



**Staff Report**

**To:** Mayor and Town Council  
**From:** Darci Carlson, Town Clerk  
**Date:** August 7, 2020  
**Re:** **Allowance for electronic meetings without an anchor location**

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In the special session of the Legislature held June 18, 2020, the House and Senate passed HB 5002 which amends the open and public meetings act to allow an electronic meeting to be held without an anchor location under certain circumstances where there is a substantial risk to health and safety.

This proposed ordinance change would update the Town of Springdale code section pertaining to *Meetings Procedure and Conduct* and directly tie the amended language to Utah Code Sections 52-4-207 and 52-4-202. The provision allows an electronic meeting to be held without an anchor location if the chair of the public body make a written determination supported by stated facts that conducting the meeting with an anchor presents a substantial risk to the health and safety of those who may be present. This written determination expires 30 days after the day on which the determination was made. In addition, the changes also enact requirements which specify an allowance be made to give the public the ability to view, hear, and make comments during the open portion of an electronic meeting without an anchor location.

In addition, Council will note additional portions of Town Code section 1-5-5 have been 'cleaned up' to be in conformance with State code.



**ORDINANCE 2020-06**

**AN ORDINANCE AMENDING SECTION 1-5-5 OF THE TOWN CODE  
INCLUDING MAKING ACCOMODATIONS TO HOLD  
PUBLIC MEETINGS WITHOUT AN ANCHOR LOCATION IN  
ACCORDANCE WITH UTAH STATE CODE**

**WHEREAS**, the Town and State have recently enacted various provisions, including the use of electronic meetings to prevent and control the spread of the novel coronavirus, which has altered the way in which the public interacts with the Town Council; and

**WHEREAS**, recent changes to Utah Code sections 52-4-202 and 52-4-207 (HB 5002) provide for an electronic meeting of a public body without an anchor location if certain requirements are met; and

**WHEREAS**, in light of the health and safety concerns related to the novel coronavirus, the public businesses of the municipality must continue in an efficient and effective way and it may be necessary to forgo an anchor location for a public meeting and hold an electronic meeting without an anchor location to safeguard the health of our community; and

**WHEREAS**, the Town Council has determined that other changes to Section 1-5-5 of the Town Code are necessary to bring the code into conformance with State Code;

**NOW THEREFORE BE IT ORDAINED**, by the Springdale Town Council that Section 1-5-5 of the Town Code is amended as follows:

**1-5-5: MEETINGS; PROCEDURE AND CONDUCT:**

A. Regular Meetings: The town council shall hold one regularly scheduled meeting per month, which shall be held at ~~Springdale Town Hall, 118~~the Canyon Community Center, 126 Lion Boulevard, Springdale, Utah, on a day and at a time established by the town council on at least an annual basis and noticed pursuant to section D herein.

1. If the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on an alternate date determined by the town council.

2. Upon approval of each member, the town council may provide for a different time and place for holding any regular meeting in any given month, provided notice of the change and of the new meeting time and place are noticed pursuant to Section D. ~~is posted at the town hall, the post office and the bank no later than the Friday preceding the meeting.~~

B. 3-Special and Work Meetings The town council may also call for and hold special and work meetings as deemed necessary to discuss matters of town business, ~~the said~~ Said meetings shall be held at the Canyon Community Center 126 Springdale Town Hall, 118 Lion Boulevard, and shall be noticed ~~in compliance with pursuant to section D. open meeting regulations, Utah Code Annotated sections 52-4-1 et seq., and 10-3-502.~~

~~—B.— Special Meetings: If at any time the business of the town requires a special meeting of the town council, such meeting may be ordered by the mayor or any two (2) members of the town council. The order shall be entered into the minutes of the town council. The order shall provide at least three (3) hours' notice of the special meeting and notice thereof shall be served by the town clerk on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a council member at any specially called meeting constitutes a waiver of the notice required in this subsection.~~

C. Electronic Meetings: The town council may convene and conduct an electronic meeting with or without an anchor location in accordance with Utah Code Annotated 52-4-202 and 52-4-207 as amended.

1. A quorum of the council must be present, either in person at the anchor location or by electronic participation. ~~At a minimum, two (2) council persons must be in attendance at the anchor location.~~ If, for any reason, lack of communication with a member of the council causes a lack of a quorum, no additional business may be conducted until the quorum can be reconstituted. Business already conducted remains valid and binding.

