

# COUNCIL COMMUNICATION

<b>Meeting Date:</b> May 10, 2022	<b>Agenda Item:</b> 10C	<b>Agenda Location:</b> Consent Calendar	<b>Goal(s):</b>	<b>Legal Review:</b> <i>Ty</i>	<input type="checkbox"/> 1 <sup>st</sup> Reading <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading
<b>Subject:</b> An ordinance amending the City Council Policy Regarding the Rules of Order and Procedure for City Council Meetings to add new language regarding the use of telephone or other electronic means of participation by the Mayor and Councilmembers in regular and special meetings.					
<b>Recommended by:</b> City Council			<b>Approved by:</b> Kevin S. Woods <i>KW</i>		<b>Ordinance previously introduced by:</b> <u>Matkowsky</u>
<b>Presenter(s):</b> Joyce Hunt, Assistant City Manager					

**SYNOPSIS:**

The ordinance amends the City Council Policy Regarding the Rules of Order and Procedure (Rules of Order) for City Council meetings to add new language regarding the use of telephone or other electronic means of participation (Electronic Participation) by the Mayor and Councilmembers in regular and special meetings.

The new language provides for participation by the Mayor and Councilmembers in regular and special meetings to be in-person. However, it allows Councilmembers, on an infrequent or occasional basis, defined as no more than four different meeting dates in one year, to view and participate in Council meetings remotely. In addition, it provides that if electronic participation is required for reasons protected by State or Federal law, that required accommodation will take precedence over this rule. The amendment also includes language that if the City Manager, in consultation with the Mayor, determines it is not practical or prudent to conduct a regularly scheduled meeting in-person due to health, weather, or other emergency affecting the City, to conduct the meeting entirely as a remote meeting. In such event, the Council may participate and vote on legislative and quasi-judicial matters and participate in executive sessions. The meeting may also be cancelled with notice provided as soon as possible to the Council and the public but not later than three hours before the scheduled time of the meeting. In this case, the items will be rescheduled.

The Rules of Order for the conduct of City Council meetings are contained in the City Council Policies. The Rules of Order define the order of business for City Council agendas and establish how business will be conducted during those meetings.

**RECOMMENDATION:**

Staff recommends Alternative No. 1, approval of the ordinance as presented.

**BUDGET/STAFF IMPLICATIONS:**

None.

**ALTERNATIVES:**

1. Approve the ordinance as presented.
2. Approve the ordinance with specific amendments directed by Council.
3. Do not approve the ordinance.

**BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY):** (includes previous City Council action)

The Council reviewed the draft language at the March 8, 2022 Planning Session and provided additional input to the proposed policy and requested the amendment be brought forward for formal action. The draft ordinance was scheduled for the March 22, 2022 Council meeting but was removed due to time constraints and a request by Council to have further discussion at a Planning Session. The draft ordinance was discussed at the April 19, 2022 Planning Session and Council requested it be scheduled for formal action.

INTRODUCED BY: Matkowsky

AN ORDINANCE AMENDING THE CITY COUNCIL POLICY REGARDING THE RULES OF ORDER AND PROCEDURE FOR CITY COUNCIL MEETINGS TO ADD NEW LANGUAGE REGARDING THE USE OF TELEPHONE OR OTHER ELECTRONIC MEANS OF PARTICIPATION BY THE MAYOR AND COUNCILMEMBERS IN REGULAR AND SPECIAL MEETINGS.

WHEREAS, City Council adopted a policy on October 22, 2002, by Ordinance 2736, which established the Rules of Order and Procedure (Rules of Order) for regular City Council meetings; and

WHEREAS, City Council amended its Rules of Order on March 25, 2003, by Ordinance 2761 to place Roll Call of Council and Council Comments/Communications back on its regular meeting agendas; and

WHEREAS, City Council amended its Rules of Order on November 9, 2004, by Ordinance 2850, to add Presentations and Staff Reports under the Audience Participation portion of the meeting; and

WHEREAS, City Council amended its Rules of Order on May 10, 2005, by Ordinance 2881 which amended paragraph 6(f)(4) pertaining to public hearing items to clarify that action on public hearing items may be taken after the public hearing has been closed or at the next Council meeting; and

WHEREAS, City Council amended its Rules of Order on December 13, 2005, by Ordinance 2934 which added a new section (c) to paragraph 6 to provide a five-minute time limit for Council comments and a new section (i) to paragraph 6 to provide for a speaker's timing system to be operated by the City Clerk; and

