

TOWN OF NEW PALTZ

POLICY AND PROCEDURES ON ATTENDANCE AT MEETINGS OF TOWN BOARD AND OTHER PUBLIC BODIES, INCLUDING VIDEOCONFERENCING

The Town Board recognizes that having members physically present at meetings¹ of “public bodies²” as defined in the “Open Meetings Law” is the best means for members to engage and work collaboratively with one another and the New Paltz community.

From time to time, however, circumstances prevent members of public bodies from physically attending meetings.

For the benefit of members and the public, the Town Board finds and determines that formalizing a policy regarding physical attendance at meetings as well as the use of videoconferencing technology at regular or special meetings of the public bodies of the town will serve the best interests of the town consistent with the requirements of the Open Meetings Law.

The general policy instituted by the Town Board is that members of public bodies are expected to be physically present at meetings of that member’s body. Participation by videoconferencing would be an exception that should be used when a member is unable to be physically present. For the benefit of members and the public, the Town Board has formalizing a policy regarding physical attendance at meetings as well as the use of videoconferencing technology at regular or special meetings of the public bodies of town which will serve the best interests of the town consistent with the requirements of the Open Meetings Law.

The NYS Open Meetings Law.

The Open Meetings Law (OML), Article 7 of the Public Officers Law (§§ 100-111), outlines basic requirements for meetings conducted by public bodies. Public Officers Law § 102(1) defines a “meeting” as “the official convening of a public body for the purpose of conducting public business.” Any time a quorum of a public body gathers for the purpose of discussing

¹ Section 102 of the N.Y.S. Public Officers law, commonly referred to as the “Open Meetings Law” provides as follows:

§102. Definitions. As used in this article:

1. "Meeting" means the official convening of a public body for the purpose of conducting public business, including the use of videoconferencing for attendance and participation by the members of the public body.

² Section 102 of the N.Y.S. Public Officers law, commonly referred to as the “Open Meetings Law” provides as follows:

§102. Definitions. As used in this article:

2. "Public body" means any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body of such public body.

public business, the meeting must be open to the public, whether or not the body intends to take action or vote on a particular issue. Consequently, meetings include “workshops,” “work sessions” and “agenda sessions.” Chance meetings or social gatherings are not covered by the OML since these are not official meetings. However, public officials may not discuss public business at chance meetings or social gatherings.

Basic Requirements of the Open Meetings Law:

There are four basic requirements of the New York State Open Meetings Law:

1. All meetings must be noticed;
2. The public must be allowed to attend and observe the meetings in person except that portion of a meeting which is in executive session;
3. Proposed local laws, rules, regulations, resolutions, and policies, and any record which is subject to disclosure under FOIL which is scheduled to be discussed at the meeting must be made available to the public to the extent practicable; and
4. The public body must make minutes of the meeting available within two weeks of the meeting and within one week of the executive session.

Videoconferencing:

A. Public bodies of the Town of New Paltz are authorized to conduct meetings using videoconference technology so long as a **quorum of the public body is physically present at one or more of the locations where the public can also attend in person.** This requirement can be satisfied, for example, if three members of a five member public body are physically present in the municipal hall and the public is allowed to attend at that location or if three members of a five-member public body are participating via videoconference but from three different locations and the public is allowed to be physically present at each of those locations.

1. Members of the public body must be physically present at one of the meeting locations at which the public can attend in person, **unless the member is unable to be physically present due to extraordinary circumstances, as set forth in these guidelines which include but are not limited to disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting.**
2. Members of a public body do not have a right to attend meetings remotely but may participate remotely via videoconference only at the discretion of the public body.
3. Public Officers Law § 103-a prohibits meetings from being conducted using only teleconferencing technologies.

B. Videoconference Procedures:

1. In the event that a member of the public body is aware that he or she will be unable to attend a scheduled meeting of that member's body, but wishes to participate by videoconferencing, the member shall advise the body's chairperson and secretary (or, in the case of the town board member, the town supervisor and the town clerk) and other official responsible for providing public notice of such meeting as soon as possible of that fact and request the opportunity to

participate, vote, and otherwise transact all business by videoconferencing at such meeting in the same manner as if the member were physically present at the meeting, including executive sessions.

2. When such notice is given sufficiently in advance of the scheduled meeting date and videoconferencing will be used to conduct a meeting, public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting and state that the public has the right to attend the meeting at any of the locations. The Clerk or secretary or other responsible person will include in all notices that are required to be published and/or posted and on the meeting agenda notice of a member's intention to participate in the meeting by videoconference and the member's location when videoconferencing. The Clerk or secretary or other responsible person shall post notice of same on the Town's website.

