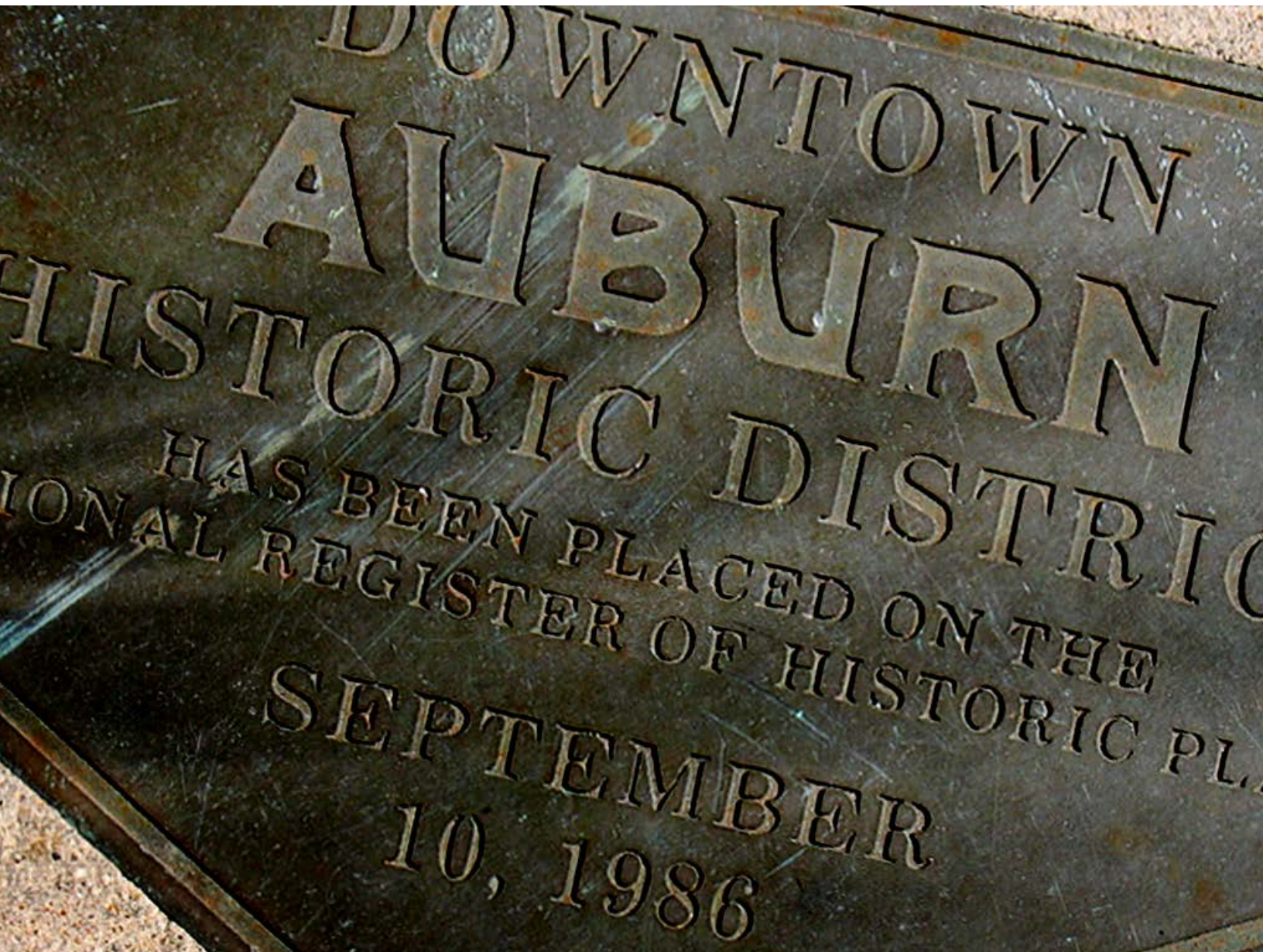




Code of Ordinances
CITY OF AUBURN





Code of Ordinances
CITY OF AUBURN

Common Council

CHAPTER

31

AUBURN



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31.01 REGULAR DATE FOR MEETINGS

The regular meeting date for the Common Council of the City shall be on the first and third Tuesday of each month. The meeting time shall be set by the Common Council at its organization meeting in January of each year.

