

**REMOTE PARTICIPATION POLICY  
TOWN OF CONCORD MA**

**1. PURPOSE STATEMENT**

The Office of the Attorney General amended the Open Meeting Law regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While members of Town boards and committees should make every effort to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being physically present. **IT IS INTENDED THAT THIS POLICY SHALL BE USED ONLY ON RARE OCCASIONS WHERE NECESSARY FOR THE CONDUCT OF BUSINESS BY BOARDS AND COMMITTEES.**

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards under the Open Meeting Law, M.G.L. c.30A, 18-25.

**2. ENABLING AUTHORITY – 940 CMR 29.10 (8)**

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

**3. APPLICABILITY**

The Board of Selectmen, on January 7, 2013 voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. The Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees and working groups (“Town boards”) regardless of whether such Town Boards are appointed or elected. Where either the Remote Participation Policy or 940 CMR 29.10 is more stringent, the more stringent Policy shall control.

**4. MINIMUM REQUIREMENTS FOR REMOTE PARTICIPATION**

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

- a) A member who cannot attend a meeting for one or more of the five permissible reasons set forth in Section 5 below, must request permission from the chair at least **48 hours** prior to the scheduled meeting;
- b) Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other and, if the meeting is televised, the member participating remotely shall be audible to the television audience;
- c) A quorum of the Town Board, including the chair or the person authorized to chair the meeting, shall be physically present at the meeting locations;
- d) To the greatest extent practical, and to ensure informed discussion and decision-making, members of the Town Board who participate remotely should have access to the materials being used at the meeting location.
- e) Remote participation shall be limited to one member per scheduled meeting.
- f) Remote participation is not allowed for executive session meetings

- g) Any cost of remote participation in a meeting shall be borne by the remotely participating member.
- h) Remote participants shall not operate a motor vehicle or otherwise jeopardize personal or public safety while participating in a meeting.
- i) A board may not impose additional remote participation requirements without the Board of Selectmen's prior review and approval.

## **5. PERMISSIBLE REASONS FOR REMOTE PARTICIPATION**

A Board member may attend a meeting through electronic conferencing if his or her physical presence at the meeting is made unreasonably difficult due to:

- a) Personal illness or disability that does not affect the Board member's ability to perform his or her duties as a Board Member.
- b) A family or other personal emergency.
- c) Military service.
- d) Significant geographic distance.

A member's qualification to participate remotely does not necessarily mean that the member will be permitted to participate remotely. The determination by the person chairing the meeting to allow or not to allow remote participation shall be final and shall not be appealable. Factors in making this determination may include, but shall not be limited to the following:

- a) The specific challenges faced by the member to attend all or part of the meeting
- b) The ability of the Town Board or its staff to provide access to meeting materials

## **6. TECHNOLOGY**

- a) The following media devices are acceptable methods for remote participation.
  - i. Telephone, internet, or satellite enabled audio or video conferencing
  - ii. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible by one another.
- b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- c) The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. Either such event shall be noted in the meeting minutes.
- d) Each individual Town Board that anticipates using remote participation shall determine which of the acceptable methods may be used by its members.

## **7. PROCEDURES FOR REMOTE PARTICIPATION**

- a) Any member of a Town Board who wishes to participate remotely shall, as soon as reasonably possible (and no less than 2 business days) prior to a meeting (two business days is preferred), notify the person chairing the meeting of his or her desire to do so and the reason for and facts supporting his or her request.
- b) If the person chairing the meeting approves the request for remote participation, he or she shall make any necessary arrangements with appropriate Town personnel to ensure that the required equipment is available and, to the greatest extent practical, provide access to all meeting materials. **THE TOWN DOES NOT GUARANTEE AVAILABILITY OF REQUIRED EQUIPMENT AT ANY PARTICULAR TIME OR LOCATION.**
- c) At the start of the meeting, the chair shall announce the name of any member who will participate remotely and the reason (see paragraph 5., above) for his or her remote participation. This information shall be recorded in the minutes. The chair may also request, at the beginning of any hearing or matter before the Board, if any

- party or person attending or participating therein has any objection to the member's remote participation. In the case of an objection, the chair may in his or her discretion, exclude the member participating remotely from participating in any manner or vote with respect to such hearing or matter.
- d) Members participating remotely may vote and shall be counted as present for the meeting.
  - e) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
  - f) The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Board members.
  - g) Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting, and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity who could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.
  - h) The chair of any Board for which a request is received to participate remotely shall provide to the Board of Selectmen, no later than December 31 of each year, a report that indicates the date of any meetings for which remote participation was requested, the name(s) of individuals making the request, the determination of the chair for each request, and a summary of any logistical, technical and compliance issues related to remote participation.

Note: Consideration should be given to the proposed language in the Charter regarding associate members on Boards and Commissions. Associate members should be utilized in the absence of members of Boards and Commissions when deemed appropriate by the chair.