WHEREAS, City Council amended its Rules of Order on March 23, 2010, by Ordinance 3127 to add a new subparagraph (5) to Paragraph (g) in Section 6 to list City Council's options for action following public hearings on applications and to add a new sentence to Paragraph (g) in Section 6 to specify the timing for continuance of a public hearing when caused by the actions of an applicant; and

WHEREAS, City Council amended its Rules of Order on January 27, 2015, by Ordinance 3323 removing subparagraph 6(h) which requires adjournment of the meeting at 10:00 PM unless a motion to extend the meeting has been approved by City Council; and

WHEREAS, City Council amended its Rules of Order on September 13, 2016, by Ordinance 3409 removing subparagraph 5(a) thereby eliminating the invocation; and

WHEREAS, City Council amended its Rules of Order on September 27, 2016 by Ordinance 3409 approving an amendment to subsections 6(b) and 6(g)(3), Regular Meeting Procedures, to change the time for citizen comment from five to three minutes; and

WHEREAS, City Council amended its Rules of Order on April 11, 2017, by Ordinance 3426 approving the reordering of the agenda so that the “Council Comments” portion of the agenda is immediately following comments made by the public under “Audience Participation”; and

WHEREAS, City Council amended its Rules of Order on April 10, 2018, to clarify that resolutions and motions shall pass by the affirmative vote of a majority of the members of Council present and clarify the Mayor’s discretion to permit a member of the public to present relevant audio/visual presentations during Audience Participation and public hearings; and

WHEREAS, City Council amended its Rules of Order on April 23, 2019, to add a Moment of Silence after the Pledge of Allegiance; and

WHEREAS, this amendment will add new language regarding the use of telephone or other electronic means of participation by the Mayor and Councilmembers in regular and special meetings and the use of any electronic devices during any meeting to search for information or communicate with outside parties regarding information relevant to any topic discussed at public hearings or executive sessions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. That the Rules of Order are hereby amended as shown in the attached Council Policy and is hereby approved.
2. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.
3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.
4. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any

judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

5. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on April 26, 2022.

PASSED AND ADOPTED on second and final reading on \_\_\_\_\_, 2022.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Jan Kulmann, Mayor

ATTEST:

\_\_\_\_\_  
Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Tami Yellico, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, Thornton Active Adult Center, and Trail Winds Recreation Center after first and second readings.

Published on the City's official website after first reading on April 27, 2022 and after second and final reading on \_\_\_\_\_, 2022.

## **City Council Policy**

### **Rules of Order and Procedure**

#### **1. Purpose**

The purpose of this Council Policy is to establish Rules of Order and Procedures for the conduct of City Council meetings. The intent of this policy is to assist Council in streamlining its meetings to allow more time to focus on substantive issues facing the City.

#### **2. Scope**

This policy applies to all regular meetings of the Thornton City Council.

#### **3. Policy**

City Council has the authority to establish Rules of Order and Procedures for conducting business at its regular meetings.

#### **4. General Rules**

- (a) An agenda shall be prepared for each regular City Council meeting containing the specific items of business to be transacted and the order thereof. The agenda shall be available to Councilmembers not later than the Friday preceding the meeting and shall be made available to the public as soon thereafter as practicable.
- (b) A majority of the members of the Council may, by vote, either request or compel the attendance of its members and other City officers at any meeting of the Council. Any member of the Council or other officer who, when notified of such a request for attendance, fails to attend such meeting for reasons other than illness, vacation, work, absence from the City, the Councilmember is attending a meeting as a representative of the City or as approved at Council's discretion shall be deemed guilty of misconduct in office unless excused by the Council.
- (c) A majority of the members of the Council in office at the time shall be a quorum for the transaction of business at all Council meetings, but, in the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and, in the absence of all members, the Clerk may adjourn any meeting for not longer than one week.
- (d) The presiding officer shall enforce orderly conduct at meetings, and any member of the Council or other officer whose conduct is not in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