2. For meetings with an anchor location, Aa council member must give notice to the town clerk as to what electronic means they intend to utilize to attend a meeting at least forty ~~eight~~ (48) hours prior to the meeting to allow for arrangements to be made for the electronic meeting.

3. ~~One~~ The primary anchor location for electronic meetings shall be the Canyon Community Center, 126 Springdale Town Hall, 118 Lion Boulevard. Other locations may be deemed acceptable as required by circumstances, as long as adequate facilities are provided for public participation. ~~Public participation is limited to the anchor location.~~

4. Electronic meetings may be prohibited or limited based on budget, public policy or logistical circumstances.

5. Notice of the electronic meeting is to be given pursuant to ~~Utah Code Annotated 52-4-207 and 52-4-202~~ Section D.

D. Notice: The town council shall give notice of meetings in compliance with open meeting regulations, Utah Code Annotated 52-4-1 et seq. and 10-3-502. As a minimum, the notice shall give not less than 24 hours' public notice of each meeting and shall include the agenda, date, time and place of the meeting, and shall be posted at the principal office of the town council, on the Utah Public Notice website, and provided to a local media correspondent.

E. Open Meetings; Exceptions: Every meeting is open to the public, unless closed pursuant to Utah Code Annotated sections 52-4-4 and 52-4-5.

EF. Quorum:

1. Defined: The number of members of the town council necessary to constitute a quorum is three (3) or more.

2. Necessary: No action of the town council shall be official or of any effect, except when a quorum of the members is present. Fewer than a quorum may adjourn from time to time.

3. Compelling Attendance: The town council shall have the power to compel the attendance of its own members and provide such penalties as it deems necessary for the failure to comply therewith.

**FG.** Voting:

1. How Vote Taken: A roll call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the town and in any other case at the request of any member of the town council by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.

2. Minimum Vote Required: The minimum number of "yes" votes required to pass any ordinance, resolution or to take any action by the town council, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3).

a. Any ordinance, resolution or motion of the town council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the town council even though such majority vote is less than that required herein.

b. A majority of the members of the town council, regardless of number, may fill any vacancy in the town council.

3. Reconsideration: Any action taken by the town council shall not be reconsidered or rescinded at any special meeting unless the number of members of the town council present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

**GH.** Record Of Proceedings: The town council shall keep a journal of its proceedings. The books, records, accounts and documents of the town shall be kept at the office of the town clerk and approved copies shall be open and available to the public during regular business hours for examination and copying. The town council may by resolution establish reasonable charges for providing copies of its public records to individuals, except when by law the town must provide the records without cost to the public.

**HI.** Procedure; Conduct:

1. Rules Of Procedure: The procedure governing meetings of the town may be established by resolution.

2. Rules Of Conduct:

a. The town council may fine or expel any member for disorderly conduct on a two-thirds ( $\frac{2}{3}$ ) vote of the members of the town council.

b. The town council, on a two-thirds ( $\frac{2}{3}$ ) vote, may expel any person who is disorderly during the meeting of the town council. This subsection or any action taken by the town council pursuant hereto, shall not preclude prosecution under any other provision of law.

**IJ.** Action On Committee Reports: Final action on any report of any committee appointed by the town council shall be deferred to the next regular meeting of the town council on the request of any two (2) members, except that the town council may call a special meeting to consider final action.

**K.** Requiring Attendance Of Witness; Production Of Evidence: The town council may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the town. The town council may by ordinance establish its own procedures for issuing subpoenas to require attendance and production under this subsection or it may issue subpoenas in its own name in the same manner as is provided in the Utah rules of civil procedure. (Ord. 2009-10, 11-18-2009)

PASSED AND ADOPTED by the Springdale Town Council the 12th day of August, 2020. This ordinance shall be effective upon passage and posting.

