

TOWN ADOPTED POLICY
Remote Participation



Adopted: (month day, year)

Revised: Effective September 1, 2022

IRVINGTON, VIRGINIA
POLICY FOR ELECTRONIC PARTICIPATION IN MEETINGS FROM REMOTE LOCATIONS

1.0 Purpose and Need

Town Council for the Town of Irvington, Virginia (the "Council") as a Virginia local public body and governing body desires to adopt a policy, as permitted by Virginia Code §§ 2.2-3708.2 and 2.2-3708.3, to provide for the use by Council and its Council Committees of all-virtual public meetings in the event of a state emergency under Virginia Code § 44-146.17 or a local state of emergency declared applicable within the Town of Irvington pursuant to Virginia Code § 44-146.21, and to afford a member thereof the opportunity to participate remotely in a Council meeting when such a member may be unable to attend the meeting thereof due to: (1) a physical disability or medical condition of a member, (2) a medical condition of a family member of the member for whom the member is required to provide care, (3) the member's principal residence is more than sixty (60) miles from the meeting location identified in the required notice for such meeting or (4) a personal matter.

2.0 Definitions

2.1. *Personal matter* – Any matter deemed by a member of Council that prevents their attendance in person at a meeting of Council. Examples include but are not limited to personal, family or business matters that prevent attendance at the meeting location; severe weather conditions or unexpected traffic or travel conditions that prevent travel to the meeting location.

2.2. *Physical disability or other medical condition of the Council member* – Examples include but are not limited to temporary hospitalization or confinement to home, contagious illness, any temporary or permanent physical disability that prevents travel to the meeting location by the Council member.

2.3. *Medical condition of a family member of a Council member* – is limited to those situations in which the family member's medical condition requires the Council member to provide care for the family member and thus prevents the Council member from physically attending the meeting.

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2.4. Council Committee – Any committee, subcommittee, or other entity however designated of the Council to perform delegated functions of the Council or to advise the Council.

3.0 Guiding Principles for Members to Participate Remotely in Council or Council Committee Meetings

3.1. The Council practices open and transparent governance in full compliance with the Virginia Freedom of Information Act (“FOIA”) and other applicable laws and regulations. Council members shall make every effort to physically attend every meeting of the Town Council. However, the Council desires to adopt this policy to allow for all-virtual meetings without a quorum physically assembled in the event of a state emergency declared pursuant to Virginia Code § 44-146.17 or in the event of a local state of emergency declared applicable within the Town of Irvington pursuant to Virginia Code § 44-146.21, and to allow for Council members to participate remotely in those circumstances recognized under Virginia Code §§ 2.2-3708.2 and 2.2-3708.3 when physical attendance is not reasonably possible or attendance in person would not be safe or practicable.

3.2. The Council further desires to adopt this policy on behalf of its Council Committees as allowed pursuant to Virginia Code §2.2-3708.3(D) to provide Committee members the opportunity to participate remotely in meetings of the Committees in those circumstances recognized under Virginia Code §§ 2.2-3708.2 and 2.2-3708.3 when physical attendance is not reasonably possible.

3.3. This policy shall apply strictly and uniformly to the entire membership of the Council and Council Committees without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at any meeting.

3.4. No action need to be taken by a Council Committee to apply the provisions of this policy to the Council Committee. This policy shall apply to every Council Committee as fully as it does to the Council, even if the policy does not make reference at times to its application to Council Committees, unless the contrary is evident. Provided, however, a Council Committee may also adopt a policy on its behalf that applies to the Council Committee’s use of individual remote participation and all-virtual public meetings in lieu of this policy.

