

A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING A CITY COUNCIL POLICY ON ELECTRONIC PARTICIPATION
IN CITY COUNCIL, BOARD, COMMISSION AND COMMITTEE MEETINGS

WHEREAS, an outbreak of coronavirus disease, now identified specifically as COVID-19, was detected in China in December 2019; and

WHEREAS, since then, the disease has spread widely throughout the world; and

WHEREAS, according to the Centers for Disease Control and Prevention, one of the ways in which COVID-19 most quickly spreads through personal contact, including contact that occurs when people congregate in enclosed spaces; and

WHEREAS, on March 10, 2020, Governor Jared Polis declared a state of epidemic disaster emergency in Colorado, and on March 11, 2020, the World Health Organization declared a global pandemic due to the spread of COVID-19; and

WHEREAS, pursuant to authority granted in Section 5.7 of the Cherry Hills Village Home Rule Charter and Section 2-3-40 of the Cherry Hills Village Municipal Code, the City Manager declared a public health emergency and disaster related to COVID-19 within the City as of March 19, 2020, which order remains in effect as of November 3, 2020; and

WHEREAS, the City of Cherry Hills Village, Colorado, through its City Council, has found it necessary to meet electronically during this public health emergency to continue to act in the best interests of the health, safety, and welfare of its citizens, and to continue to enable its citizens to monitor and participate in open meetings; and

WHEREAS, the City Council finds that it is appropriate to adopt a policy that permits electronic conduct of and participation in City meetings during the public health emergency and disaster; and

WHEREAS, the City Council has designated the City website as the official location to post notices of regular and special meetings of the City Council and meetings of the City's advisory boards and commissions, in accordance with Colorado law; and

WHEREAS, in adopting the attached policy, the City Council intends to follow the letter and spirit of the Colorado Open Meetings Law in every respect, and to the extent possible and practical under emergency circumstances.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cherry Hills Village, Colorado that:

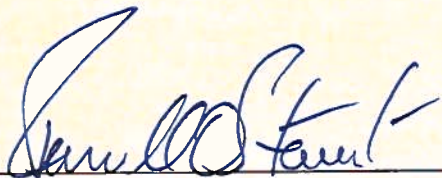
Section 1. The City Council hereby approves and adopts the Policy for Electronic Participation in City Council or Board, Commission and Committee Meetings, attached hereto as **Attachment A**.

Section 2. If any part or provision of this resolution is adjudged to be unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this resolution, it being the intention of the City Council that the various provisions hereof are severable.

Section 3. This resolution shall be effective immediately.


Introduced, passed and adopted at the
regular meeting of City Council this 3rd day
of November, 2020, by a vote of 6 yes 0 no.

(SEAL)



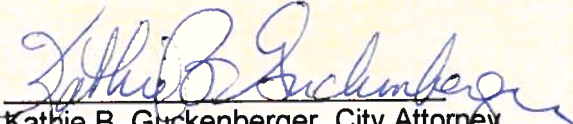
Russell O. Stewart, Mayor

ATTEST:



Laura Gillespie, City Clerk

APPROVED AS TO FORM:



Kathie B. Guckenberger, City Attorney

ATTACHMENT A

CITY COUNCIL POLICY FOR ELECTRONIC PARTICIPATION IN CITY COUNCIL, BOARD, COMMISSION AND COMMITTEE MEETINGS

I. Purpose

The purpose of this policy is to allow City Council and City boards, commissions and committees to meet and conduct City business by teleconference or other electronic means, including video conferencing, (“Electronic Participation”) during emergencies when meeting in person is impractical, impossible, or unlawful.

II. Scope

This policy shall apply to regular and special meetings (including study sessions) of the City Council of the City of Cherry Hills Village. This policy shall also apply to meetings of all City boards, commissions, and committees.

This policy incorporates the rules of procedure adopted by the body holding the meeting, and supplements those rules to facilitate the conduct of meetings by Electronic Participation. To the extent applicable, City Council and board, commission and committee members may participate and vote in legislative and administrative matters within the scope of their authority at meetings conducted via Electronic Participation. In addition, City Council and City boards may participate and vote in quasi-judicial matters within the scope of their authority at meetings conducted entirely in-person or entirely via Electronic Participation in accordance with this policy.

III. Policy

The City Council and any City board, commission, or committee (“City Council or Board”) may hold, and a member of a City Council or Board may participate, in a duly noticed meeting of such body via Electronic Participation only in accordance with this policy.

