

Meeting Notice & Agenda

# MARION CITY COUNCIL

Thursday, March 26, 2020 – 5:15 p.m.

Marion City Hall, 217 South Main Street, Marion, KY

## Special Meeting

Call to Order

## Business Agenda

1. Municipal Order #20-01 entitled, "CITY OF MARION, KENTUCKY PROVIDING FOR LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT"
2. Municipal Order #20-02 entitled, "A MUNICIPAL ORDER CONCERNING CITY COUNCIL MEETING PROTOCOLS FOR NOVEL CORONAVIRUS (COVID-19)"
3. Adjourn

**PURSUANT TO KRS 61.826 and OAG 20-05, THE STATE OF EMERGENCY REGARDING THE THREATS TO PUBLIC HEALTH PRESENTED BY THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC, AND MUNICIPAL ORDER, THIS MEETING OF THE MARION CITY COUNCIL WILL BE CONDUCTED BY VIDEOCONFERENCE. ALL CITY COUNCIL MEETINGS MAY BE ATTENDED BY THE PUBLIC BY VIEWING THE VIDEO CONFERENCE AT THE CITY'S YOUTUBE FEED ONLINE AT:  
<https://www.youtube.com/watch?v=FnuLsVbaWQo>**

MUNICIPAL ORDER. 20-\_\_\_\_\_  
CITY OF MARION, KENTUCKY  
PROVIDING FOR LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

WHEREAS, the President signed into law the “Families First Coronavirus Response Act” to assist with the impact of COVID-19, employees may be eligible for additional leave under the law;

WHEREAS, to comply with the temporary leave requirements, the City of Marion, Kentucky is altering its leave policy for city employees;

NOW, THEREFORE, BE IT ORDERED AS FOLLOWS:

1. Pursuant to the Emergency Paid Sick Leave Act, all employees are eligible for two weeks of paid leave at their regular rate of pay for the following reasons. Eligible full-time employees will receive up to eighty (80) hours of paid sick leave. Eligible part-time employees will receive pay based on the average number of hours worked over the last six months. The Act allows the employers to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave.
  - a. Subject to a federal, state or local quarantine or isolation order related to COVID-19;
  - b. Advised by a healthcare provider to self-quarantine due to COVID-19 concerns;
  - c. Experiencing COVID-19 symptoms and seeking medical diagnosis;
  - d. Caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a healthcare provider to self-quarantine due to COVID-19 concerns (caring for another who is subject to an isolation order or advised to self-quarantine as described above is not limited to only family members).
  - e. Caring for the employee’s child if the child’s school or place of care is closed or the child’s care provider is unavailable due to COVID-19 precautions; or
  - f. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
  
2. Pursuant to the Emergency Family Medical Leave Expansion Act (EFMLEA), an employee that has been employed for thirty (30) days or more is eligible for up to twelve (12) weeks of job-protected leave to allow the employee, who is unable to work or telework, to care for the employee’s child (under 18 years of age) if the child’s school or place of care is closed or the childcare provider is unavailable due to a public health emergency. The Act allows the employers to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave.
  - a. The first 10 days of EFMLEA-qualified leave are unpaid. An employee may either be eligible for Emergency Paid Sick Leave as outlined in paragraph 1. or may take other paid leave concurrently with the EFMLEA.

- b. Beginning the third week of EFMLEA, an eligible employee shall be paid according to the following:
  - i. Full-time employees at two-thirds the employee's regular rate for the number of hours the employee would otherwise be normally scheduled. The EFMLEA limits this pay entitlement to \$200 per day and \$10,000 in the aggregate per employee.
  - ii. Employees who work a part-time or irregular schedule are entitled to be paid based on the average number of hours the employee worked for the six months prior to taking Emergency FMLA. Employees who have worked for less than six months prior to leave are entitled to the employee's reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.
- c. The city will make reasonable attempts to return the employee to their prior position for up to one (1) year following the leave.
- d. The city's FMLA leave is otherwise unchanged and employees are not eligible for FMLA leave except as outlined, above, under the EFMLEA.

3. The executive authority shall determine which employees are eligible for continued work or telework based on the needs and capacity of the city.

All other Employee Manual rules shall remain in force.

This order will terminate at the expiration of the Families First Coronavirus Relief Act, currently set for December 31, 2020.

On motion of \_\_\_\_\_, seconded by \_\_\_\_\_, that the foregoing

Municipal Order be adopted, the vote was called. On roll call the vote stood:

<u>COUNCIL MEMBERS</u>	YES	NO
Donald Arflack	_____	_____
Phyllis Sykes	_____	_____
Darrin Tabor	_____	_____
Michael Byford	_____	_____
Dwight Sherer	_____	_____
D'Anna Sallin	_____	_____

It appearing that \_\_\_\_\_ Council Members voted for the adoption of the ordinance, and \_\_\_\_\_ voted against with \_\_\_\_\_ abstaining, the Mayor declared the ordinance adopted.

\_\_\_\_\_  
Jared Byford, Mayor

CERTIFICATE

The undersigned certifies that she is the duly elected and acting City Clerk of the City Council of City of Marion, Kentucky, that the foregoing Municipal Order was duly adopted at a special meeting of said Council held on \_\_\_\_\_, 2020, that all actions taken in connection with such Municipal Order were in compliance with the requirements of KRS Chapter 61, and that such Municipal Order is now in full force and effect, all as appears from the official records of the City in my custody and under my control.

\_\_\_\_\_  
PAM ENOCH, City Clerk

Dated: \_\_\_\_\_, 2020

APPROVED AS TO FORM AND LEGALITY THIS \_\_\_ DAY OF MARCH, 2020.

By: \_\_\_\_\_ City Attorney  
Robert B. Frazer

**PURSUANT TO KRS 61.826 and OAG 20-05, THE STATE OF  
EMERGENCY REGARDING THE THREATS TO PUBLIC HEALTH  
PRESENTED BY THE NOVEL CORONAVIRUS (COVID-19)  
PANDEMIC, AND MUNICIPAL ORDER, THIS MEETING OF THE  
MARION CITY COUNCIL WILL BE CONDUCTED BY  
VIDEOCONFERENCE. ALL CITY COUNCIL MEETINGS MAY BE  
ATTENDED BY THE PUBLIC BY VIEWING THE VIDEO  
CONFERENCE AT THE CITY'S FACEBOOK PAGE ONLINE AT:  
FACEBOOK LIVE: xxxxxxxxxxxxxxxxxxxx**

CITY OF MARION  
ORDER NO. 2020-\_\_\_\_\_

A MUNICIPAL ORDER CONCERNING CITY COUNCIL MEETING  
PROTOCOLS FOR NOVEL CORONAVIRUS (COVID-19)

WHEREAS, on March 6, 2020, the Governor issued Executive Order 2020-215, declaring a state of emergency throughout Kentucky pursuant to his power under the Kentucky Constitution and KRS Chapter 39A regarding the threats to public health presented by the Novel Coronavirus (COVID-19) pandemic; and

WHEREAS, the Secretary of the Kentucky Finance and Administration Cabinet has more fully described the public health threats of COVID-19 in the “Memorandum Re: Meeting Protocol for Novel Coronavirus (COVID-19)” dated March 16, 2020 (hereinafter the: “Meeting Protocol”); and

WHEREAS, the Meeting Protocol requires “all Kentucky Boards and Councils” to take proper health precautions to mitigate the spread of COVID-19 and accordingly, with respect to the public attendance at meetings of said bodies, states “[m]embers of the public will only be able to view video-teleconferenced meetings remotely;” and

WHEREAS, the same emergency public health considerations as described in the Meeting Protocol are relevant to Kentucky municipalities; and

WHEREAS, the Kentucky Cabinet for Health and Family Services and the Crittenden County Health Department have each advised that all Kentuckians practice “social distancing” during the state of emergency, including but not limited to keeping a distance of at least six (6) feet between individuals and the cancellation of large “community gatherings;” and

WHEREAS, the Kentucky Open Meetings Act at KRS 61.840 provides that “no condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency”; and

WHEREAS, on March 18, 2020, the Kentucky Attorney General issued OAG 20-05 opining that it is not feasible under KRS 61.840 to precisely identify a primary physical location for a video teleconference at which the public may attend and view a public meeting conducted through video teleconference; and

WHEREAS, due to the emergency conditions currently existing under the present state of emergency and the need to mitigate the spread of COVID-19 via person-to-person contact in large community gatherings of persons where social distancing is difficult, the conditions necessary at this time for the maintenance of order, which include the mitigation of the spread of disease during a public health pandemic, at meetings of district boards of education include limitations on meeting attendance by members of the public such as described in the Meeting Protocol;

NOW THEREFORE be it resolved by the City Council of the City of Marion, Kentucky as follows:

1. Meetings of the City of Marion Council have been/will be streamed live on the City's Facebook page.
2. It is not feasible for the City to comply with the public health directives and best practices by continuing to allow in-person attendance at City Council meetings.
3. Until such time as the state of emergency regarding the threats to public health presented by the Novel Coronavirus (COVID-19) pandemic is lifted by the Governor of the Commonwealth, or until such time as this Order is rescinded by subsequent municipal action, all meetings of the City Council of Marion Kentucky held on and after the adoption of this Order, and subject to limited exceptions described below, shall be conducted in conformity with the procedures set forth in KRS 61.826 for video teleconferencing of meetings.
4. Council members shall use their best efforts to observe any binding governmental directive or order that may be issued in the future to prohibit such attendance.
5. The City Administrator shall arrange for resources and instructions necessary to allow Council meetings to be conducted via video teleconferencing pursuant to KRS 61.826 and City policy:
6. Due to the circumstances previously described in this resolution, in the Governor's declaration of a state of emergency, and based upon the authority to impose conditions to maintain order under KRS 61.840 in these extraordinary and emergency circumstances, the requirement in KRS 61.826(2)(b) that the Council provide a "primary location ... where the public may attend" is suspended to the extent that provision requires an in-person meeting location.
7. Notices that regular or special meetings of the Council are to be held as video teleconferences shall provide directions on public viewing of meetings via the internet. The City will provide members of the general public with notice and a video link to observe meetings. Provision of such link shall not otherwise interfere with the conduct of the meeting. Absent emergency circumstances qualifying under KRS 61.823(5), these notices shall be provided at least 24 hours before the video teleconference meeting.
8. Should there be an interruption in the public video or audio broadcast of the meeting, the meeting shall be suspended until the full functionality is restored. If there is such an interruption for an individual member attending the meeting

via video teleconference, the meeting may continue after reasonable efforts to restore connections so long as a quorum is still participating.

9. In the case of any Council meeting involving individual hearing matters, including but not limited to personnel disciplinary hearings, consideration shall be made on a case-by-case basis for the holding of in-person meetings as deemed necessary and advisable and alternative arrangements to mitigate the spread of COVID-19 via person-to-person contact may be implemented.

Dated this \_\_\_\_\_ day of March, 2020.

\_\_\_\_\_  
Mayor Jared Byford

ATTEST:

\_\_\_\_\_  
City Clerk