



## CITY COUNCIL ACTION FORM

<b>Originating Dept.</b> <b>City Attorney</b>	<b>Presented by</b> <b>Geoff Wilson</b>	<b>Date</b> <b>August 3, 2021</b>
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**ITEM Resolution 2021-29 – Adopting a Remote Participation Policy, when a local disaster emergency is not in effect**

### **BACKGROUND**

As we all know, the City proclaimed a local state of emergency on March 13, 2020 due to COVID-19. Because City government functions must continue during a local disaster, pandemic or emergency, the Salida City Council Resolution approved 2020-11, adopting an “Electronic Participation Plan for Use in the Event of a Local Declaration.” Resolution 2020-42 subsequently amended, consolidated and clarified the City’s “Electronic Participation Policy for use in the event of a Local Emergency Declaration.” Since adoption, the City has been operating under this Policy, while numerous Declarations of Extension of Local State of Emergency have been ratified, along with the City of Salida’s “COVID-19 Action Plan.”

As the City Attorney discussed with Council at its July 19<sup>th</sup> Work Session, when the State of Colorado and the City of Salida state of emergency expires, the City’s “Electronic Participation Policy for City Council Meetings and Meetings of City Boards and Commissions during a Local Disaster Emergency” will end as well. Because this policy will no longer apply once the emergency declaration is no longer in effect, the City must establish new parameters regarding the way meetings are held “post-emergency.” Although the world has changed, the efficiency, effectiveness and fairness of Council’s in-person participation while conducting official business and formal action of the City remains a priority.

Therefore, taking this all into consideration, the attached draft Remote Participation Policy makes it clear that, where possible, the preference and expectation is for City Councilmembers to attend regular and special meetings in person. However, the Policy also gives flexibility for Councilmembers to attend remotely, if necessary. This Policy is similar to what many cities and towns across Colorado are adopting. We also recommend that this Policy apply to City boards and commissions, when those boards and commissions are considering a quasi-judicial matters. It is assumed that boards and commission meetings that do not have quasi-judicial proceeding on its agenda should continue to be held in a manner pursuant to staff and chair discretion and direction.



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The Resolution makes it clear that the attached Remote Participation Policy will apply when a local disaster emergency is not (or no longer) in effect. And, when a state of emergency has been declared, the Policy “during a local disaster emergency,” adopted by Council via Resolution 2020-42, applies.

### **FISCAL NOTE:**

**There will be no notable fiscal cost or impact resulting from adopting this City Remote Participation Policy.**

### **STAFF RECOMMENDATION**

**Staff recommends approval of this Resolution and attached Policy.**

### **SUGGESTED MOTION**

**“I move to approve Resolution 2021-29, adopting a remote participation policy, when a local disaster emergency is not in effects,” followed by a roll call vote.**

**CITY OF SALIDA, COLORADO**  
**RESOLUTION NO. 29**  
**(Series of 2021)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,  
ADOPTING A REMOTE PARTICIPATION POLICY, WHEN A LOCAL DISASTER  
EMERGENCY IS NOT IN EFFECT**

**WHEREAS**, the City of Salida, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

**WHEREAS**, pursuant to C.R.S. §31-15-401, the City by and through its City Council (“Council”), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

**WHEREAS**, pursuant to this authority, the City has been operating under an “Electronic Participation Policy” for meetings during a local disaster emergency, most recently adopted by Council through Resolution 2020-42, due to the COVID-19 pandemic; and

**WHEREAS**, Council anticipates the eventual expiration of the State of Colorado and City of Salida declaration and state of emergency, when said policy will no longer apply; and

**WHEREAS**, Council wishes to establish new parameters regarding the manner in which official City meetings are held post-emergency; and

**WHEREAS**, state law permits remote participation in meetings of local public bodies, but does not prescribe procedures or parameters for such attendance; and

**WHEREAS**, in-person attendance at meetings is the preference and expectation of Council, whenever possible, in recognition of its efficiency and effectiveness when conducting public business, with remote participation an occasional exception and option as needed; and

**WHEREAS**, Council finds that it is in the best interest of the public health, welfare, and safety of the residents of the City of Salida to set forth the limits and requirements of remote attendance and participation in meetings of City Council, and City Boards and Commissions, when a local disaster emergency is not in effect, through the adoption of a Remote Participation Policy, attached herein in as Exhibit A.

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, THAT:**

**Section 1.** The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations and findings.

**Section 2.** The City of Salida Remote Participation Policy, attached and incorporated herein as Exhibit A, is hereby approved and adopted, to be used when a local disaster emergency is not in effect.