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4.0 Procedures for All-Virtual Council Meetings During a Declared Public Emergency Without a Quorum Physically Assembled

4.1. As permitted by Virginia Code § 2.2-3708.2, at any of its meetings or joint meetings with another public body, Council may meet by electronic communication means without a quorum of the Council physically assembled at one location when the Governor has declared a state of emergency in accordance with Virginia Code § 44-146.17 or when there is a local state of emergency declared applicable within the Town of Irvington pursuant to Virginia Code § 44-146.21, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the Council or the discharge of its lawful purposes, duties, and responsibilities. The Council convening a meeting in accordance with this section shall:

4.1.1. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to its members;

4.1.2. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by Council;

4.1.3. Provide the public with the opportunity to comment at its meetings when public comment is customarily received at such meetings; and

4.1.4. Otherwise comply with the provisions of this policy and Virginia Code §§ 2.2-3708.2 and 2.2-3708.3.

4.2. The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

4.3. The provisions of this section shall be applicable only for the duration of the emergency declared pursuant to Virginia Code § 44-146.17 or § 44-146.21.

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5.0 Procedures for a Council or Council Committee Member to Participate Remotely in a Meeting

5.1. As permitted by Virginia Code § 2.2-3708.3, in order to invoke the provisions of this Section 5.0, a member who is unable to physically attend a meeting shall be entitled to make a request to participate in the meeting remotely, if the inability to physically attend the meeting is due to one of the following reasons.

5.1.1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;

5.1.2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;

5.1.3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or

5.1.3. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

5.2. The process for invoking the provisions of Section 5.0 is as follows:

5.2.1. The member shall communicate the request to participate remotely to Council staff, including providing the reason for the inability to physically attend. Staff shall then relay such requests to the Council Chair or presiding officer.

5.2.2. At the meeting, a quorum of Council must be physically assembled at one location. Staff or the Chair or presiding officer shall inform the Council of the member's request to participate in the meeting through electronic means from a remote location. Individual participation from a remote location shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) of the Code of Virginia.

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5.2.3. If a member's participation from a remote location is challenged, then the members of Council physically assembled at one location shall vote whether to allow such participation.

5.3. The request for remote participation and the results of any vote taken on the request shall be recorded in the minutes of the meeting. If participation by a member through electronic communication means is approved pursuant to this Section 5.0, Council shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description.

5.3.1. If participation is approved pursuant to subdivision 1 or 2, Council shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, Council shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, Council shall also include in its minutes the specific nature of the personal matter cited by the member.

5.3.2. If the Council votes to disapprove of the member's participation from a remote location, because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

6.0. All-Virtual Meetings of Council Committees

6.1 Council Committees may hold all-virtual public meetings, provided that the Council Committee follows the other requirements in this policy and Virginia Code §§ 2.2-3708.2 and 2.2-3708.3 for meetings, and:

6.1.1. An indication of whether the meeting will be an all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which the Council Committee chooses

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to meet shall not be changed unless the Council Committee provides a new meeting notice in accordance with the provisions of Virginia Code § 2.2-3707;

6.1.2. Public access to the all-virtual public meeting is provided via electronic communication means;

6.1.3. The electronic communication means used allows the public to hear all members of the Council Committee participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the Council Committee as well;

6.1.4. A phone number or other live contact information is provided to alert the Council Committee if the audio or video transmission of the meeting provided by the Council Committee fails, the Council Committee monitors such designated means of communication during the meeting, and the Council Committee takes a recess until public access is restored if the transmission fails for the public;

6.1.5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of the Council Committee for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the Council Committee;

6.1.6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;

6.1.7. No more than two members of the Council Committee are together in any one remote location unless that remote location is open to the public to physically access it;

6.1.8. If a closed session is held during an all-virtual Council Committee meeting, transmission of the meeting to the public resumes before the Council Committee votes to certify the closed meeting as required by subsection D of Virginia Code § 2.2-3712;

6.1.9. The Council Committee does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number,

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whichever is greater, or (ii) consecutively with another all-virtual public meeting; and

6.1.10. Minutes of all-virtual Council Committee meetings held by electronic communication means are taken as required by Virginia Code § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

7.0 Responsibility and Authority

This policy shall be reviewed annually and revised as required to conform to current law and regulations.

Approved: _____ Date _____
_____(Printed Name)
_____(Title)

Approved: _____ Date _____
_____(Printed Name)
_____(Title)