

VIDEOCONFERENCING LOCAL LAW
Local Law No 5 of the year 2022
Town of Lansing, County of Tompkins, New York

A local law authorizing the Town Board, and other boards, agencies, councils, and committees of the Town of Lansing to use videoconferencing technology to participate in public meetings pursuant to Public Officers Law § 103-a, the Municipal Home Rule Law, the Town Law, and other provisions of New York State laws and regulations, rulings, and authorities thereunder.

Section 1. Legislative Intent. It is the intent of this local law to give the town board, the planning board, the board of zoning appeals, the conservation advisory council, the board of ethics, and the other public and non-public bodies and committees of the town, be they advisory in nature or otherwise, the authority to participate in meetings *via* videoconference in a manner consistent with the town's videoconferencing policy and the authority granted in Public Officers Law § 103-a.

Section 2. Authority. This local law is adopted pursuant to Public Officers Law § 103-a, which expressly authorizes the town board to adopt a local law giving the town board, and all public bodies and agencies of the Town of Lansing, the authority to participate in meetings via videoconference from locations not accessible to the public, so long as, when required by the Open Meetings Law (public Officers Law Article 7), or other requirements of New York State law: (i) a quorum of the board/body participates from locations where the public may be physically present; and (ii) all other requirements of the Public Officers Law are met and the conditions of this local law and the Town Videoconferencing Policy are properly met.

Section 3. Videoconferencing for Public Meetings. The Town Board of the Town of Lansing hereby authorizes members of the town board, the planning board, the board of zoning appeals, the conservation advisory council, the board of ethics, and the other public and non-public bodies and committees of the town, be they advisory in nature or otherwise, to participate in meetings using videoconferencing technology in a manner consistent with Public Officers Law § 103-a and the town's videoconferencing policy, as adopted and amended, from time-to-time, by the town board.

Section 4. Severability. If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court or tribunal of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order was rendered.

Section 5. Effective Date. This local law shall take effect immediately.

VIDEOCONFERENCING POLICY OF THE TOWN OF LANSING

Adopted June __, 2022

Pursuant to Local Law # 5 of 2022, a Town of Lansing local law adopted pursuant to MHRL § 10 and Public Officers Law ("POL") Article 7, known as the Open Meetings Law (the OML), specifically including § 103-a therein, authorizing videoconferencing for all public and non-public boards, committees, agencies and bodies of the Town of Lansing, the following rules are adopted to implement such local law in a manner consistent with the requirements and purposes of the OML.

1. COMPLIANCE WITH PUBLIC OFFICERS LAW ARTICLE 7: All public meetings of public bodies and agencies of the Town of Lansing, as such terms are defined in and construed under the POL and OML, shall have an official situs within the Town properly equipped for public attendance. The purpose of this policy is to promote the continuation and conducting of public business whenever legally possible, while at all times encouraging maximum attendance by all members of all public boards and bodies at the official public meeting situs of the meeting. Utilization of this policy for convenience deprives the public of their right to observe and, when appropriate, participate in and interact with public bodies when conducting public business. This policy shall be thus construed with recognition that remote attendance is a privilege, and not a right, and should only be utilized for true emergencies and in other extraordinary circumstances, and at all times consistently with the OML.

The meeting rooms of the Lansing Town Hall shall be presumptively proper places for any meetings. In addition, the following requirements shall be observed:

- A. A quorum of such board or body must be present at the public situs location designated for such meeting.
- B. The location at which each public board or body meets shall be a suitable and proper location for public assemblies, a place accessible to the general public and which promotes attendance by the number of members of the public reasonably anticipated at such meeting or hearing, and must be accessible to and usable by those who are differently abled or disabled.
- C. A recording of the meeting must be posted or linked to the town website within five business days after the meeting is closed or adjourned, the posted recording must remain online for at least five years, and the recording thereafter retained and managed as required by the rules of the NYS Archives and the regulations and schedules of the Commissioner of the NYS Department of Education.
- D. All public meetings, special and regular, shall be noticed as required by Town Law and the OML. All public hearings shall be noticed as required by the law or regulation referencing, requiring, or permitting the same and the OML. All notices of public meetings and public hearings shall be posted online and upon the Town Clerk's signboard maintained at the Lansing Town Hall, and as otherwise required by law and the OML.
- E. Whenever any member of any public body or agency attends a public meeting remotely, the minutes of such meetings or hearings must specify who participated *via* videoconference, and must be made available within the times required by law (currently in 2022, within one week of any executive session and two weeks of any other meeting). Upon request by any person, a transcript of the meeting shall be provided. The transcript may be the script provided by an

automated service, and nothing in this policy requires a customized, edited, or court reporter's (or similar) certified transcription.

- F. Should, for any cause or reasons, the videoconferencing connection fail or lose video or audio, the member attending remotely may continue, to the extent practicable, to participate in the meeting, but unless a full video and audio connection is restored, formal voting by the remote attendee shall be suspended. This rule does not prohibit deferring the vote on any matter, and all remote attendees are encouraged to seek attendance locations with known connections and signal clarity.