**Section 3.** A Councilmember's participation in a regular or special City Council meeting pursuant to the attached policy shall constitute attendance at the meeting for purposes of Salida Municipal Code 2-2-60. A City board or commission member's participation in a board or commission meeting pursuant to the attached policy shall constitute attendance for purposes of Salida Municipal Code 2-7-50.

**Section 4.** When a local disaster emergency has been declared pursuant to Colorado Revised Statutes §24-33.5-709, the City's "Electronic Participation Policy for City Council Meetings and Meetings of City Boards and Commissions During a Local Disaster Emergency" adopted by City Council via Resolution 2020-42 shall apply.

**Section 5.** The Salida City Council Handbook, adopted via Resolution 2021-08, is hereby amended by the addition and inclusion of the Remote Participation Policy attached as Exhibit A.

**RESOLVED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of August, 2021.**

CITY OF SALIDA

By: \_\_\_\_\_  
P.T. Wood, Mayor

[SEAL]

ATTEST: \_\_\_\_\_  
City Clerk Erin Kelley

### **City of Salida Remote Participation Policy**

The preference and expectation of all Councilmembers is to attend regular and special Council meetings in-person, in City Hall, whenever possible, in recognition of the efficiency and effectiveness of in-person participation when conducting the public business of the City of Salida. However, there may be occasional times when in-person attendance is not possible. The City finds that remote attendance by Councilmembers is preferable to not permitting participation or delaying the conduct of public business. Members of Council may therefore participate remotely in council meetings subject to the following rules and procedure.

- ⇒ **This Policy shall also apply to all quasi-judicial proceedings in front of any City board or commission.** When considering a quasi-judicial matter, City boards and commissions, and its members, shall follow this Policy in the same manner intended for Councilmembers.
  - ⇒ This Policy applies when a local disaster emergency is not in effect.
  - ⇒ When an emergency has been declared, the City's "Electronic Participation Policy for City Council Meetings and Meetings of City Boards and Commissions During a Local Disaster Emergency" adopted by City Council via Resolution 2020-42 shall apply.
- A. **"Remote Attendance"** means participation by video or audio means, such as Zoom, GoToMeeting, Webex, Microsoft Teams or similar platform approved by the City, which is clear, uninterrupted and allows two-way communication for the participating Councilmember.
- B. **Circumstances permitting remote participation.** Councilmembers may participate in a meeting by remote attendance when travelling out-of-town, when ill, when a family or personal emergency arises, or when unforeseen circumstances do not allow in-person attendance. Councilmembers who are ill are encouraged and expected to participate by remote attendance.
- C. **Meeting requirements concerning remote participation.** Council may permit remote participation in a meeting, provided that all of the following standards are met:
1. 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.
  2. Councilmembers and members of the public present at the meeting location can hear or read all discussion, testimony and votes.
  3. At least one member of the City Council is present at the meeting location.
  4. All votes are conducted by roll call.
- D. **Arranging for remote participation.** To arrange to participate remotely, a Councilmember shall contact the City Clerk in writing, as far in advance of the meeting as possible, and include the circumstance in which the Councilmember is making the request. Upon receipt of such written request, the City shall use its best efforts to provide the technical means necessary to fulfill the request from City Hall; provided, however, that it shall be incumbent upon the Councilmember who desires to participate by remote attendance to provide the technical means necessary to facilitate remote attendance from their location. Such Councilmember are

expected to be situated in a stationary location with adequate internet service with video camera on and presenting in a professional manner similar to in-person Council meeting attendance.

- E. **Public Participation.** For meetings where it is practical for City Council to utilize an electronic communication platform, members of the public may participate in such meetings and make comments at such times as are designated by the Mayor. The City may impose requirements on public participation by electronic means such as requiring a member of the public to send an email to the Clerk prior to the meeting if they desire to present on an item not on the agenda or requiring a member of the public to give notice to City staff in advance or during the meeting of their desire to comment on a specific agenda item.

- F. **A Councilmember participating through remote attendance:**

1. shall be entitled to participate in all Council matters in the same capacity as a Councilmember in physical attendance, including participation quasi-judicial matters and executive sessions;
2. shall be counted for purposes of establishing a quorum;
3. shall have the opportunity to express comments during the meeting and participate in the same capacity as those members physically present, subject to all general meeting guidelines and adopted procedures;
4. shall be heard, considered, and counted as to any vote taken;
5. shall be called during any vote taken and shall have such Councilmember's vote counted and recorded by the City Clerk and placed in that meeting's minutes; and,
6. may leave a meeting and return as in the case of any member upon announcement of such leaving and returning.
7. In the event that City Council holds an executive session, participants shall be authorized to attend remotely. A Councilmember participating in an executive session remotely shall: (a) have a secure telephone or electronic connection, and (b) certify that they are the only person in the room and that no other person has access to the executive session. Any executive session conducted under this Policy shall be recorded electronically as provided for by statute.