31.02 ORDER OF BUSINESS

The order of business to be followed at meetings of the Common Council shall be as follows:

- A. Call to order.
- B. Silent meditation or reflection.
- C. Pledge of Allegiance to the Flag of the United States of America.
- D. Roll call.
- E. Approval of minutes previously distributed to Councilpersons.
- F. Recognition of visitors.
- G. Communications.
- H. Clerk-Treasurer: financial reports and claims.
- I. Ordinances and resolutions.
- J. Reports.
 - a. Mayor
 - b. Council President
 - c. Plan Commission
 - d. Report of Council Committees
- K. Unfinished business.
- L. New business.
- M. The general good and welfare of the community.
- N. Announcements.
- O. Adjournment.

(Amended 2017-02, passed 2-21-2017)

31.03 CONTEMPT AND DISORDER IN THE COUNCIL ROOM

- A. No person shall use violent or contemptuous language, behave in a disorderly manner, or refuse to obey the orders of the Mayor or Presiding Officer in the council room while the Common Council is in session.
- B. Any Person who violates this provision shall be fined not more than \$50 nor less than \$1.

31.04 INTRODUCTION AND ADOPTION OF ORDINANCES AND RESOLUTIONS

- A. All ordinances and resolutions shall be filed with the Clerk-Treasurer by 4:00 P.M. at least seven days before a regular meeting. The Ordinances may be received by electronic transmittal. The Clerk-Treasurer shall date-stamp each ordinance and resolution as it is received, assign it a number, and deliver copies to each member of the Council as soon as possible. Those ordinances received by electronic transmittal, shall receive a date stamp as of the date received, as long as the transmittal was received before 4:00 P.M. Ordinances and resolutions shall be numbered in



separate sequence. All ordinances and resolutions shall be posted for public inspection immediately upon filing, both in hard copy format and on the City of Auburn web-site.

- B. By a two-thirds vote of the Council an ordinance or resolution may be received and acted upon at any regular meeting of the Council by a suspension of the foregoing rule as to previous filing.
- C. Each ordinance and resolution shall have a title and shall bear a brief summary of its contents and purpose.
- D. All ordinances and resolutions shall be read twice by title and summary only, unless the Council by a majority vote of members present decides to have a particular ordinance or resolution read either in whole or in part.
- E. No ordinance shall pass on the day of its first reading unless the Council, after complying with the requirements of the Indiana Code determines that an emergency exists. Any motion to suspend the rule shall contain the statement that an emergency exists and expresses the reasons constituting such emergency.
- F. Copies of ordinances for consideration shall be posted on the City of Auburn Web-Site for public access. Upon request each ordinance and resolution read by the Council shall be available to members of the public who are present at Council meetings.
- G. On the passage or adoption of any ordinance or resolution, the yeas and nays shall be taken and entered in the record, and the ordinance or resolution shall be processed in accordance with the Indiana Code.
- H. In the order of business, ordinances and resolutions shall be taken up in the order of their number, unless the Council, by majority vote of those members present, determines to take up one particular ordinance or resolution out of sequence.
- I. When a majority vote of the Common Council is required to pass an ordinance or resolution, there must be a majority negative vote to defeat; thus, if there is not a majority for or against such ordinance or resolution, it shall be considered as "no action taken" and shall be placed on the agenda for the next appropriate meeting of the Common Council.
- J. When a two-thirds majority vote of the Common Council is required to pass an ordinance or resolution, a majority negative vote is hereby required to defeat such issue; thus, if there is less than a two-thirds vote in favor, yet less than a majority opposed to such ordinance or resolution, it shall be considered as "no action taken" and shall be placed on the agenda for the next appropriate meeting of the Common Council.

