



**Town of Moira**  
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## **Town of Moira, New York**

### **THE CONDUCT OF PUBLIC MEETINGS OF THE TOWN BOARD**

**1. PURPOSE:** It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this Town be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the Town will prosper and enable the governmental process to operate for the benefit of those who created it. Therefore, all proceedings must be conducted in compliance with Public Officer's Law, Article 7, the "Open Meetings Law."

#### **2. DEFINITIONS:**

- a. "*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.
- b. "*Public body (of the Town)*" 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 Town of Moira or for an agency or department thereof, or committee or subcommittee or other similar body consisting of members of such public body or an entity created or appointed to perform a necessary function in the decision-making process for which a quorum is required in order to conduct public business and which consists of two or more members. A necessary function in the decision-making process shall not include the provision of recommendations or guidance which is purely advisory and which does not require further action by the Town of Moira.
- c. "*Executive session*" means that portion of a meeting not open to the general public.
- d. "*Town*" means The Town of Moira, County of Franklin, State of New York.
- e. "*Presiding Officer*" means the person who presides over a meeting and is charged with maintaining order and decorum, recognizing members to speak, and interpreting the Town's rules, practices, and precedents.

#### **3. OPEN MEETINGS AND EXECUTIVE SESSIONS:**

- a. Every meeting of the public bodies of the Town shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with §105 of the Open Meetings Law.

- b. The Town shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.
- c. A public body of the Town shall provide an opportunity for the public to attend, listen and observe meetings in at least one physical location at which a member participates.
- d. Public bodies of the Town shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.
- e. Any meeting of a public body of the Town that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. As used herein the term "broadcast" shall also include the transmission of signals by cable.

i. Rules for use of Recording and Electronic Equipment:

*(These rules shall be conspicuously posted during meetings and written copies shall be provided upon request to those in attendance.)*

All individuals shall place their respective cell phones and electronic devices in silent mode during the public meeting. All individuals attending the public meeting are allowed to photograph and tape or video record public meetings so long as the photography or recording is done in a manner which does not interfere with the meeting. The Presiding Officer may make the determination that the photography or recording is being done in a manner that interferes with the meeting after taking into consideration attendant movement and activity, distance from the deliberations of the public body, noise, size of equipment, ability of the public to participate in the meeting notwithstanding the photography or recording, and any other pertinent factor. If the Presiding Officer makes the determination that the photography or recording is interfering with the meeting, the Presiding Officer may request an accommodation to avoid the interference and if not sufficient or complied with, order the photography or recording to be stopped. Any individual violating this section shall be given a verbal warning by the Presiding Officer to cease the conduct. In the event the individual refuses to cease, the Presiding Officer shall request that the individual leave the meeting venue. Upon a refusal to leave on request, the Presiding Officer shall then verbally direct the individual to leave the meeting venue. Upon refusal of said direction, the Presiding Officer may seek assistance of law enforcement to remove the individual.

**4. VIDEOCONFERENCING BY PUBLIC BODIES OF THE TOWN [EXPIRES AND DEEMED REPEALED JULY 1, 2026]:**

- a. For the purposes of this section, "local public body" shall mean a public corporation as defined in §66 of the General Construction law, a political subdivision as defined in §100 of the General Municipal Law or a committee or subcommittee or other similar body of such entity, or 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 an entity limited in the execution of its official functions to a portion only of the state, or a political subdivision of the state, or for an agency or department thereof. For the purposes of this section, a public body shall be as defined in §102 subdivision 2 of the Open Meetings Law.
- b. A public body of the Town may, in its discretion, use videoconferencing to conduct its meetings pursuant to the requirements of the Open Meetings Law, provided that a minimum number of

members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend and the following criteria are met:

- i. The Town has adopted a local law, or a public body of the Town has adopted a local law, or a public body has adopted a resolution, following a public hearing, authorizing the use of videoconferencing:
  - 1) for itself and its committees or subcommittees;
  - 2) or, specifying that each committee or subcommittee may make its own determination.
- ii. The public body of the Town has established written procedures governing member and public attendance consistent with the Open Meetings Law, and such written procedures shall be conspicuously posted on the public website of the public body of the Town;
- iii. Members of the public body of the Town shall be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances, as set forth in the resolution and written procedures adopted pursuant to paragraphs (a) and (b) above, including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting. Notwithstanding the in person quorum requirements set forth in this subdivision, the public body of the Town may determine, through its written procedures governing member and public attendance established pursuant to and consistent with the Open Meetings Law, to allow for any member who has a disability as defined in §292 of the Executive Law, where such disability renders such member unable to participate in-person at any such meeting location where the public can attend, to be considered present for purposes of fulfilling the quorum requirements for such public body of the Town at any meetings conducted through videoconferencing pursuant to the Open Meetings Law, provided, however, that the remaining criteria set forth in this subdivision are otherwise met; and provided, further, that the public body of the Town maintains at least one physical location where the public can attend such meeting;
- iv. Except in the case of executive sessions conducted pursuant to §105 of the Open Meetings Law, the public body of the Town shall 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;
- v. The minutes of the meetings involving videoconferencing shall include which, if any, members participated remotely and shall be available to the public pursuant to §106 of the Open Meetings Law;
- vi. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend;
- vii. The public body of the Town shall provide that each meeting conducted using videoconferencing shall be recorded and such recordings posted or linked on the public website of the public body within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request;
- viii. If videoconferencing is used to conduct a meeting, the public body of the Town shall provide the opportunity for members of the public to view such meeting via video, and to participate in proceedings via videoconference in real time where public comment or participation is

authorized and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony; and

- ix. By electing to utilize videoconferencing to conduct its meetings the Town must maintain its official website – [www.townofmoirany.gov](http://www.townofmoirany.gov)
- c. The in-person participation requirements of paragraph (c) of subdivision 2 of this section shall not apply during a state disaster emergency declared by the Governor pursuant to section §28 of the Executive Law, or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to §24 of the Executive Law, if 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.