- (e) A Councilmember once recognized shall not be interrupted when speaking unless called to order by the presiding officer or unless a point of order or personal privilege is raised by another Councilmember or unless the speaker chooses to yield to a question by another Councilmember. If a Councilmember, while speaking, is called to order, the Councilmember shall cease speaking until the question of order is determined, and, if determined to be in order, the Councilmember may proceed. Members of the City staff, after recognition by the presiding officer, shall hold the floor until completion of their remarks or until recognition is withdrawn by the presiding officer.
- (f) The presiding officer shall determine all points of order, subject to the right of any Councilmember to request a full Council ruling.
- (g) A member of the Council who wishes to terminate discussion of a motion may call for the question in accordance with the Roberts Rules of Order, newly revised and as amended from time to time, except as set forth herein.
- (h) Legislative matters.
  - (1) Resolutions require one reading and become effective immediately after passage. Resolutions are initiated to make appointments, expressions of the City Council's intent or its opinion on matters not actually within its control, approvals of specific transactions such as purchases and agreements (except some transactions which must be done by ordinance); to establish positions of the Council on matters of concern; to deal with special administrative or temporary matters as opposed to general rules of conduct; to acknowledge accomplishments or contributions; and for a variety of other lawful purposes which require formal action but not the enactment of laws.
    - a. A resolution is required under any circumstance where it is desirable that the action be formally recorded in the office of the City Clerk for future reference.
    - b. A resolution may be presented verbally in motion form, together with instructions for written preparation. Upon execution of such resolution, it shall become an official action of the Council.
    - c. Any Councilmember may request that a specific resolution, acknowledging accomplishments or contributions, be placed on a regular meeting agenda under "audience participation" for the purpose of gaining special recognition or additional publicity.

- (2) Acts of the Council which are required to be by ordinance, and the procedure for passage, posting and publication of ordinances, including emergency ordinances, shall be as provided in the Charter.
  - a. The name of the Councilmember introducing each ordinance shall be appended to and made a part of the ordinance. Ordinances shall be numbered in the numerical order in which they are passed.
  - b. An exact legible copy must be submitted to the City Clerk in writing at the time the ordinance is introduced.
- (3) Motions are the formal statement of a proposal or question to the Council for consideration and action. A motion is generally not to be considered as a legislative action of the Council but is in the nature of direction or instruction; however, a motion will generally suffice unless a resolution is specifically called for by law or unless there is some reason for desiring the particular action formalized by separate instrument.
- (4) Proclamations are used ceremonially for the purpose of recognizing accomplishments, honoring individuals or groups or setting a designated period for a special event or to declare a symbolic occasion. Proclamations are the prerogative of the Mayor and do not require Council action.
  - (i) Resolutions and motions shall pass by the affirmative vote of a majority of the members of Council present, provided a quorum exists. Should any Councilmember being present refuse to vote on any measure, the Councilmember's vote shall be recorded in the affirmative, but no such vote shall be recorded if the Councilmember refuses to vote because of a conflict of interest.
  - (j) A vote upon all ordinances and resolutions shall be taken by a "yes" or "no" vote and entered upon the records, except that, where the vote is unanimous, it shall only be necessary to state that the vote was unanimous. All abstentions shall also be recorded and the reason for the abstention recorded, if given. Abstentions by reason of conflict of interest shall be sufficient.
  - (k) In all roll call votes at any given meeting, the names of the members of the Council shall be called in alphabetical order, and the name to be called first shall be advanced one position alphabetically in each successive roll call vote.



- (l) The rules of procedure and order of business shall be strictly adhered to unless temporarily suspended by a two-thirds vote of the members present.
- (m) The rules contained in the latest revised edition of Robert's Rules of Order, Newly Revised, shall govern the meeting in all cases to which they are applicable and in which they are not inconsistent with the Rules of Order and Procedures adopted by this division. The City Attorney or acting City Attorney shall be the designated parliamentarian.
- (n) Minutes of each meeting shall be kept in the English language by the Clerk and shall be signed by the presiding officer and Clerk of the meeting.
- (o) The minutes shall not be a verbatim transcript of the proceedings. The recordings of all proceedings shall be retained pursuant to State Statute. The purpose of the minutes shall be to record the City Council's transactions rather than its deliberations; therefore, debates, arguments and discussion among the City Council shall not be included. Specific direction to staff shall be included in the minutes when such direction may affect the outcome of a decision to be made by the City Council. Informational items, such as upcoming meetings and events, brought up by the City Council need not be included in the minutes, provided that the information has previously been conveyed to them through normal communication or correspondence channels. The City Clerk shall include the following in the action minutes of each regular or special meeting:
  - (1) The name: "Meeting of the City Council of Thornton, Colorado."
  - (2) The kind of meeting (regular, special).
  - (3) The place and date of the meeting.
  - (4) The officer presiding.
  - (5) The decision in each point of order arising.
  - (6) A complete record of the City Council's actions, which will, in most instances, be a motion reflecting the decision taken by the Council.
  - (7) The time and place of reassembling, unless it is the regular meeting time and place.
  - (8) The signature of the City Clerk and the Mayor at the time the minutes are approved.
  - (9) A statement of whether previous minutes were approved.

