


CITY MANAGER'S OFFICE MEMORANDUM
#3-2024

DATE: March 18, 2024
TO: Honorable Mayor Meredith Leighty and City Council Members
FROM: Heather Geyer, City Manager 
SUBJECT: Electronic Participation Policy

PURPOSE

To provide Council requested information on electronic participation policies.

BACKGROUND

At the Jan. 13 Council Team Building Retreat, City Council directed staff to bring back other city policies specific to electronic participation in non-emergency situations in executive sessions and the application of electronic participation policies to boards and commissions.

Staff surveyed 13 municipalities in the metro area. The information is included in Attachment 1.

BUDGET/TIME IMPLICATIONS

There are no time or budget implications.

STAFF RECOMMENDATION

Staff recommends City Council provide input and feedback on the current Electronic Participation Policy.

STAFF REFERENCE

If Council Members have any questions, please contact Heather Geyer, City Manager, at hgeyer@northglenn.org or 303.450.8706.

ATTACHMENTS

1. Survey of Other Cities' Policies
2. Current Electronic Participation Policy

Survey of Other Municipalities: Electronic Participation Policies in Non-Emergency Situations

Municipality	Electronic Participation in Executive Sessions	Application of Policy to Boards & Commissions
Arvada Population: 120,492 Council: 7	Any member using Electronic Participation to participate in an executive session shall take all steps necessary to ensure that the privacy and confidentiality of the executive session are maintained at the highest level. No individual member using Electronic Participation for an executive session may permit any other person to hear, see, or otherwise have access to executive sessions or related materials.	Policy applies to all boards, commissions, and committees.
Aurora Population: 399,913 Council: 11	Council Members may appear remotely, including off camera, at City Council Meetings, Special Council Meetings, Study Sessions, Special Study Sessions, Executive Sessions to accommodate conditions defined in Section A(9) (reasonable accommodations related to state and federal laws), in a declared emergency, or by giving notice to the City Clerk 24 hours in advance.	Applicability to boards and commissions not addressed in policy.
Brighton Population: 45,393 Council: 9	Council Members may only participate electronically in study sessions, not regular or special meetings.	Applicability to boards and commissions not addressed in policy.
Broomfield Population: 72,783 Council: 11	The Council member participating in an executive session electronically shall have a secure telephone or electronic connection and certify that they are the only person in the room and that no other person has access to the executive session.	Applicability to boards and commissions not addressed in policy.
Commerce City Population: 66,115 Council: 9	Confidentiality of executive sessions shall be maintained. Any Council member or board member electronically participating must affirm to the body that they are in a secure and confidential location where no other persons can hear the content of the executive session and such person shall not record or transmit the executive session.	Policy applies to all boards and commissions.
Englewood Population: 35,135 Council: 7	Executive Session. No one may electronically participate in executive session, except at an approved fully electronic meeting. Any City Council member that was unable to attend an executive session may review the audio recording at the City Clerk's Office, within 90 days of the executive session. If executive session is held during an approved fully electronic meeting, to ensure the confidentiality of matters presented, each City Council Member electronically participating shall verbally confirm that no third party is in the member's presence, such that they could see and/or hear the contents of the executive session.	Only applies to City Council.
Federal Heights Population: 14,382 Council: 7	All Councilors participating in an executive session shall ensure that they have a secure connection, and they are alone while participating in an executive session.	Policy applies to boards and commissions related to quasi-judicial hearings.

<p>Golden</p> <p>Population: 20,956 Council: 7</p>	<p>The member may participate in executive sessions provided the member's location does not permit other individuals to view, hear, or otherwise access or ascertain information discussed during the executive session and if such sessions otherwise conform to the requirements of Colorado law. Except as required by the Colorado Open Meetings Law, no attendees of an executive session shall record executive session discussions.</p>	<p>Electronic participation policy applies to boards and commissions.</p>
<p>Lafayette</p> <p>Population: 30,670 Council: 7</p>	<p>Confidentiality of executive sessions shall be maintained. Any Council member, City staff, and other persons participating in the executive session by remote participation shall take all steps necessary to initiate the connection at a secure and confidential location and ensure that the confidentiality and privacy of the executive session is maintained at the highest level and not compromised. No individual participant in the executive session may permit any other person to hear, see, or otherwise have access to executive sessions or related materials, and such person shall not record or transmit the executive session or related materials.</p> <p>The Mayor or other Council member presiding over the executive session may require any person attending by remote participation, as a condition of their participation, to affirm to the body that they are in a secure and confidential location where no other person can hear or see the content of the executive session and that such person shall not record or transmit the executive session or related materials.</p>	<p>Applicability to boards and commissions not addressed in policy.</p>
<p>Louisville</p> <p>Population: 20,867 Council: 7</p>	<p>For regular City Council meetings, when it is feasible, an electronic attendance option shall be available for City Council members, applicants, and members of the public including electronic attendance at any executive sessions by City Council members at such meetings.</p>	<p>Applicability to boards and commissions not addressed in policy.</p>
<p>Thornton</p> <p>Population: 154,061 Council: 9</p>	<p>The Mayor and Council members may only attend executive sessions in person and may not use electronic participation.</p>	<p>Applicability to boards and commissions not addressed in policy.</p>
<p>Westminster</p> <p>Population: 116,317 Council: 7</p>	<p>Except for during a declared state of disaster or emergency, pursuant to Section 1-32-13 of this Code, attendance and participation in executive sessions and quasi-judicial proceedings shall be in-person unless approved by a super-majority two-thirds vote of Council.</p>	<p>Applicability to boards and commissions not addressed in ordinance.</p>
<p>Wheat Ridge</p> <p>Population: 31,879 Council: 9</p>	<p>Council members are expected to attend Council meetings in person. In the event of illness, weather, or other necessity, council members may attend virtually by telephone or through the Zoom or other remote attendance platforms provided by the City, as a last resort. Policy does not address executive sessions; Wheat Ridge staff believes council members would be allowed to attend executive sessions virtually (none have attended an executive session remotely since virtual attendance was implemented).</p>	<p>Policy only applies to City Council.</p>