31.05 QUESTIONS OF ORDER

The Mayor or Presiding Officer shall decide all questions of order. He or she shall decide whether any question submitted to the Council for adoption or rejection is decided in the affirmative or negative. When two or more members ask to be heard at the same time, the Mayor or Presiding Officer shall decide which shall speak first. Robert's Rules of Order, Revised, the latest edition, shall be the controlling authority on all questions of parliamentary law and procedure not covered by statute or ordinance.

31.06 APPEAL FROM DECISION OF PRESIDING OFFICER

From any decision of the Presiding Officer any member may appeal to the Council. The appeal shall be by motion duly made, seconded, and voted upon.

31.07 COUNTING AND RECORDING VOTES



The yeas and nays shall be taken and recorded on any question arising before the Council on request of any two members except on motion to adjourn. In all cases the question on the adoption of an ordinance or resolution shall be taken by the yeas and nays, and the names and vote of each member shall be duly recorded in the minutes of the meeting.

31.08 QUESTION RELATING TO PRIORITY OF BUSINESS

All questions relating to the priority of business shall be decided without debate, and the regular order shall not be waived without unanimous consent.

31.09 DUTIES OF CHIEF OF POLICE

The Chief of Police shall be sergeant at arms of the Council, and it shall be his duty to maintain order under the direction of the Presiding Officer. Any person in attendance at a meeting of the Council who refuses to obey the order of the Presiding Officer, or in any way violates these rules or neglects or refuses to keep order or proper decorum, shall be removed from the council chamber by the Chief of Police or his Deputy.

31.10 RECORD OF ATTENDANCE

The Clerk-Treasurer shall keep in his minutes a correct record of the attendance of the Councilmen at meetings of the Council.

31.11 FACILITIES FOR ATTENDING DUTIES OF COUNCILMEN

Every member of the Council shall be provided with pen, paper, and sufficient facilities for writing and attending to his duties as Councilman with comfort, facility, and dispatch.

31.12 ADJOURNMENT

- A. A majority of the Councilmen elected shall constitute a quorum, but a minority may adjourn from time to time until a quorum is had.
- B. A motion to adjourn or to lay on the table shall not be debatable.

31.13 CONDUCT OF COUNCILMEN

- A. No member shall impeach the motive of any other member's vote or argument.
- B. If any member in any way transgresses the rules of the Council, any of the other members or the Presiding Officer may call him to order, in which case the alleged offender shall immediately cease and desist such activity, unless permitted to explain.
- C. When any member is about to speak or deliver any matter to the Council he shall respectfully address himself to the Presiding Officer, and when duly recognized by the Chair shall confine himself to the question under debate.
- D. No member of the Council shall speak more than twice on the same question without leave of the Council, nor more than once until every other member wishing to speak has spoken. All speeches shall be limited to three minutes, unless further time is granted by the Council. In addition, each member shall be allowed one minute to explain her or his vote. Time consumed in answering questions shall not be considered part of the speaker's time.
- E. When the Presiding Officer is putting a question or addressing the Council, or when any member is speaking, no member shall engage in any private discourse nor walk across or leave the room unnecessarily.



31.14 MAKING AND ADOPTING MOTIONS

- A. When any motion is made and seconded it shall be stated by the Presiding Officer, or if in writing, it shall be handed to the Clerk-Treasurer and read aloud before debate.
- B. Every motion shall be reduced to writing if the Presiding Officer or any member requires it. After being stated or read the motion shall be considered in the possession of the Council but it may be withdrawn at any time before decision or amendment.
- C. Any person who has business to bring before the Council or who wishes to be heard on a matter being considered by the Council may, when recognized by the Chair, address the Council.
- D. When any question is under debate no other motion shall be received except to lay on the table, for the previous question, to postpone indefinitely, to postpone to a day certain, or to commit. The motion shall have preference in the order in which it is here named.
- E. The form for the previous question shall be as follows: "Shall the main question be now put?" It shall only be admitted when demanded by a majority of the members present, and, until decided, shall preclude all amendments. If decided in the affirmative, the Chair shall put the question, first upon the appending amendments in their order, if there are any, and then upon the main proposition.
- F. Ordinances, resolutions, and reports may be committed and recommitted at the pleasure of the Council.
- G. When any question has been once decided in the affirmative or negative, any member voting with the majority may move for a reconsideration of the question at the next meeting of the Council.
- H. No business shall be transacted out of its regular order without unanimous consent.
- I. When any matter is postponed indefinitely it shall not be again voted upon during that or the next meeting.