By: \_\_\_\_\_  
Mayor Stanley J. Smith

Attest:

\_\_\_\_\_  
Darci Carlson, Town Clerk

ROLL CALL VOTE		
R. Aton	Yes	No
S. Elger	Yes	No
A. Player	Yes	No
S. Smith	Yes	No
L. Zumpft	Yes	No

**CERTIFICATE OF POSTING**

I, Darci Carlson, acting on behalf of the Town of Springdale, hereby certify that accurate copies of Ordinance 2020-06, were posted at three places within the municipality: Springdale Town Hall, Springdale Post Office, and the Canyon Community Center on the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Darci Carlson, Town Clerk

1                   **OPEN AND PUBLIC MEETINGS ACT AMENDMENTS**

2                                   2020 FIFTH SPECIAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Val K. Potter**

5                                   Senate Sponsor: Wayne A. Harper

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7                   **LONG TITLE**

8                   **General Description:**

9                   This bill amends provisions of the Open and Public Meetings Act in relation to an  
10 anchor location for an electronic meeting.

11                   **Highlighted Provisions:**

12                   This bill:

13                   ▶ modifies notice provisions relating to electronic meetings held without an anchor  
14 location;

15                   ▶ enacts requirements relating to the public's ability to view or hear, and make  
16 comments during, the open portion of an electronic meeting held without an anchor  
17 location; and

18                   ▶ permits a public body to hold an electronic meeting without an anchor location if  
19 the chair of the public body:

20                   • makes a written determination, supported by stated facts, that conducting the  
21 meeting with an anchor location presents a substantial risk to the health and  
22 safety of those who may be present at the anchor location; and

23                   • complies with certain public notice requirements.

24                   **Money Appropriated in this Bill:**

25                   None

26                   **Other Special Clauses:**

27                   This bill provides a special effective date.

28                   **Utah Code Sections Affected:**

29                   AMENDS:

30 [52-4-202](#), as last amended by Laws of Utah 2016, Chapter 77

31 [52-4-207](#), as last amended by Laws of Utah 2011, Chapter 31

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33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **52-4-202** is amended to read:

35 **52-4-202. Public notice of meetings -- Emergency meetings.**

36 (1) (a) (i) A public body shall give not less than 24 hours' public notice of each  
37 meeting.

38 (ii) A specified body shall give not less than 24 hours' public notice of each meeting  
39 that the specified body holds on the capitol hill complex.

40 (b) The public notice required under Subsection (1)(a) shall include the meeting:

41 (i) agenda;

42 (ii) date;

43 (iii) time; and

44 (iv) place.

45 (2) (a) In addition to the requirements under Subsection (1), a public body which holds  
46 regular meetings that are scheduled in advance over the course of a year shall give public  
47 notice at least once each year of its annual meeting schedule as provided in this section.

48 (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of  
49 the scheduled meetings.

50 (3) (a) A public body or specified body satisfies a requirement for public notice by:

51 (i) posting written notice:

52 (A) except for an electronic meeting held without an anchor location under Subsection  
53 [52-4-207\(4\)](#), at the principal office of the public body or specified body, or if no principal  
54 office exists, at the building where the meeting is to be held; and

55 (B) on the Utah Public Notice Website created under Section [63F-1-701](#); and

56 (ii) providing notice to:

57 (A) at least one newspaper of general circulation within the geographic jurisdiction of

58 the public body; or

59 (B) a local media correspondent.

60 (b) A public body or specified body is in compliance with the provisions of Subsection  
61 (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions  
62 of Subsection 63F-1-701(4)(d).

63 (c) A public body whose limited resources make compliance with Subsection  
64 (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in  
65 Section 63A-12-101, to provide technical assistance to help the public body in its effort to  
66 comply.

67 (4) A public body and a specified body are encouraged to develop and use additional  
68 electronic means to provide notice of their meetings under Subsection (3).

69 (5) (a) The notice requirement of Subsection (1) may be disregarded if:

70 (i) because of unforeseen circumstances it is necessary for a public body or specified  
71 body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

72 (ii) the public body or specified body gives the best notice practicable of:

73 (A) the time and place of the emergency meeting; and

74 (B) the topics to be considered at the emergency meeting.

75 (b) An emergency meeting of a public body may not be held unless:

76 (i) an attempt has been made to notify all the members of the public body; and

77 (ii) a majority of the members of the public body approve the meeting.

78 (6) (a) A public notice that is required to include an agenda under Subsection (1) shall  
79 provide reasonable specificity to notify the public as to the topics to be considered at the  
80 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

81 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding  
82 member of the public body, a topic raised by the public may be discussed during an open  
83 meeting, even if the topic raised by the public was not included in the agenda or advance public  
84 notice for the meeting.

85 (c) Except as provided in Subsection (5), relating to emergency meetings, a public

86 body may not take final action on a topic in an open meeting unless the topic is:

87 (i) listed under an agenda item as required by Subsection (6)(a); and

88 (ii) included with the advance public notice required by this section.

89 (7) Except as provided in this section, this chapter does not apply to a specified body.

90 Section 2. Section **52-4-207** is amended to read:

91 **52-4-207. Electronic meetings -- Authorization -- Requirements.**

92 (1) Except as otherwise provided for a charter school in Section **52-4-209**, a public  
93 body may convene and conduct an electronic meeting in accordance with this section.

94 (2) (a) A public body may not hold an electronic meeting unless the public body has  
95 adopted a resolution, rule, or ordinance governing the use of electronic meetings.

96 (b) The resolution, rule, or ordinance may:

97 (i) prohibit or limit electronic meetings based on budget, public policy, or logistical  
98 considerations;

99 (ii) require a quorum of the public body to:

100 (A) be present at a single anchor location for the meeting; and

101 (B) vote to approve establishment of an electronic meeting in order to include other  
102 members of the public body through an electronic connection;

103 (iii) require a request for an electronic meeting to be made by a member of a public  
104 body up to three days prior to the meeting to allow for arrangements to be made for the  
105 electronic meeting;

106 (iv) restrict the number of separate connections for members of the public body that are  
107 allowed for an electronic meeting based on available equipment capability; or

108 (v) establish other procedures, limitations, or conditions governing electronic meetings  
109 not in conflict with this section.

110 (3) A public body that convenes or conducts an electronic meeting shall:

111 (a) give public notice of the meeting:

112 (i) in accordance with Section **52-4-202**; and

113 (ii) except for an electronic meeting held without an anchor location under Subsection

114 (4), post written notice at the anchor location;

115 (b) in addition to giving public notice required by Subsection (3)(a), provide:

116 (i) notice of the electronic meeting to the members of the public body at least 24 hours  
117 before the meeting so that they may participate in and be counted as present for all purposes,  
118 including the determination that a quorum is present; and

119 (ii) a description of how the members will be connected to the electronic meeting;

120 (c) except for an electronic meeting held without an anchor location under Subsection  
121 (4), establish one or more anchor locations for the public meeting, at least one of which is in  
122 the building and political subdivision where the public body would normally meet if they were  
123 not holding an electronic meeting;

124 (d) (i) provide space and facilities at the anchor location so that interested persons and  
125 the public may attend and monitor the open portions of the meeting; or

126 (ii) for an electronic meeting held without an anchor location under Subsection (4),  
127 provide means by which the public may hear, or view and hear, the open portions of the  
128 meeting; and

129 (e) if comments from the public will be accepted during the electronic meeting[~~;~~];

130 (i) provide space and facilities at the anchor location so that interested persons and the  
131 public may attend, monitor, and participate in the open portions of the meeting[~~;~~]; or

132 (ii) for an electronic meeting held without an anchor location under Subsection (4),  
133 provide means by which members of the public may provide comments by electronic means to  
134 the public body.

135 (4) A public body may convene and conduct an electronic meeting without an anchor  
136 location if the chair of the public body:

137 (a) makes a written determination that conducting the meeting with an anchor location  
138 presents a substantial risk to the health and safety of those who may be present at the anchor  
139 location;

140 (b) states in the written determination described in Subsection (4)(a) the facts upon  
141 which the determination is based;

142 (c) includes in the public notice for the meeting, and reads at the beginning of the  
143 meeting, the information described in Subsections (4)(a) and (b); and

144 (d) includes in the public notice information on how a member of the public may view  
145 or make a comment at the meeting.

146 (5) A written determination described in Subsections (4)(a) and (b) expires 30 days  
147 after the day on which the chair of the public body makes the determination.

148 [~~4~~] (6) Compliance with the provisions of this section by a public body constitutes  
149 full and complete compliance by the public body with the corresponding provisions of Sections  
150 52-4-201 and 52-4-202.

151 Section 3. **Effective date.**

152 If approved by two-thirds of all the members elected to each house, this bill takes effect  
153 upon approval by the governor, or the day following the constitutional time limit of Utah  
154 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
155 the date of veto override.