- G. **Presiding Officer.** The Mayor, Mayor Pro Tem or other designated person who is presiding over the meeting shall have the discretion to mute any Councilmember who is participating through remote attendance when distracting and extraneous noise is occurring through the remote attendance. The officer who is presiding over the meeting may delegate the ability to mute Councilmembers to the meeting host who controls the meeting platform. The presiding officer shall use best efforts to recognize and provide opportunity for Councilmembers who are participating via remote attendance the ability to contribute to the discussion and express comments. The presiding officer during the meeting shall designate the individual who councilmembers should contact during the meeting in the event of technical difficulties or in connection with other matters related to items not appearing on the agenda for the meeting in which the Councilmember is participating remotely.

- H. **Reasonable Accommodations.** The City may provide reasonable accommodation and waive or modify provisions of this Policy for the benefit of members of the City Council, commission, board or the public with a disability.

**CITY OF SALIDA, COLORADO**  
**RESOLUTION NO. 42**  
**(Series of 2020)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING, CONSOLIDATING AND CLARIFYING THE CITY'S ELECTRONIC PARTICIPATION POLICY FOR USE IN THE EVENT OF A LOCAL EMERGENCY DECLARATION**

**WHEREAS**, the City of Salida, Colorado ("City") is a statutory city, duly organized and existing under the laws of the State of Colorado; and

**WHEREAS**, pursuant to C.R.S. § 31-15-401, the City by and through its City Council ("Council"), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

**WHEREAS**, pursuant to Section 24-33.5-709 of the Colorado Revised Statutes, the City has the authority to declare a local disaster or emergency; and

**WHEREAS**, pursuant to Salida Municipal Code ("Code") Section 2-17-10, the City proclaimed a local state of emergency on March 13, 2020; and

**WHEREAS**, the City Council ratified the emergency declaration on March 17, 2020, and has since approved numerous Declarations of Extension of Local State of Emergency which also have implemented the City of Salida's COVID-19 Action Plan; and

**WHEREAS**, also on March 17, 2020, because City government must continue to operate during a local disaster, pandemic or emergency, while taking measures to protect the health and welfare of its employees, officials and citizens, the City Council approved Resolution 2020-11 adopting an Electronic Participation Plan for Use in the Event of a Local Emergency Declaration; and

**WHEREAS**, to further assist participation in City government, while protecting the health and safety of all City residents, employees and businesses, in April 2020 the City Clerk announced and distributed instructions in entitled "How to Participate in Virtual City of Salida Meetings," and in June 2020 the Community Development Director and the City Planning Commission approved and implemented "Procedures for Quasi-Judicial Hearings in Adherence to COVID-19 Precautions;" and

**WHEREAS**, City Council has determined that it is in the best interest of the public health, welfare, and safety of the residents of the City of Salida to amend and update its previously adopted Emergency Electronic Participation Policy, which also combines and clarifies all other City guidance relating to remote or virtual participation in public meetings and hearings.

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, THAT:**

**Section 1.** The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations and findings.

**Section 2.** City of Salida Resolution 2020-11 is hereby repealed and replaced by this Resolution 2020-42.

**Section 3.** A Council member's participation in a Council meeting by electronic means pursuant to the following policy shall constitute attendance at the meeting for purposes of Salida Municipal Code section 2-2-60. A City board or commission member's participation in a City board or commission meeting by electronic means pursuant to the following policy shall constitute attendance at the meeting for purposes of Salida Municipal Code section 2-7-50.

**ELECTRONIC PARTICIPATION POLICY  
FOR CITY COUNCIL MEETINGS AND MEETINGS OF CITY BOARDS AND  
COMMISSIONS DURING A LOCAL DISASTER EMERGENCY**

**I. Purpose.**

The purpose of this Policy is to specify the circumstances and means under which the City Council, and City boards and commissions, shall conduct regular and special meetings by telephone, internet, online or other electronic means of participation, such as video-conferencing that is clear, uninterrupted and allows two way communication for the participating members ("Electronic Participation").

**II. Statement of General Policy.**

The City Council, or a City board or commission, may conduct regular or special meeting and allow for Electronic Participation, upon the City's declaration of a local disaster emergency pursuant to Colorado Revised Statutes Section 24-33.5-709.