31.15 STANDING COMMITTEES

- A. The following standing committees shall be annually appointed by the Mayor at the first regular meeting in January of the Common Council, of which the first named shall be the Chair: Finance, Tax Phase-In, and Ordinances and Resolutions, and shall each be composed of three members from the Common Council.
- B. These committees shall perform the duties required by the Council and report their actions at any meeting of the Common Council whenever called upon to do so.

31.16 TIME OF FILING CLAIMS, PETITIONS, AND SIMILAR PAPERS

All bills, accounts, or claims against or owed by the city must be filed with the Clerk-Treasurer at least seven days before a regular meeting of the Council. All bills, accounts and claims must be duly attested and sworn to according to law and accomplished by the certificate of the proper officers or committee to receive attention.

31.17 COMPOSITION OF COUNCIL; COUNCILMANIC DISTRICTS

- A. Each voter in the City may vote for two (2) candidates at-large and one (1) candidate for the district in which she or he resides.
- B. The two (2) at-large candidates receiving the most votes from the entire city and the district candidates receiving the most votes from their respective districts shall be deemed elected to the Common Council.



- C. The Common Council shall be composed of two (2) at-large members and five (5) additional members elected from districts that are composed of contiguous territory, are reasonably compact, and contain, as nearly as possible, equal population; said districts being defined as follows:
 - 1. District one shall be composed of the area outlined in gold on the Council Districts Map maintained by the City of Auburn, Indiana and incorporated into this section by reference.
 - 2. District two shall be composed of the area outlined in purple on the Council Districts Map maintained by the City of Auburn, Indiana and incorporated into this section by reference.
 - 3. District three shall be composed of the area outlined in green on the Council Districts Map maintained by the City of Auburn, Indiana and incorporated into this section by reference.
 - 4. District four shall be composed of the area outlined in blue on Council Districts Map maintained by the City of Auburn, Indiana and incorporated into this section by reference.
 - 5. District five shall be composed of the area outlined in red on Council Districts Map maintained by the City of Auburn, Indiana and incorporated into this section by reference.
- D. Each voter of the city may vote for two candidates at-large and one candidate from the district from which he or she resides.
- E. The two at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts shall be deemed elected to the Common Council.
- F. A revised division of the districts shall be made in the year 2022, and every ten years thereafter and whenever required to assign annexed territory to a district. The annexed territory shall automatically be assigned within the annexation ordinance to a council district in accordance with Indiana law.
- G. The Council Districts Map of the City of Auburn shall be placed on the City of Auburn's internet site for viewing at www.ci.auburn.in.us, in a public place at City Hall, the City Council Chambers, and other places where the public may have access thereto.

31.18 PAYMENT OF MEMBERSHIP DUES TO ORGANIZATIONS

- A. The Common Council is authorized to budget and appropriate funds from the General Fund or from other funds to provide membership for the Common Council and the elected and appointed officials and members of the municipality's boards, council, departments or agencies in local, regional, state and national associations of a civic, education or governmental nature, which have as their purpose the betterment and improvement of municipal operations.
- B. The Common Council is further authorized to budget and appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the municipality belongs.
- C. Claims under this Section shall be paid as prescribed by law.

31.19 RIGHT OF PUBLIC TO PARTICIPATE

- A. Members of the public shall have a reasonable right to participate in any matter being considered by the Common Council.
- B. Members of the public shall be provided with the opportunity to participate in Council meetings, and the Council shall make reasonable efforts to comply with the American with Disabilities Act and accommodate any other special needs of the public.
- C. Members of the public shall have the right to bring before the Council issues of public concern.



D. This section does not apply to executive sessions of the Common Council held under Indiana Code Sec. 5-14-1.5, the Indiana Open Door Law, as it is from time to time amended.

