

Agenda No. 518

ORDINANCE NO.

*Amend Council Organization and Procedure Code to clarify attendance by electronic communication and meeting location (Ordinance; amend Code Sections 3.02.010 and 3.02.060.C.2 and add Section 3.02.026)

The City of Portland ordains:

Section 1. The Council finds:

1. On March 12, 2020, the Mayor executed a Declaration of Emergency for the City of Portland due to the continued spread of the COVID-19 virus, which creates an extreme risk to public health, government and business continuity, and the local economy of the City of Portland, across the entire city.
2. On March 23, 2020, the Governor of the State of Oregon, Kate Brown, issued Executive Order 20-12, ordering the public to stay at home to stay healthy, and ordering certain businesses to close unless otherwise permitted to operate as provided by the Governor's Executive Order.
3. The Governor of the State of Oregon, Kate Brown, has extended the statewide Declaration of Emergency through June 28, 2021, and the Multnomah County Board of Commissioners has voted to extend the County's emergency declaration to July 2, 2021.
4. The City of Portland's March 12, 2020, Declaration of Emergency, as extended, is set to expire at 8:00 a.m. on July 1, 2021, unless otherwise extended by the Mayor.

Introduced by
Mayor Ted Wheeler

Bureau
Management and
Finance

Prepared by
Carmen Merlo

Date Prepared
June 10, 2021

Requested Council Date
June 30, 2021

Requested Agenda Type
Regular
15 minutes requested

Date Filed with Clerk
June 22, 2021

5. Under Portland City Code and state law, the City Council has been convening Council meetings electronically whereby all members of council are attending remotely by video and teleconference, and the City has made several avenues available for the public to listen to the audio broadcast of this meeting.
6. Council meetings are available to the public on the City's YouTube Channel, [eGov PDX](#), www.portlandoregon.gov/video and Channel 30. The public can also provide written testimony to Council by emailing the Council Clerk at cctestimony@portlandoregon.gov.
7. City Code 3.02.025 permits Council members to attend and be present at public meetings by telephone or other electronic communication when an emergency exists such that failure to allow participation by electronic communication would jeopardize the public interest, health, safety or welfare.
8. Members of City Council have appreciated the improved flexibility and equity of public participation while convening electronically. The Council desires to amend code to continue providing an option to the public to join and members of Council to attend and participate in Council meetings by electronic means. To allow evaluation of whether electronic participation by Council continues to provide satisfactory collaboration and participation once city offices begin to reopen, new code section 3.02.026 will apply instead of code section 3.02.025 until June 30, 2022.
9. Thirty days after the Governor's emergency expires, the City will need to provide a location for the public to listen to Council meetings, even if all members of Council attend electronically. It is anticipated that this location may be provided in the Portland Building or some other location until City Hall is fully reopened. An amendment to 3.02.010 will clarify that a Council session, including the location for the public to listen to an electronic meeting, may be held in a place other than Council Chambers upon motion by Council.

NOW, THEREFORE, the Council directs:

- A. City Code Sections 3.02.010 and 3.02.060 C.2. are amended and Section 3.02.026 is added as provided in Exhibit A.

Section 2. The Council declares that an emergency exists because a delay would disrupt the efficiency of City Council proceedings and ability to convene Council meetings while maintaining community health and safety; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by Council:

MARY HULL CABALLERO
Auditor of the City of Portland

Action Taken:

By

Deputy

Commissioners voted as follows (Yea or Nay)

Rubio -

Ryan -

Hardesty -

Mapps -

Wheeler -

Exhibit A

CHAPTER 3.02 - COUNCIL ORGANIZATION AND PROCEDURE

3.02.010 Council Meetings.

(Amended by Ordinance Nos. 166314, 170834, 177787 and 182541, effective February 18, 2009.) A regular meeting of the City Council shall be held once a week and will generally be held each Wednesday, commencing at 9:30 a.m., and, as necessary, recessed sessions will be held each Wednesday at 2:00 p.m. and the following Thursday at 2:00 p.m. in the Council Chambers. City Council may hold its recessed session in the evening of either day beginning at 6:00 p.m. upon motion adopted by the Council at least 2 weeks prior to the meeting date. When either day falls on a legal holiday the meeting shall be held on the next succeeding business day at the same hour unless otherwise directed by Council during a regularly scheduled session not less than two weeks prior to the meeting. Any ~~recessed~~ session may, upon motion adopted by the Council, be held at a place other than the Council Chamber, but the place shall be within the City limits.