2. CONDITIONS AND EVENTS QUALIFYING FOR REMOTE ATTENDANCE: The following reasons and causes are deemed qualifying events for purposes of allowing members of a public board or body to attend public meetings and hearings by videoconferencing, but only when these circumstances preclude attendance in person by such member. The list below is not exclusive, but even as to the items and matters listed, the circumstance, event, emergency must be "extraordinary" or "unanticipated" as such terms are used and understood in the OML:

- A. A sudden accident, illness, or injury that causes a temporary disability or reasonably prevents attendance at the meetings public situs. Non-exclusive examples include hospitalization after non-major motor vehicle accidents, a broken leg or other significant bone break or trauma as specifically prevents or inhibits mobility, having influenza or another transmissible or communicable illness.
- B. An order of quarantine from any medical professional or public authority having jurisdiction, so long as the same arises from a medical or related condition, and not from a criminal proceeding or judicial order of or relating to probation or confinement.
- C. Any need to provide caregiving services or assistance to any close or immediate family member who has suffered any type of accident, illness, injury, or order of home confinement or quarantine, where such person cannot reasonably care for themselves, cannot reasonably be left unattended, or when no other qualified caregiver is available.
- D. An unforeseeable emergency or matter of reasonable importance as prevents attendance at the public situs of the meeting, but which does not impair remote attendance, such as a severe slip and fall, a sudden onset illness, a household emergency that reasonably prevents departure or mandates the occupancy or presence of the member, any emergency which closes roadways necessarily used to travel to meeting locations, snow and ice emergencies, localized calamities requiring a member to be available for local aid or sheltering of victims and neighbors, and any other matter as may arise that reasonably constitutes an "extraordinary and non-anticipatable" circumstance.
- E. Should a state of emergency be declared, or related emergency orders issued by the United States or the State of New York, including their respective officers and agencies, including but not limited to FEMA and NYS Governor acting under the Executive Law, or when a state of emergency is declared by lawful order or proclamation issued by Tompkins County or the Lansing Town Supervisor or Town Board of the Town of Lansing under the Executive Law (or otherwise), such as but not limited to acts of terrorism or war or natural disasters or emergencies, then such declaration or circumstance shall enable remote attendance by any one or all members

of such board or body, including as is permitted by such declaration, the NYS Executive Law, any Executive Order, or OML § 103-a (i.e., the entire meeting may be held remotely in any of such circumstances, or in any equivalent circumstance, such as a declaration of emergency by a qualified court, acting executive officer, or legislative enactment).

3. GENERAL PROCEDURES AND RULES:

- A. This policy, as updated from time-to-time shall be posted and maintained upon the town's website.
- B. When there is any reasonable uncertainty as to whether a circumstance qualifies for remote attendance by a member, the Town Supervisor or Deputy Town Supervisor shall individually or jointly decide if the event qualifies.
- C. The condition or event qualifying any member for remote attendance must not be of a nature or severity as prevents the member from knowledgeable or full participation in the meeting, or from knowledgeable deliberation and casting votes thereat, or which cause any average person or reasonable sensibilities from perceiving that the member is unable to fully participate or recognize the impact and import of the deliberations and voting upon matters as may come before the board or body, be they minor or significant procedural or substantive matters. In the first instance the remotely attending member shall make this determination, but upon the affirmative and unanimous vote of all other members, or upon the receipt of a medical doctor's declaration of cognitive incapacity, in each and all cases, whether temporary or intermittent, whether arising by the nature or effect of the accident, injury, or illness, whether arising from the amount of pain or physical or mental distractions suffered, or whether arising from any medications administered or being utilized, the remotely attending member of such board or body shall be removed from the meeting. For purposes of clarity, it is the town's policy that all such matters of capacity and understanding discussed above shall be fully vetted and attended to before the meeting starts, that this authority be used sparingly and only in the most egregious cases as an emergency power, and that reasonable presumptions be applied in favor of the determination of the individual member as to their capacity to attend and fully participate in the meeting.
- D. Board and committee chairs, and their equivalents, shall keep track of all member's uses of this policy, intervene if excessive or improper use of this policy is suspected, and report to the Town Board any determination that this policy is being abused or misused by any member.
- E. Except as to those boards and bodies comprised of public officers or those members of any public board or body that are public officers, whenever the Town Board determines, whether by referral from any one or more members of such board or body or on its own observations or initiative, that any member of any board or body is improperly using this policy, including by improperly or unnecessarily using or classifying events as extraordinary or unanticipated when such are reasonably not extraordinary or anticipatable, such person may be removed by majority vote of the Town Board from such board or body (whether a public, advisory, informal, standing, *ad hoc* board, body, agency, council, or committee, or otherwise).
- F. Merely being out of town, out of state, or on vacation are generally not qualifying events, as such absences are not unanticipated and are usually not emergencies or extraordinary events.

However, being away for caregiving may qualify per this policy, and other circumstances may make such an absence qualify under this policy.

G. Non-public committees and bodies that are not required to have public meetings under the OML, such as advisory committees, may participate in meetings by videoconferencing, remotely, or by any lawful means, and need not follow this policy. However, it is recommended that this policy guide such advisory or non-covered bodies and that, at a minimum, they adopt internal policies and procedures as assure fairness and recordkeeping, including to document compliance with the OML and recommendations and advisory opinions, including so the same can be fairly reviewed by the town, when and as needed.

H. Public bodies and agencies need not follow these rules for non-public meetings and hearings, such as for training sessions, so long as all rules of the OML are duly followed. However, it is still recommended that this policy guide such meetings, and that procedures be followed as properly document that the requirements of the OML were duly followed. When in doubt, any such meeting shall be considered a public meeting/hearing, and these policies and rules shall apply.

4. AMENDMENTS: This policy may be amended from time-to-time by the Town Board by resolution authorizing and approving same. In the event any change in law, or change in the interpretation or application of law, is or becomes inconsistent with this policy, the proper application of law shall supersede the terms and requirements herein, and the Town Board shall forthwith amend this policy to bring the same into congruence or alignment with current law.