31.20 ELECTRONIC MEETING PARTICIPATION

A. Definitions

As used in these rules the following definitions apply:

- Common Council
The elected legislative body of the City of Auburn, Indiana consisting of seven members, that takes action on public business on behalf of the City of Auburn, Indiana a political subdivision located in DeKalb County, State of Indiana.
- Emergency
 - i. A disaster emergency that has been declared by the governor, in accordance with IC 10-14-3-12; or
 - ii. A local disaster emergency that has been declared by the Mayor of the City of Auburn, Indiana in accordance with IC 10-14-3-29.
- Deliberate – see IC 5-14-1.5-2(i)
A discussion which may reasonably be expected to result in official action.
- Final Action – see IC 5-14-1.5-2(g)
A vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.
- Meeting – see IC 5-14-1.5-2(c)
A gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include any of the following:
 - i. Any social or chance gathering not intended to avoid this chapter.
 - ii. Any on-site inspection of any:
 - aa. Project;
 - bb. Program; or
 - cc. Facilities of applicants for incentives or assistance from the governing body.
 - iii. Traveling to and attending meetings of organizations devoted to betterment of government.
 - iv. A caucus.
 - v. A gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources.
 - vi. An orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action.
 - vii. A gathering for the sole purpose of administering an oath of office to an individual.
 - viii. Collective bargaining discussions that the governing body of a school corporation engages in directly with bargaining adversaries. This subdivision only applies to a governing body that has not appointed an agent or agents to conduct collective bargaining on behalf of the governing body.
- News Media – see IC 5-14-1.5-2(j)



All newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

- Official Action – see IC 5-14-1.5-2(d)
 - i. Receive information;
 - ii. Deliberate;
 - iii. Make recommendations;
 - iv. Establish policy;
 - v. Make decisions; or
 - vi. Take final action.

B. Remote Participation in Meetings by Members of the Auburn Common Council.

A member of the Auburn Common Council who is not physically present at a meeting of the Common Council may participate in discussion with the other members of the Common Council during the City Council Meeting or other committee meeting by telephone, computer, video conferencing, or any other electronic means of communication, including electronic mail. This individual may not vote and may not be considered present for the purpose of establishing a quorum unless certain steps are taken consistent with this Ordinance.

1. Taking Official Action:

The member who participates by electronic communication may be considered present for the purpose of establishing a quorum may take “Official Action” at the Council Meeting by using communication that permits:

- a. the Council Member to be seen and heard;
- b. all other members participating in the Council Meeting to be seen and heard;
- c. all members of the public (including news media representatives) physically present at the place where the Council Meeting is conducted; and
- d. all members of the public (including News Media representatives) physically present at a public location at which a member participates by means of electronic communication; to simultaneously communicate with each other during the meeting.

A technological failure in an electronic means of communication that disrupts or prevents:

- a. The simultaneous communication between a member who is not physically present at the meeting and the governing body; or
- b. A member of the public who is not present at the meeting from attending and observing the meeting; does not prevent the governing body from conducting the meeting or affect the validity of any action taken by the governing body at the meeting if the sum of the governing body members physically present at the meeting and the governing body members participating by electronic communication without technical failure satisfy the quorum and (if a final action is taken) the voting requirements of the governing body.

C. Requirements of Common Council for Virtual Meeting Participation

The Common Council must also fulfill the following requirements for a member to take **“Official Action”** under this Ordinance:

- 1. The minimum number of members who must be physically present at the place where the Council Meeting is conducted is four (4) and must equal at least fifty (50%) percent of the entire the Auburn Common Council. If fifty (50%) of the Common Council membership cannot be present for a meeting in person, the meeting must be cancelled.