## **5. PUBLIC NOTICE:**

- a. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least 72 hours before such meeting.
- b. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.
- c. The public notice provided for by this section shall not be construed to require publication as a legal notice.
- d. If videoconferencing is used to conduct a meeting, the 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.
- e. If a meeting will be streamed live over the internet, the public notice for the meeting shall inform the public of the internet address of the website streaming such meeting. When a public body of the Town has the ability to do so, notice of the time and place of a meeting given in accordance with (a) or (b) above, shall also be conspicuously posted on the town's internet website.

## **6. CONDUCT OF EXECUTIVE SESSIONS:**

- a. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:
  - i. matters which will imperil the public safety if disclosed;
  - ii. any matter which may disclose the identity of a law enforcement agent or informer;
  - iii. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
  - iv. discussions regarding proposed, pending or current litigation;
  - v. collective negotiations pursuant to article fourteen of the civil service law;
  - vi. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
  - vii. the preparation, grading or administration of examinations; and

- viii. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or
- ix. exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

## **7. MINUTES:**

- a. Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.
- b. Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary need not include any matter which is not required to be made public by the freedom of information law as added by Article 6 of the Public Officer's Law.
- c. Minutes of meetings (in draft form) of all public bodies shall be available to the public in accordance with the provisions of the Freedom of Information law within two weeks from the date of such meeting except that minutes taken pursuant to subdivision (b) of this section shall be available (in draft form) to the public within one week from the date of the executive session. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high-speed internet connection, such minutes shall be posted on the website (in draft form) within two weeks from the date of such meeting except that minutes taken pursuant to subdivision (b) of this section shall be posted on the website (in draft form) within one week from the date of the executive session. For purposes of this subdivision unabridged video recordings or unabridged audio recordings or unabridged written transcripts may be deemed to be meeting minutes. Nothing in this section shall require the creation of minutes if the public body would not otherwise take them.

## **8. ENFORCEMENT:**

- a. Any aggrieved person shall have standing to enforce the provisions of these procedures against a public body of the Town by the commencement of a proceeding pursuant to article seventy-eight of the Civil Practice Law and Rules, or an action for declaratory judgment and injunctive relief. In any such action or proceeding, if a court determines that a public body failed to comply with the Open Meetings Law, the court shall have the power, in its discretion, upon good cause shown, to declare that the public body violated the Open Meetings Law and/or declare the action taken in relation to such violation void, in whole or in part, without prejudice to reconsideration in compliance with the Open Meetings Law. If the court determines that a public body has violated the Open Meetings Law, the court may require the members of the public body to participate in a training session concerning the obligations imposed by the Open Meetings Law conducted by the staff of the committee on open government. An unintentional failure to fully comply with the notice provisions required by the Open Meetings Law shall not alone be grounds for invalidating any action taken at a meeting of a public body. The provisions of the Open Meetings Law shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.
- b. In any proceeding brought pursuant to §107 of the Open Meetings Law, costs and reasonable attorney fees may be awarded by the court, in its discretion, to the successful party. If a court determines that a vote was taken in material violation of the Open Meetings Law, or that

substantial deliberations relating thereto occurred in private prior to such vote, the court shall award costs and reasonable attorney's fees to the successful petitioner, unless there was a reasonable basis for a public body to believe that a closed session could properly have been held.

- c. The statute of limitations in an article seventy-eight proceeding with respect to an action taken at executive session shall commence to run from the date the minutes of such executive session have been made available to the public.

## **9. EXEMPTIONS:**

- a. Nothing contained herein shall be construed as extending the provisions to:
  - i. judicial or quasi-judicial proceedings;
  - ii. deliberations of political committees, conferences, and caucuses.
- b. For purposes of this section, the deliberations of political committees, conferences and caucuses means a private meeting of members of the legislative body of the Town, who are members or adherents of the same political party, without regard to:
  - i. the subject matter under discussion, including discussions of public business,
  - ii. the majority or minority status of such political committees, conferences and caucuses, or
  - iii. whether such political committees, conferences and caucuses invite staff or guests to participate in their deliberations;
- c. Any matter made confidential by federal or state law.

## **10. COMMITTEE ON OPEN GOVERNMENT:**

The committee on open government, created by paragraph (a) of subdivision one of §89 of the Public Officer's Law, shall issue advisory opinions from time to time as, in its discretion, may be required to inform public bodies and persons of the interpretations of the provisions of the Open Meetings Law.

## **11. PRIOR POLICY OR PROCUDERES**

This policy replaces and supersedes any prior policy or procedures on this subject matter and becomes effective immediately upon adoption by the Town Board.

## **12. ANNUAL REVIEW AND AMENDMENTS**

Town Board shall review these procedures annually, and it shall have the power to amend these procedures at any time. A public body of the Town may adopt provisions less restrictive with respect to public access than these procedures and instructions.