A. Requirements for Conducting Meetings via Electronic Participation.

The City Council or Board may conduct meetings using Electronic Participation only if all of the following conditions are met:

1. The City Manager has declared a local disaster emergency;

2. The City Council or the City Manager determines that meeting in-person is not practical or prudent because of matters related to the declaration of local disaster emergency affecting the City;
3. All members of the meeting body, at least one City staff member, and applicant and witnesses in quasi-judicial matters can clearly communicate with one another by Electronic Participation and can hear or read all discussion, evidence, and testimony in a manner designed to allow notice and participation;
4. All votes are conducted by roll call;
5. The meeting is electronically recorded and the recording posted on the City website, except for executive sessions;
6. When feasible, the meeting is live streamed to the City website;
7. Draft minutes of the meeting are made available for public inspection as soon as is feasible in light of the emergency;
8. Members of the public can hear or read all discussion, presentations, evidence, testimony, and votes, unless not feasible due to the emergency;
9. The public receives at least twenty-four hours' notice of:
 - a. the time of the meeting;
 - b. the fact that the meeting will be conducted using Electronic Participation; and
 - c. the means by which the public may join the meeting electronically.
10. The City Council or Board shall provide adequate opportunity for the public to participate in the meeting that is commensurate with the similar opportunity that is routinely given during in-person meetings. The public may submit written comments and materials to the City Clerk or staff liaison by the deadline indicated on the meeting agenda. Written comments and materials received by the deadline shall be distributed to the City Council or Board members prior to the meeting and be made part of the record.
11. The City Council or Board may convene executive sessions in regular or special meetings conducted via Electronic Participation if such sessions otherwise conform to the requirements of Colorado law. City Council or Board members using Electronic Participation to participate in an executive session shall ensure that the privacy and confidentiality of the executive session are maintained. No individual City Council or Board 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. Except as required by the Colorado Open Meetings Law, no attendees of an executive session shall record executive session discussions.

12. The City Council or Board may discontinue the use of Electronic Participation by members or citizens during a meeting where such connection or participation results in delays or interference in the meeting process. If connection of a Council or Board member is lost, the City Clerk or staff liaison shall make at least two attempts to re-initiate the connection. If a quorum is no longer present, the City Council or Board shall adjourn the meeting. If technological difficulties impair the orderly processing of quasi-judicial matters, the City Council or Board may continue the matter to a date and time certain.

B. Arranging for Electronic Participation

1. The Clerk or City Manager shall contact City Council or Board members at least twenty-four hours in advance of a regular or special meeting to provide notice of a meeting conducted under this policy.
2. Members of the public must contact the City Clerk or staff liaison by the deadline indicated on the meeting agenda in order to receive information on the means by which the public may join the meeting electronically. Requests received after the deadline will not be permitted to join the meeting electronically but can view the live stream and recording of the meeting on the City website.
3. The City Clerk or staff liaison shall initiate the Electronic Participation a reasonable time before the scheduled time of the meeting.

C. Public Hearings

1. Quasi-judicial public hearings must be held entirely in-person or entirely by Electronic Participation.
2. Except for any public hearing initiated by the City or based on an appeal of an action initiated by the City, each applicant must consent to holding a public hearing electronically. Such consent must be in writing and must be received by the City Clerk or staff liaison no later than thirteen business days prior to the meeting in order for the public hearing to be held electronically. If such consent is not received the public hearing will not be scheduled.
3. All notices of the public hearing shall include a notification that the public hearing will be conducted electronically, that advance registration for public

comment is required, and that information for participation will be provided on the meeting agenda.

4. The meeting agenda must clearly state: (1) that the public hearing will be conducted electronically; (2) that advance registration for public comment is required; (3) the method by which the public may participate; and (4) the deadline for registration and submittal of exhibits by members of the public.
5. An applicant's final submittal of all exhibits to be referenced during the public hearing must be received by the City Clerk or staff liaison no later than thirteen business days prior to the meeting to ensure all materials are included in the City Council or Board packet. All exhibits are required to be clearly named and labeled.
6. The City Clerk or staff liaison shall send the City Council or Board packet to the City Council or Board members and to the applicant and shall require confirmation of receipt.
7. An applicant's final presentation must be received by the City Clerk or staff liaison no later than 9:00 a.m. the business day before the City Council or Board meeting.
8. The applicant will appear by video with audio as directed by the City Clerk or staff liaison. The public hearing must be continued in the absence of both video and audio. The applicant should remain connected until the conclusion of the public hearing.
9. Members of the public must contact the City Clerk or staff liaison by the deadline indicated on the meeting agenda in order to receive information on the means by which the public may join the meeting electronically. Requests received after the deadline will not be permitted to join the meeting electronically but can view the live stream and recording of the meeting on the City website.
10. Members of the public must submit any exhibits by the deadline indicated on the meeting agenda. The City Clerk or staff liaison will share exhibits during the appropriate testimony. Members of the public are not permitted to share their screen.
11. Members of the public must disconnect from the meeting platform once they have concluded their testimony. They are encouraged to watch the remainder of the meeting on the City website.
12. A member of the public may only speak once during a public hearing.

13. The standard for public participation is substantial compliance. Technological errors preventing a particular member(s) of the public from participating in a public hearing shall not invalidate the hearing proceedings, unless the City Council or Board determines that such an error fails to comply with due process requirements under applicable law.
14. The City Manager may choose to continue any public hearing conducted under this policy to a date and time certain if the City Manager determines it is not possible or prudent to hold the public hearing by electronic means.
15. The City Council or Board may continue a public hearing to a date and time certain for reasons set forth in the Municipal Code, to provide additional public participation or obtain additional information, or upon request of the applicant.

D. Reasonable Accommodations.

The City shall provide reasonable accommodations and shall waive or modify provisions of this policy to provide equal access to City Council or Board meetings.