



COLORADO
MUNICIPAL
LEAGUE

CML Special Conference

September –22-24, 2021 • Westminster, CO

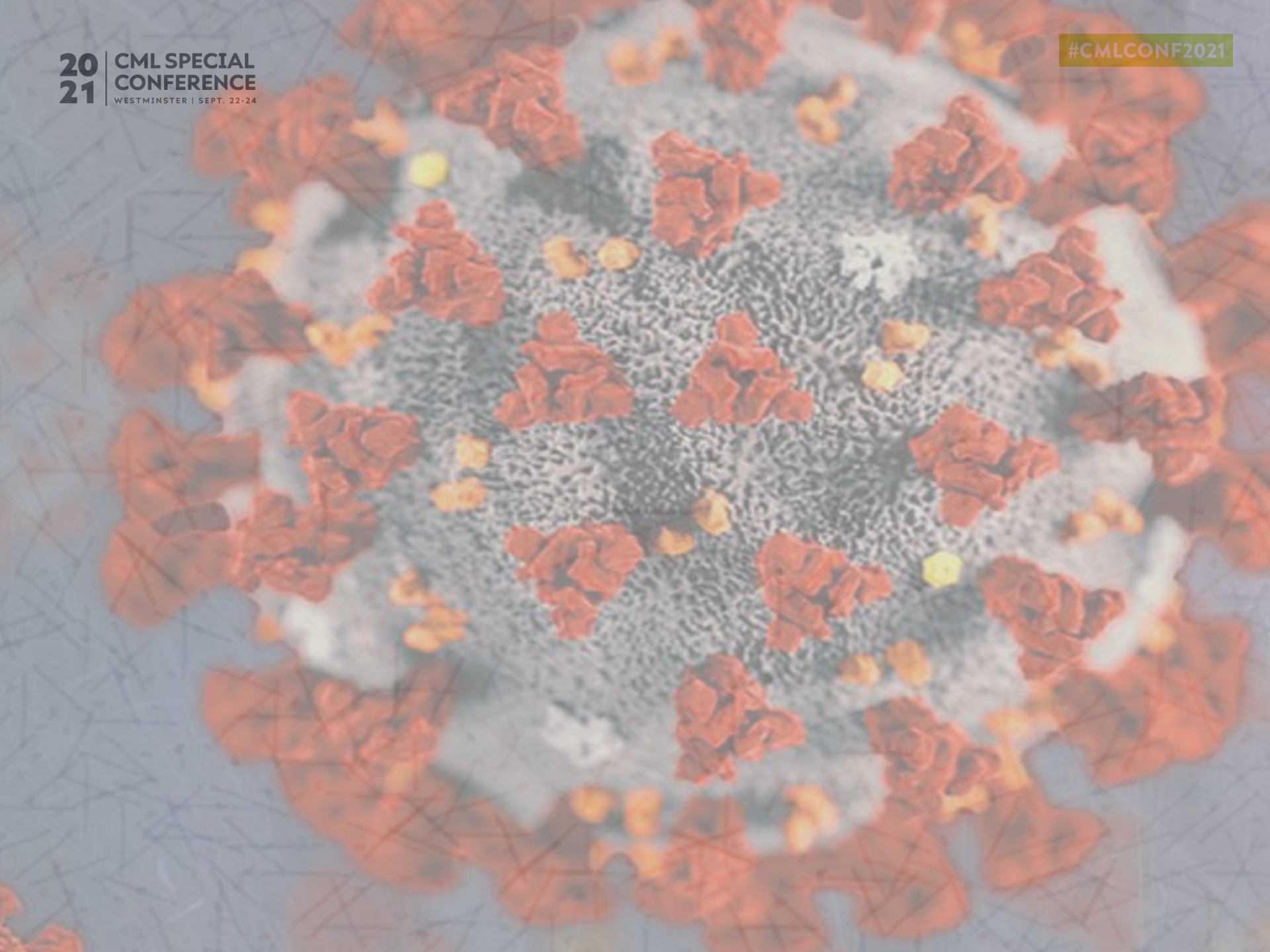
What we're learning in the Pandemic?

Contents of this presentation reflects the view of the presenter, not of CML.



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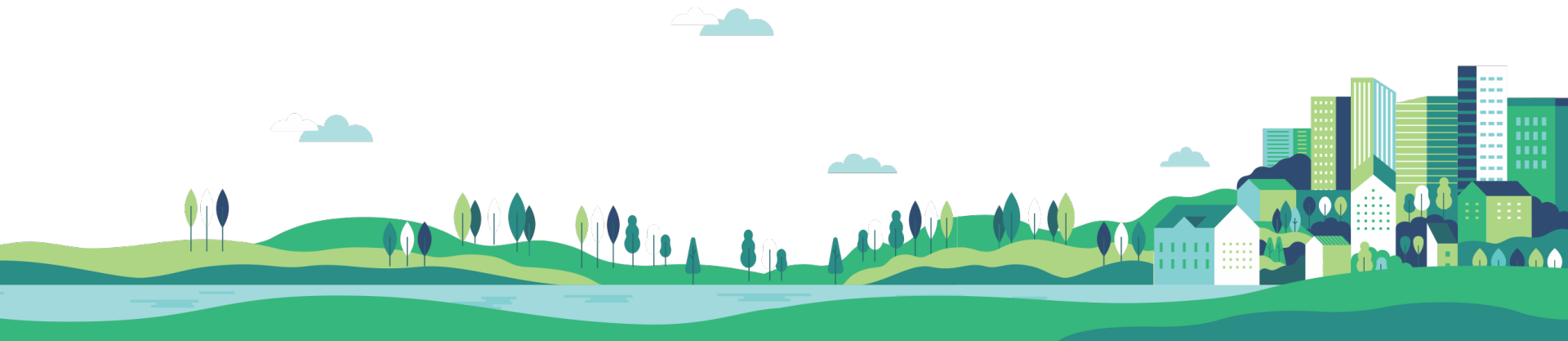
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Overview

- **Emergency Authority**
- **Contracts**
- **Meetings**
- **Employment matters**
- **Others**

Emergency Authority



Sources of Emergency Authority

- Colorado Disaster Emergency Act, CRS § 24-33.5-701 et seq.
- Police powers, CRS 31-15-401
- Other authority.



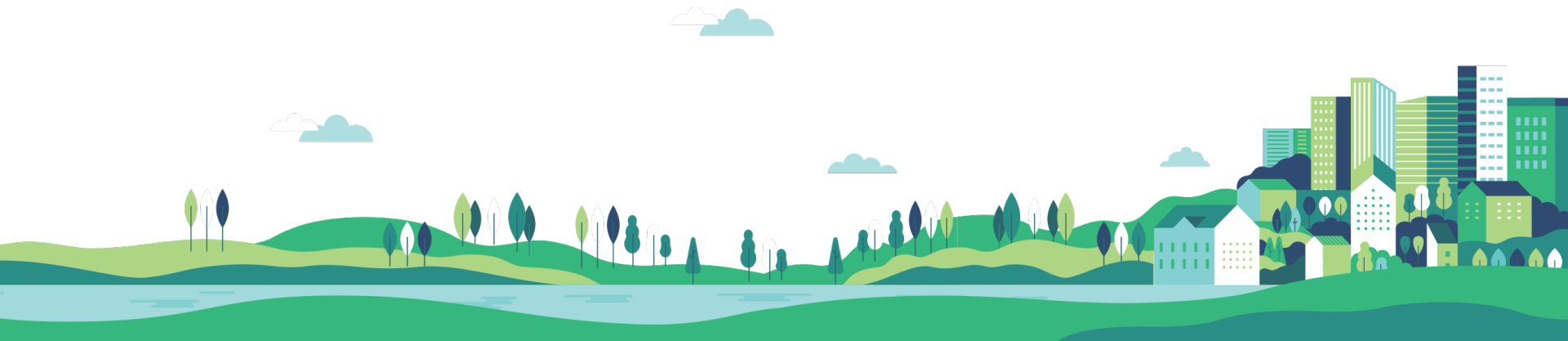
Enforcement

Violation of state-issued public health orders - CRS 25-1-114(1)(a)- Disobeying Public Health Order (unclassified misdemeanor);

Violation of a public health order issued by a county or "district" (two or more counties) public health order - CRS 25-1-516(1)(a) Disobeying Public Health Order (class 1 misdemeanor)



Code Considerations



Emergency Roadmap

Your City code is a key part of
emergency preparedness.



Components of an Emergency Ordinance

- Definition of an emergency
- When an emergency can be declared
- Decision-making authority and line of succession
- Term of emergency declaration and extensions
- Procurement and contract approvals

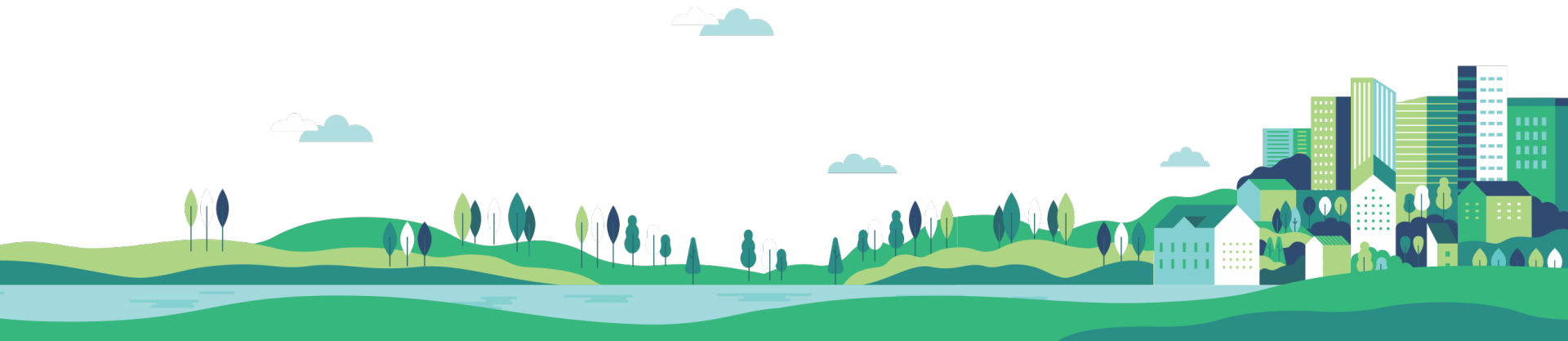


Other Considerations

- Extension of deadlines
- Location of meetings
- Duties of the emergency management coordinator
- Access to TABOR emergency reserve funds.
- Forms – emergency declaration, executive orders, etc.



Contract Considerations



Contractual Considerations

- **Force Majeure (Impossibility/Frustration of Purpose)**
- **Termination for Convenience**
- **Suspension**
- **Avoid Lump Sum Contracts**

Force Majeure

- **What is a force majeure clause?**
- **Events that trigger**
- **What about foreseeability?**
- **End of the force majeure event**



Termination for Convenience

- “Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience.”
- Must pay for all work performed prior to the termination
- Wind down costs
- Perhaps liquidated damages



Suspension

- Excused from performance during time inability to perform
- Length of suspension
- When does suspension become termination?
- Work continue after trigger event?
- Site protection



Electronic Signatures

- **Colorado has adopted the Uniform Electronic Transactions Act (the Act) pursuant to which**
- **Parties must agree**
- **Must make sure documents permit**
- **Verify charter and code requirements**
- **Colorado remote notary law**



Lump Sum Contracts

- **Single sum of money for completing the entire scope of work outlined in a construction contract**
- **Sum includes the cost of work, any general condition costs, and the contractor's fee**
- **What's wrong with these contracts?**

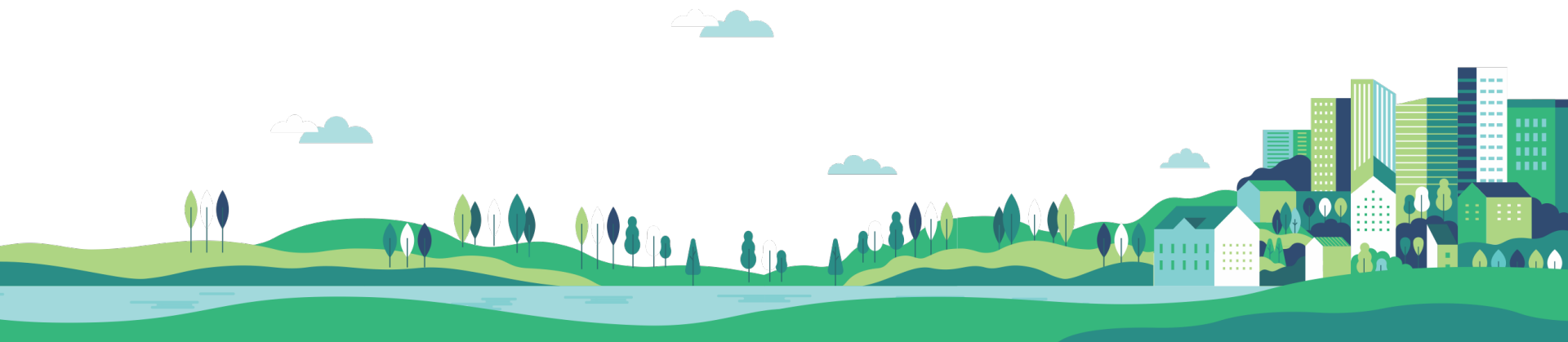


RFP Considerations

- **Include provisions for bid opening virtually in event of intervening emergency**
- **Waiver of procurement policies for faster more efficient acquisitions in the event of emergency**
- **Make sure procurement policy complies with federal requirements in order to receive federal relief**



Public Meetings



Policies and Procedures

- Open meetings law defines “meetings” to include those held telephonically or by other electronic means.
- Review existing Charter, Code and policy requirements.
- Develop specific policy addressing virtual meetings.



Quasi-Judicial Hearings

- Due Process Considerations
- Policy Development
- Specific Notices

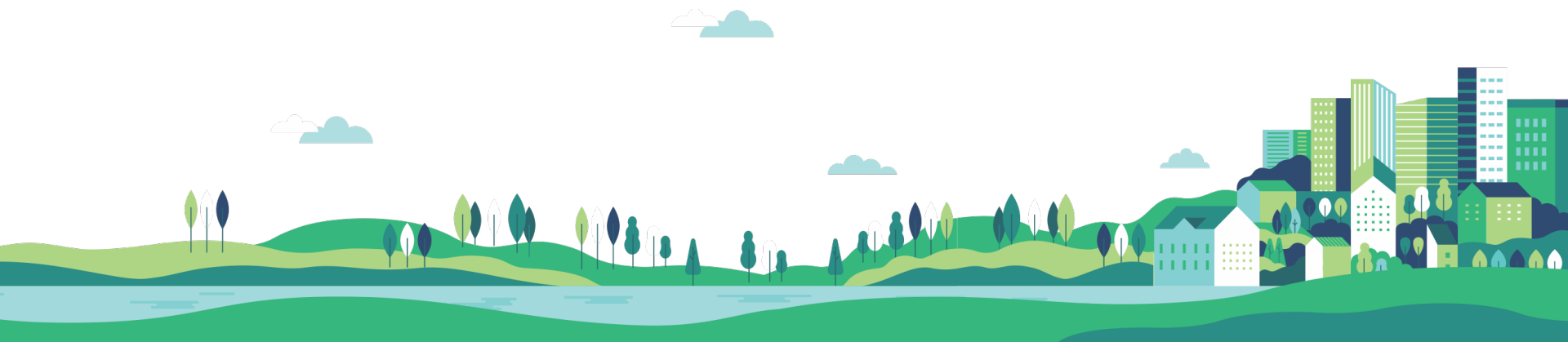


Emergency Meetings

- Notice and emergency meetings.
- Emergency executive sessions.
- Use caution!



Employment Matters



Safe Workplaces

- Follow the OSHA guidance if appropriate
- Follow recommendations from regulators (CDC)
- Restrict sick employees from the workplace
- May ask employees typical off-limit questions
- May require vaccinations



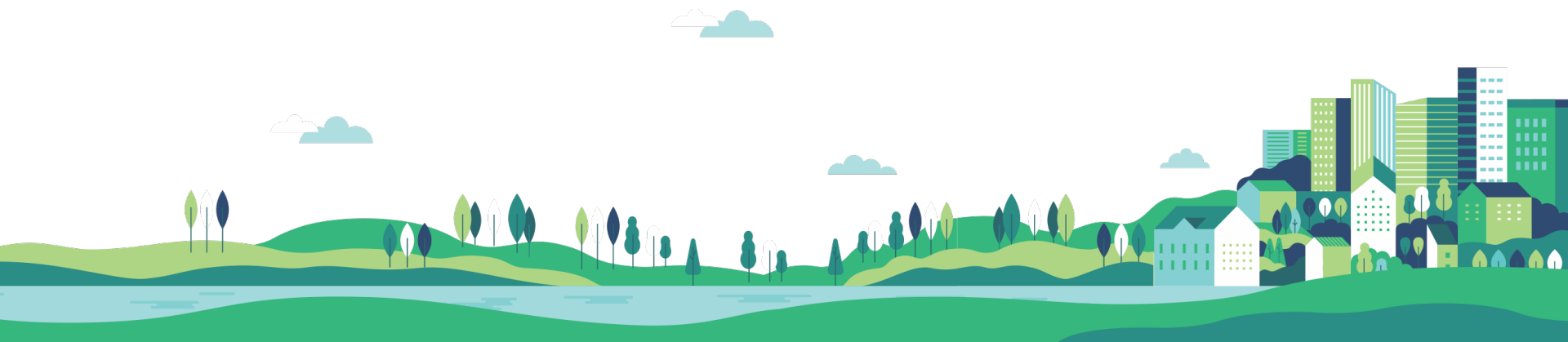
Review of Policies

- **Telecommuting Policy**
 - Not available for every employee
 - Comply with all other policies
 - Revoked at any time
- **ADA Policy**
- **Paid Leave**



**POLICY
MANUAL**

Other Matters



Virtual Municipal Court

- **Open court requirement**
- **Obtain acknowledgment for process to proceed**
- **Breakout rooms for discussion with counsel**
- **Technical problems, continue the arraignment**
- **Necessary accommodations**
- **Potential pitfalls**



Remote Inspections

- **Clear guidelines**
- **Applies to certain types of inspections**
- **What is required**
- **Steps for Inspections**
- **Consider agreement**





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