3. Notices shall provide:

- (a) A statement that videoconferencing will be used;
- (b) The exact location from which every member of the public body is participating; and
- (c) A statement that the public has the opportunity to attend, listen and observe at any location from which a member of the public body is participating.

4. In the event that the member cannot give adequate notice to permit posting of notices in accordance with the Public Officer's Law, the Town Supervisor or body's chairperson will normally not allow the member to participate by videoconference, unless the Town Supervisor or body's chairperson, as the case may be, determines that the circumstances excuse the lack of adequate prior notice and the participation of the member is necessary to serve the best interests of the Town.

5. The Town Clerk or body's secretary, with the assistance of the Town Supervisor's office, will ensure that the appropriate equipment necessary for the member to participate by videoconference is available at the time and place of the meeting. The member is responsible for ensuring that he or she has the ability to establish a suitable videoconference link to the town's equipment. It is strongly recommended that the member requesting participation by videoconference coordinate in advance of the meeting with the Town Clerk or with the body's secretary in order for appropriate arrangements to be made to facilitate and coordinate transmission.

6. The Town Clerk or body's secretary shall ensure that the minutes reflect that the member participated by videoconference. In particular, the Town Clerk or body's secretary shall record that the member was present by videoconference for all motions, seconds and votes on actions before the body.

7. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105, the public body must ensure that members of the public body can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.

8. The minutes of meetings involving videoconferencing must include which, if any, members participated remotely and must be made available to the public pursuant to Public Officers Law § 106 as set forth above.

9. The public body must record each meeting that uses videoconferencing and such recordings must be posted or linked to on the public body's website within five business days of the meeting. The recordings must remain available for a minimum of five years thereafter, and recordings must be transcribed upon request.

10. The public body must provide the opportunity for members of the public to view the meeting via video. Additionally, at meetings where public comment or participation is authorized, members of the public must be able to participate in the proceedings via videoconference in real time. The public body must ensure that the videoconferencing provides the same opportunities for public participation or testimony as in-person participation or testimony.

11. The Town of New Paltz maintains an official website and uses- technology that permits members of the public including members of the public with disabilities to access the video in a manner consistent with state law and with the 1990 Americans with Disabilities Act (ADA).

Special Videoconference Procedures.

A member of a public body is allowed to participate in a meeting without allowing members of the public to be physically present at the location from which a member is participating in the meeting if:

(a) extraordinary circumstances exist including but not limited to disability, sudden or worsening illness, infectious disease, death of an immediate family member, unanticipated airline flight and other transportation cancellations that prevent in-person attendance, unexpected employment deployment, extraordinary inclement weather, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting; and

(b) at least a quorum of the public body are participating in the meeting from a location or locations at which members of the public may physically attend in person. The public notice provisions for the meeting must inform the public that videoconference will be used at the meeting.

In adopting these policies, the Town Board recognizes that under the extraordinary circumstances which allow a member of a public body to participate in a meeting without allowing members of the public to be physically present at the location from which the member is participating may not always allow for advance notice of the member's circumstances. It is strongly recommended that to the extent practicable, the member requesting participation by videoconference coordinate in advance of the meeting with the Town Clerk or with the body's secretary in order for appropriate notices and arrangements be made to comply with these policies and procedures.

Emergency Meetings.

Part WW of Chapter 56 of the Laws of 2022 also creates an emergency exception to the in person requirement associated with videoconference meetings. Specifically, if (1) the Governor has declared a state of emergency or the local chief executive has declared a local state of emergency pursuant to NYS Executive Law § 24; and (2) the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in person meeting, then the public body is not required to hold an in person meeting. Although not required by Public Officers Law § 103-a, the Town Board recommends that when a public body invokes this emergency exception and takes action at a meeting without allowing members of the public to be present, the public meeting should at its next meeting where the public is allowed to attend acknowledge the previous meeting and summarize any action taken thereat. Moreover, public bodies must still produce minutes of such emergency meetings pursuant to the requirements of the Open Meetings Law and as outlined above.

THE ABOVE POLICIES WERE ADOPTED BY RESOLUTION OF THE TOWN BOARD AT A DULY CONVENED MEETING HELD ON THE ____ DAY OF _____, 2022;

Rosanna Rosenkranse, Town Clerk