**A. Emergency Situations.**

Meetings may be held by telephone, internet, online, electronically, or by other means of communication if all of the following conditions are met:

1. A local disaster emergency has been declared pursuant to Section 24-33.5-709, Colorado Revised Statutes; and
2. All members of the City Council, or of the City board or commission, and at least one City staff member 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; and
3. Members of the public can hear the City Council's, or City board or commission's, proceedings and are afforded opportunities to participate in public comment; and
4. All substantive votes are conducted by roll call.

**III. Effect of Electronic Participation.**

**A. Quasi-Judicial Matters.**

1. In the event that a pending application is scheduled for a public hearing that is quasi-



2. City Councilmembers, Board members and Commissioners, applicants, staff and the public are asked to attend meetings virtually whenever possible utilizing the City's GoToWebinar platform. The GoToWebinar link will be at the top of the agenda. Questions may be submitted in writing up to 12pm the day of the meeting at [publiccomment@cityofsalida.com](mailto:publiccomment@cityofsalida.com). The meeting may also be viewed on the City of Salida Colorado YouTube channel, or Channel 191 on Charter Cable.

3. The in-person and/or electronic attendance and participation of City Councilmembers, Board members, Commissioners, applicant, appellant, staff and the public shall be governed by the City of Salida Action Plan and which listed "Tier" or "Level" of the pandemic the City is in at the time of the hearing.

4. If public in-person participation is permitted by the City of Salida Action Plan for the applicable "Tier" or "Level," there are limited opportunities for the public to attend the meeting in person and give testimony. During those opportunities, the City asks for the public's patience as it implements the following precautions:

- a. Six feet of social distancing required inside and outside the Council Chambers;
- b. Masks must be worn;
- c. Members of the public who wish to provide testimony in-person may wait outside the building by the northwest entrance after completing the public hearing sign-in. Each speaker will be escorted from outside to the lectern individually for their comments. After speaking they must exit the Chambers and the next speaker will be ushered in;
- d. Those requesting to attend in-person must not have any symptoms such as fever or chills, cough, shortness of breath or difficulty breathing, fatigue and muscle or body aches. The self-evaluation symptoms will be posted outside the entrance to the Council Chambers;
- e. We request speakers limit their time giving testimony to three minutes each.

5. The order of the quasi-judicial hearing shall be:

- a. Staff report and recommendation followed by questions from the Council, Board or Commission;
- b. Applicant presentation followed by questions from the Council, Board or Commission;
- c. Chair shall invite the public to speak in the following order:
  - (i) In-person speakers, followed by
  - (ii) On-line speakers.
- d. Close the public hearing for discussion amongst the Council, Board or Commission.
- e. Motion is made; seconded and Council, Board or Commission vote.

#### **B. Executive Sessions.**

In the event that the City Council, or City board or commission, holds an executive session pursuant to Section 24-6-402, Colorado Revised Statutes, participants shall be authorized to attend via Electronic Participation. Any executive session conducted under this policy shall be recorded electronically as provided for by statute.

#### IV. How to Participate Electronically in Virtual City of Salida Meetings

##### A. How to Comment During the Live Meeting by Web or Phone:

1. Join the live meeting through the web link or phone number (with access code) provided at the top of all meeting agendas.
2. You will be joined into the meeting and automatically muted.
3. If you would like to provide Public Comment, via smartphone, please type in the question box indicating you would like to speak. After all smartphone requests have been addressed, all participants will be unmuted and we will reach out by last names. (For example, the Mayor or meeting Chair may say: "Now is the time for public comment. All members of the public will be unmuted. Please mute yourself or keep background noise to a minimum. If your last name begins with A through F you may now speak.")
4. Please only join via Go to Meeting or phone meeting if you intend to participate. If you wish to simply view the meeting, see below.

##### B. How to Comment in Advance of a Live Meeting:

1. Visit [www.cityofsalida.com](http://www.cityofsalida.com) or <https://cityofsalida.com/library/meetings/> to review agendas and packets.
2. For City Council and Planning Commission Meetings: You may submit comments any time until noon on the day of the meeting by sending an email to [publiccomment@cityofsalida.com](mailto:publiccomment@cityofsalida.com).

#### V. Limited Applicability of Policy.

This Policy shall only apply to regular and special meetings (including work sessions) of the City Council of the City of Salida, and to regular and special meetings of any official City board or commission, unless otherwise provided by the City Council.

**RESOLVED, APPROVED, AND ADOPTED this 1st day of December, 2020.**



CITY OF SALIDA

By: \_\_\_\_\_

P.T. Wood, Mayor

ATTEST: \_\_\_\_\_

City Clerk/Deputy City Clerk