3.02.020 Special Meetings. [unchanged]

3.02.025 Attendance by Electronic Communication. [Unchanged]

3.02.026 Attendance by Electronic Communication until June 30, 2022

Notwithstanding Section 3.02.025, until June 30, 2022, the following provisions apply to Council attendance by electronic communication. On and after June 30, 2022, this section is repealed, and Section 3.02.025 will apply.

- A. Members of the City Council may attend and be present at public meetings by means of telephone or other electronic communication.
- B. City Council members who expect to attend by means of telephone or other electronic communication must notify the Auditor or designate prior to commencement of the meeting or as soon as reasonably practicable. The Auditor or designate must make reasonable efforts to notify all City Council members when some or all members are expected to attend by means of electronic communication.
- C. Except for an executive session, the Council shall make available at least one place where the public entitled to attend the meeting can listen to the communication at the time it occurs by speakers or other devices. The place provided may be a place where no members of the Council are physically present. All other requirements of state law and City Code concerning the conduct of meetings by electronic communication shall be met.
- D. The Presiding Officer or designee may rely on information provided by any member of the Council, City staff or Person-in-Charge as designated in Code Section 3.18.010 who is physically present at the Council meeting that a person has disrupted the meeting or engaged in dangerous or threatening behavior for purposes of Code Section 3.02.060.

- 3.02.030** **Entry of Documents on Agenda.** [unchanged]
- 3.02.035** **Ordinance Wording.** [unchanged]
- 3.02.036** **Consent Agenda.** [unchanged]
- 3.02.037** **Time Certain Agenda.** [unchanged]
- 3.02.040** **Rules of the Council.** [unchanged]
- 3.02.050** **Authority to Adopt Rules, Procedures and Forms.** [unchanged]
- 3.02.060** **Rules of Conduct at City Council Meetings, Ejection and Exclusion.**
(Added by Ordinance Nos. 188280 and 189556, effective July 12, 2019.)

- A.** To preserve order and decorum, the presiding officer or designee may direct that any person who disrupts any Council meeting, or any person who engages in dangerous or threatening behavior, after first having been warned to cease and desist from such disruption or dangerous or threatening behavior, be ejected or excluded from Council Chambers or such other place as the Council may be in session.
- B.** For purposes of this Section, an ejection is an order made by a Person-in-Charge to immediately leave the meeting, and an exclusion is an order made by the Chief Administrative Officer of the Office of Management and Finance, the Deputy Chief Administrative Officer of the Office of Management and Finance, or their designees prohibiting a person from entering or remaining at future meetings for a specified period of time.
- C.** Ejection or exclusion shall be issued in the following manner:
- 1.** The presiding officer or designee will give a warning to the person engaging in disruptive, dangerous or threatening behavior. If the person engaging in disruptive, dangerous or threatening behavior does not cease that behavior following the warning, the presiding officer or designee will issue an ejection. An ejection shall be for the remainder of the session at which the disruptive, dangerous or threatening behavior has occurred.
 - 2.** For purposes of this Section, a person disrupts a meeting of the Council if the person engages in any conduct that obstructs or impedes the orderly carrying on of the business of the meeting. Such conduct includes, but is not limited to: any conduct that substantially prevents any other person from hearing, viewing or meaningfully participating in the meeting; any conduct that substantially interferes with ingress or egress to or free movement within the Council Chambers or such other place as the Council may be in session; shouting over, or otherwise disrupting, any person who is

recognized by the presiding officer; any conduct that substantially interferes with City business conducted by City staff present at the session; or failure to obey any reasonable direction of the presiding officer.