2. Since the member must be seen and heard, all votes of the Auburn Common Council during an electronic Common Council Meeting must be taken by roll call vote in both the council chamber and on video, in which the Council Member can be seen and heard by others.
A member who participates in a Common Council Meeting by video electronic communication:
 - a. Is considered to be present at the Council Meeting;
 - b. Shall be counted for purposes of establishing a quorum; and
 - c. May vote to take "Final Action" at the Council Meeting electronically by video.
3. A member who requests authorization to participate in a Common Council Meeting by electronic or electronic video communication shall do so within forty-eight (48) hours before the Common Council Meeting to allow for arrangements to be made for the Council Member's participation by electronic communication. The communication must also be made to a newspaper of daily circulation in DeKalb County and any other individual or entity who has made an official request to have notice of all public meetings of the Common Council under Indiana law. Failure to communicate within forty-eight (48) hours shall result in the member not being able to participate in final action votes or to be considered as present for purposes of a quorum. However, the council member, who fails to give the forty-eight (48) hour notice may call in and participate in the meeting but may not vote on any matters before the Council.
4. A Common Council Meeting Notice in accordance with Indiana Meeting Notice Law must provide the following information regarding an electronic video meeting:
 - a. The identity of each member who will be physically present at a public place and participate by electronic video communication, the address and telephone number of each public place where a member will be physically present and participate by electronic video communication, unless the meeting is an executive session, a statement that said public place will be open and accessible to the public.
 - b. At least four (4) members of the Common Council must be physically present at the location where the Common Council Meeting is conducted in order to meet the fifty (50%) threshold.
 - c. A member participating by electronic video communication may vote to take "Final Action" at a Common Council Meeting only if, four (4) members of the Common Council are present at said meeting.
5. A member of the Common Council participating by electronic video communication must validate in writing the vote(s) cast by the council member prior to the next session of the Auburn Common Council being held. This validation shall be in writing and may be conveyed electronically with a scanned signature.
6. The general public (including news media representatives) may also attend some or all meetings of the Common Council, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication.

D. Restrictions on Remote Electronic Attendance

A member of the governing body may not attend more than fifty percent (50%) of the governing body's meetings in a calendar by means of electronic video communication, unless the member's participation is due to:

1. Military service;
2. Illness or other medical condition;
3. Death of a relative; or
4. An emergency involving actual or threatened injury to person or property.

A member of a governing body may not participate in a meeting of the governing body by electronic video communication if the governing body is attempting to take final action to:



1. Adopt a budget;
2. Make a reduction in personnel;
3. Initiate a referendum;
4. Establish or increase a fee;
5. Establish or increase a penalty;
6. Used the governing body's eminent domain authority; or establish raise or renew a tax.

A council member shall physically attend at least one (1) meeting between sets of meetings two (2) consecutive meetings that the member attends by electronic video communication, unless the council member's absence is due to:

1. Military service;
2. Illness or other medical condition;
3. Death of a relative; or
4. An emergency involving actual or threatened injury to persons or property.

Minutes or Memoranda of the meeting must be prepared for a meeting in which the member participates by an electronic or electronic video means.

The Minutes or Memoranda must state the name of each member of the governing body who:

1. Was physically present at the place where the meeting was conducted;
2. Participated in the meeting by using any electronic means of communication; and
3. Was absent; and
4. Identify the electronic means of communication by which members of the governing body participated in the meeting; and identify all means used by the public to attend the and /or observe the meeting, if the meeting was not held in an executive session.

All votes taken during a meeting under this section must be taken by a roll call vote.

E. Electronic Communication by Members Outside of Meetings.

A Common Council member may communicate with other Common Council members (other than during a Meeting of the Commission) by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail, so long as such communications include less than a majority of the entire membership of the Commission and are intended solely for the Council member(s) to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the Common Council and involve no final action.

A Common Council member may communicate with members of any of a committee(s) (other than during a meeting of the committee) by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail, so long as such communications include less than a majority of the entire membership of the committee and are intended solely for the committee members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the committee and involve no final action.

F. Serial Meetings.

The Common Council violates this chapter if members of the Council participate in a series of at least two (2) gatherings of members of the governing body and the series of gatherings meets all of the following criteria:



1. One (1) of the gatherings is attended by at least three (3) members but less than a quorum of the members of the governing body and the other gatherings includes at least two (2) members of the Common Council.
2. The sum of the number of different members of the Common Council attending any of the gatherings at least equals a quorum of the governing body.
3. All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.
4. The gatherings are held to take official action on public business.

For purposes of this subsection, a member of a governing body attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

31.99 PENALTY

Any person who violates the provisions of 31.03 shall be fined not more than \$50 nor less than \$1.