ELECTRONIC PARTICIPATION POLICY DURING CITY COUNCIL MEETINGS

I. Purpose.

The purpose of this Policy is to specify the circumstances under which a member of the City Council may participate in regular and special meetings by telephone or other electronic means of participation, such as video-conferencing ("Electronic Participation"). Electronic Participation has inherent limitations because Electronic Participation effectively precludes a member of the City Council from contemporaneously observing documentary information presented during meetings; from fully evaluating a speaker's non-verbal language in assessing veracity or credibility; and from observing non-verbal explanations (*e.g.*, pointing at graphs and charts) during a speaker's presentation or testimony. The City Council finds that these limitations, inherent in Electronic Participation, may produce inefficiencies in meetings, increase the expense of meetings, and may undermine the decision-making process.

II. Statement of General Policy.

A member of the City Council may participate in a meeting of the City Council by electronic means only in accordance with this Policy.

A. *Non-Emergency Situations.*

Electronic Participation in non-emergency situations shall be made available and shall be limited as follows:

1. A member of the City Council may listen by telephone or other electronic means to any Council meeting. Such Council member listening via telephone shall be deemed present for purposes of determining a quorum, but only for meetings during which no quasi-judicial matters will be heard or considered. The member of City Council may not participate nor vote in a quasi-judicial public hearing; however, the Council member may maintain the electronic connection and monitor and listen to the hearing. The member of City Council may participate and vote in legislative matters.

2. Listening telephonically or by electronic means is intended to be an infrequent or occasional substitution for physical attendance. For purposes of this policy, infrequent or occasional substitution for physical attendance shall mean no more than four (4) posted City Council meetings, including study sessions, per calendar year. Provided, however, a Council member may request City Council approval of Electronic Participation for more than four (4) posted City Council meetings in any calendar year in the event of unforeseen circumstances that warrant, in the sole discretion of the City Council, authorizing Electronic Participation for a Council member in excess of four (4) meetings in any calendar year. The City Council may, by majority vote of a quorum present, declare a Council member's repeated use of Electronic Participation excessive and deny a Council member's privilege to use Electronic Participation for a specific meeting or meetings.

3. Electronic Participation may also be made available to a City Council member during an executive session.

4. The City Council may discontinue the use of Electronic Participation by one or more members during a meeting where the participation results in delays or interference in the meeting process; *e.g.*, where the telephone connection or connection by other electronic means is repeatedly lost, the quality of the connection is unduly noisy or otherwise problematic to the conduct of the meeting, or the listening member is unable to hear speakers using a normal speaking voice amplified to a level suitable for the meeting audience in attendance.

B. *Emergency Situations*

In the event a quorum is unable to meet at the day, hour, and place fixed by the rules and procedures of the City Council because meeting in-person is not practical or prudent due to a health pandemic or emergency affecting the City, meetings may be conducted by telephone, electronically, or by other means of communication so as to provide maximum practical notice. Meetings may be held by telephone, electronically, or by other means of communication if all of the following conditions are met:

1. The City Manager or the Mayor determines that meeting in person is not practical or prudent, because of a health pandemic or declaration of emergency affecting the City;

2. All members of the City Council can hear one another or otherwise communicate with one another and can hear or read all discussion and testimony in a manner designed to provide maximum notice and participation;

3. Members of the public present at the regular meeting location can hear or read all discussion, testimony and votes, unless not feasible due to the pandemic or emergency;

4. At least one member of the City Council is present at the regular meeting location, unless not feasible due to the pandemic or emergency declaration;

5. All votes are conducted by roll call;

6. Minutes of the meeting are taken and promptly recorded, and such records are open to public inspection; and

7. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, the fact that some members of the City Council may participate by telephone, and the right of the public to monitor the meeting from another location.

III. Arranging for Electronic Participation.

A. To arrange to participate via Electronic Participation, a Council member shall:

1. Contact the Mayor, City Manager, or City Clerk in advance of the meeting to determine if an arrangement for such participation via telephone conference or video conference is possible. Council members shall endeavor to advise the City of their intent to participate via Electronic Participation at the earliest possible time and not less than twenty-four (24) hours prior to the requested participation.

2. The City shall initiate the Electronic Participation not more than ten (10) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the City Clerk shall make one attempt to re-initiate the connection.

IV. Effect of Electronic Participation.

Telephonic participation shall only constitute actual attendance for purposes of establishing a quorum for meetings during which no quasi-judicial matters will be heard or considered.

V. Limited Applicability of Policy.

This Policy shall only apply to regular and special meetings (including study sessions) of the City Council of the City of Northglenn.

VI. Reasonable Accommodations.

The City shall provide reasonable accommodation and shall waive or modify provisions of this Policy to provide handicapped members of the City Council full and equal access to City Council meetings.