- 3.** A direction of the presiding officer is reasonable if it is reasonably related to maintaining order and decorum. A direction of the presiding officer is not reasonable if it is directed to speech or conduct the right to engage in which is, under the circumstances, protected by the federal or Oregon constitution.
 - 4.** For purposes of this Section, behavior is dangerous or threatening if a reasonable person, exposed to or experiencing such behavior, could believe that the person was in imminent danger of physical harm from the behavior. Notwithstanding the provisions of this Section, if the presiding officer reasonably believes that a person's dangerous or threatening conduct constitutes an emergency, the presiding officer is not required to give the person a warning before ordering the person ejected.
- D.** If a person has previously been ejected for dangerous or threatening behavior before the Council within 1 year before the date of the present ejection, or for disruptive behavior on three or more separate occasions within 1 year before the date of the present ejection, the person shall be excluded from Council meetings for 30 days. Written notice of such exclusion shall be given as provided in this Section.
- E.** If a person has been excluded from the Council on one or more occasions within 1 year before the date of the present exclusion, the person shall be excluded from Council meetings for 60 days. Written notice of such exclusion shall be given as provided in this Section.
- F.** The Chief Administrative Officer of the Office of Management and Finance, the Deputy Chief Administrative Officer of the Office of Management and Finance, or their designees, shall give written notice of any exclusion issued under this Section, and the person excluded may appeal the exclusion to the Code Hearings Officer in the manner provided under Section 3.18.030.
- G.** Notwithstanding any other provisions of this Code, the Hearing Officer's review of the question of whether the excluded person in fact engaged in disruptive, dangerous or threatening behavior shall be based upon the audio and video record of the meeting, applying the criteria described in this Section. Under no circumstances shall the presiding officer or any member of the Council be compelled to testify at the hearing, or in any proceeding connected therewith. The exclusion shall be stayed upon the filing of the notice of appeal, but any stayed exclusion shall be counted in determining the length of any subsequent exclusion under this Section. If any exclusion is reversed on appeal, the effective periods of any exclusions that are not reversed shall be adjusted accordingly. If multiple exclusions issued to a person are simultaneously stayed, the effective periods for those which are affirmed shall run consecutively.

- H.** It shall be unlawful for any person to be in the Council Chambers or in any other place where the Council is meeting, at any time during which there is in effect an ejection or an exclusion of the person from Council meetings.
- I.** An exclusion issued under this Section does not affect or limit the right of the person excluded to submit written testimony or materials to the Council Clerk for inclusion in the record and for consideration by the Council, or otherwise lawfully to petition or seek redress from the City or its elected officials.
- J.** The provisions of this Section apply to any public meeting of a City board or commission. If a person engages in disruptive, dangerous or threatening behavior at a public meeting of a City board or commission, any Person-in-Charge may eject that person by applying the provisions of this Section.

IMPACT STATEMENT

Legislation title: *Amend Council Organization and Procedure Code to clarify attendance by electronic communication and meeting location (Ordinance; amend Code Sections 3.02.010 and 3.02.060.C.2 and add Section 3.02.026)

Contact name: Carmen Merlo

Contact phone: (503) 823-5665

Presenter name: Ness Zolan

Purpose of proposed legislation and background information:

City Code 3.02.025 permits Council members to attend and be present at public meetings by telephone or other electronic communication when an emergency exists. During the pandemic, under Portland City Code and state law, the City Council has been convening Council meetings electronically whereby all members of council attend remotely by Zoom. The proposed ordinance would allow Council members to attend and be present at public meetings by telephone or other electronic communication regardless of whether an emergency exists.

Financial and budgetary impacts:

The proposed ordinance does not have any financial or budgetary impacts.

Community impacts and community involvement:

The City has made several avenues available for the public to listen to the audio broadcast of Council meetings. During the pandemic, Council meetings are available to the public on the City's YouTube Channel, eGov PDX, www.portlandoregon.gov/video and Channel 30. The public can also provide written testimony to Council by emailing the Council Clerk at cctestimony@portlandoregon.gov. Thirty days after the Governor's emergency expires, Council will provide a location where the public may listen to Council meetings, even if all members of Council attend electronically. It is anticipated that this location may be provided in the Portland Building or some other location until City Hall is fully reopened. This is in addition to providing an option for the public to attend and participate in Council meetings by electronic means.

100% Renewable Goal:

The proposed ordinance should have no impact on the City's total energy use.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount