in the form of a vote to be taken by municipal public bodies to order to conform to the provisions of this section by establishing, or directing appropriate City personnel to establish, bylaws, rules, policies, or procedures for providing remote access to meetings of the public body.

Section 1-8.5 *Standards, Technical Assistance, and Implementation.*

- a. All notices of public meetings shall:
 - i. Specify whether there is a remote access component;
 - ii. Specify whether public testimony will be taken, and if it is to be taken, include instructions on how to offer public testimony whether in-person, remotely, in writing, or otherwise;

- iii. Include instructions on how to request disability or language access accommodations; and
 - iv. Specify whether a video recording, minutes, transcript, or other comprehensive record of the proceedings will be made available upon conclusion of the public meeting, and include information on how to locate or request the record.
- b. The Commission for Persons with Disabilities and the Office of Language and Communications Access may respectively establish and promulgate standards and guidelines to ensure equitable remote access to meetings of municipal public bodies.
 - c. The Chief Information Officer, Property Management Board, and Chief of Community Engagement may respectively establish and promulgate standards and guidelines for acquiring and installing necessary technological improvements, arrange training for City personnel, and widely promote to City residents the availability of remote access options for meetings of municipal public bodies.

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.

Filed in City Council: February 24, 2023