- (10) All motions made and seconded and subject matter of reports given and disposition of such.
- (11) A record of the results of each vote taken shall be recorded as provided in the Charter and this Code.
- (12) Minutes shall reflect the general topic of the discussion at an executive session.

(p) Participation by the Mayor and Councilmembers in regular and special meetings of City Council, Council updates and planning sessions shall be conducted in-person at City Hall. However, if extenuating circumstances do not permit in-person attendance, the Mayor and Councilmembers may participate virtually by electronic or telephonic means ("Electronic Participation") on an infrequent or occasional basis. In such instances, the Mayor or Councilmember shall endeavor to provide the City Clerk notice of intent to utilize Electronic Participation twenty-four hours in advance of a public meeting, if possible. For purposes of this policy, "infrequent or occasional" shall mean no more than four different meeting dates within one calendar year. Should electronic participation be required for reasons protected by state or federal law, that required accommodation shall take precedence over this rule.

(1) The Mayor or Councilmember using Electronic Participation shall maintain a good connection such that they are able to hear the proceedings and are able to be heard when speaking during the proceedings.

(2) In-person attendance by the Mayor and Councilmembers shall be subject to City Council Rules of Order and Procedure 4(b).

(3) The Mayor or a Councilmember utilizing Electronic Participation may vote and participate in all legislative matters, including votes to go into executive session. When the Mayor or Councilmembers are using Electronic Participation, all votes shall be conducted by roll call.

(4) The Mayor and Councilmembers using Electronic Participation to listen to a quasi-judicial public hearing do not count for purposes of establishing a quorum and may not participate or vote. However, the Mayor and Councilmembers may maintain the electronic connection and monitor and listen to the hearing.

(5) The Mayor and Councilmembers may only attend executive sessions in person and may not use Electronic Participation.

(6) If the City Manager, in consultation with the Mayor, determines that meeting in person is not practical or prudent because of a health, weather or other emergency affecting the City, the regularly scheduled meeting may be conducted entirely as a remote meeting or cancelled. If the decision is to conduct a fully remote meeting, the City Manager shall provide notice to the Council and the public as soon as such decision is made, but no later than three (3) hours before the time the meeting is scheduled to begin. In the event of a fully remote meeting, all Councilmembers may participate and vote in legislative and quasi-judicial matters and participate in Executive Sessions. All votes in a fully remote meeting shall be by roll call. If the meeting is cancelled, the items will be rescheduled to another meeting.

**5. Order of business.**

(a) At the beginning of each regular City Council meeting, the Mayor, Mayor Pro Tem or acting Mayor shall call the members to order. Following the pledge of allegiance, the City Clerk shall call the roll, note the absences and announce whether a quorum is present. In the event that a quorum is present, the City Council shall then proceed to the business before it. Business shall be conducted in the following order except that City Council, may by motion, suspend the order of the agenda during a meeting:

- (1) Call to Order
- (2) Pledge of Allegiance
- (3) Moment of Silence
- (4) Roll Call of Council
- (5) Approval of the agenda
- (6) Presentations
- (7) Audience Participation
- (8) Council Comments/Communications
- (9) Staff Reports
- (10) Consent calendar
- (11) Public hearings

(12) Action Items

(13) Adjournment

**6. Regular meeting procedures.**

(a) If a motion, resolution or ordinance is passed or defeated by Council action, it may be reconsidered by motion from a member who was on the prevailing side no later than the next regular meeting.

(b) Citizens wishing to be heard under "audience participation" on any subject which does not later appear on the agenda as a public hearing are requested to sign up on the register located in the lobby or Council chamber, prior to the meeting. Speaking time will be limited to three minutes per individual/topic with a one-hour limit on that segment of the agenda. Groups of citizens brought together with a common interest are requested to choose a spokesperson and, at the discretion of the Mayor, may be allowed additional time.

Audio/visual presentations must be submitted to the City Clerk's office by 10:00 a.m. the Monday prior to the Council meeting. However, the Mayor has discretion to permit a speaker to show an audio/visual presentation during audience participation, without prior notice to the City Clerk's office, with proper assurances that the individual is not aware of the file having computer viruses.

(c) Council comments/communications will be limited to five minutes per individual not including reports of a Councilmember's participation on outside Boards or Committees.

(d) Action items shall be referred to by their agenda item number. Council document numbers and ordinance numbers shall be assigned to each action item and ordinance, respectively, for recordkeeping and retrieval purposes.

(e) Consent calendar.

(1) A consent calendar shall be used for the expeditious handling of routine, non-controversial issues in order to provide more time for the deliberation of major agenda items which establish City policy and goals. Items to be placed on the consent calendar may include but are not limited to the following:

a. Personnel actions, such as the appointment of personnel as mandated by the Charter and approval of new positions.

- b. Ordinances on first reading and ordinances on second reading, which have not been changed since first reading.
  - c. Approval of minutes.
  - d. Issues which the staff has been directed by the Council to prepare, such as items discussed during a manager's briefing.
  - e. Contracts which require City Council approval.
  - f. Annexation Petitions and Findings of Fact.
- (2) At the request of Councilmember, an item shall be removed from the consent calendar and placed upon the regular agenda for debate at the end of the "Action Items" segment. A motion to approve the consent calendar shall not be debated and shall only be adopted by a unanimous vote of those Councilmembers present at the meeting. Prior to a vote being taken on the consent calendar, the City Clerk shall be called upon by the Mayor to read, by title, all ordinances for first and second reading which have been placed thereon.
- (3) Minutes shall be removed from the consent calendar for corrections of a substantive nature.
- (f) At the time the agenda is approved, items may be deleted, or additional action items may be added by a Councilmember, the City Manager or the City Attorney, to be placed at the end of the "Action Items" segment.
- (g) Federal law, State Statutes, the Charter and this Code call for public hearings on various matters, such as the annual budget or requests for annexations and rezonings. The Council may also direct that a matter of significant interest be scheduled as a public hearing. Where the method of notice for a public hearing is not otherwise specified by law or by Council action, notice shall be given by posting once on the City website at least ten days prior to the hearing, or less than ten days for good cause shown. If the required notices are not provided based on an action of the applicant, the public hearing shall be opened and continued to the next City Council meeting that does not have another public hearing scheduled, unless City Council otherwise directs the City Manager. The purpose of a public hearing is for the City Council to receive input, both negative and positive, to help it in making a determination on a matter it is about to consider. The item is listed on the agenda under the title "public hearings," and the Council may or may not receive a verbal report and/or recommendation from staff, and interested parties and citizens are asked to comment either in support of or in opposition to the item at hand. Public hearings will be conducted, generally, in the following manner:

- (1) In order to schedule the timing and length of public hearings for the convenience of the Council, the general public and interested parties, the first public hearing will begin at or before 7:30 p.m., or as soon thereafter as possible. This segment of the agenda will last no more than two hours.
- (2) On land use issues, time limits for presentations are established at no more than 15 minutes for the applicants, or at the discretion of the Mayor may be allowed additional time. Presentations will be structured in accordance with procedures established by the City Development Department.
- (3) Proponents and opponents who wish to speak shall be requested to sign up prior to the beginning of the meeting, on the register located in the lobby or Council chamber and limit their remarks to three minutes. Groups of citizens who wish to support or oppose a specific item will be requested to choose a spokesperson and, at the discretion of the Mayor, may be allowed additional time to admit testimony on information over and above that already presented in their behalf. Speakers may be asked to be sworn in by the City Clerk if they wish to submit facts rather than opinions.

Audio/visual presentations must be submitted to the City Clerk's office by 10:00 a.m. the Monday prior to the Council meeting. However, the Mayor has discretion to permit a speaker to show an audio/visual presentation during a public hearing, without prior notice to the City Clerk's office, with proper assurances that the individual is not aware of the file having computer viruses. After the presentation during a public hearing, any councilmember has the right to move that the audio/visual presentation be stricken from the evidentiary record as irrelevant.

- (4) Action may be taken on public hearing items after the public hearing has been closed or scheduled for action at the next Council meeting. If it is deemed desirable by the Council to continue a public hearing, it shall be continued to a date certain.
- (5) At the conclusion of the public hearing on an application, the City Council may:
  - a. Continue the public hearing to a future meeting date for additional testimony;
  - b. Close the public hearing, and refer the application to a board or commission for review and recommendation;
  - c. Close the public hearing, and continue the ordinances or resolutions to a future meeting for action;

- d. Close the public hearing, and request an executive session pursuant to state statute;
  - e. Close the public hearing, and take action on the ordinances or resolutions that relate to the application; or
  - f. Take any other lawful action.
- (h) There shall be a speaker's timing system utilized to monitor the speaker's time under the audience participation portion of the agenda as well as interested parties and citizens testifying at public hearings. The City Clerk shall be responsible for selecting and operating the speaker's timing system.