

Town of Brunswick Remote Participation in Public Proceedings

Purpose

The purpose of this policy is to establish guidelines to ensure compliance with the Maine Freedom of Access Act (FOAA) provisions governing remote participation in public proceedings.

Background

During the state of emergency declared by Maine's Governor in response to COVID-19, remote participation in public proceedings of certain public bodies was allowed. Following COVID, remote participation has been governed by Title 1 §403-B, which was further amended in 2022. Those amendments clarified the law and expanded the opportunities for meetings with remote participation. The new law essentially allows municipalities to set their own policies on remote participation in public proceedings.

Definitions

Public Body – means any body that conducts public proceedings as defined in Maine's FOAA.

Public Proceedings - means the transactions of any functions affecting any or all citizens of the State by any of several public bodies. The FOAA specifically includes any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision.

Remote participation – means telephonic or video technology allowing simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability.

Application of Policy

This policy applies to the public bodies that conduct public proceedings as defined in Maine's FOAA. For the Town of Brunswick those include the town council, and any town boards, commissions, committees, task forces, or similar public bodies.

This policy does not apply to the Brunswick School Board, or the public bodies appointed by it.

Means of Remote Participation

Permitted Methods - Remote participation is only permitted by the means specified in this policy.

- Permitted web platforms include:
 - Zoom Meetings or Webinars
 - Microsoft Teams Meetings or Live Events
 - Cisco WebEx
 - GoToMeeting
 - Other (as approved by the town manager)

- Permitted telephonic means include:
 - Conferencing through a municipal telephone system owned by the Town of Brunswick
 - Conferencing through a third-party telephone conferencing system (as approved by the town manager)

Prohibited Methods - Public proceedings may not be conducted by text-only means such as e-mail, text messages, or chat functions.

Member Attendance, Quorum and Voting

Members of public bodies covered by this policy are expected to be physically present for public proceedings except when being physically present is not practicable. A member of the body who participates in a public proceeding by remote methods is present for purposes of a quorum and voting.

Roll Call Votes

All votes taken during a public proceeding using remote methods must be taken by roll call vote that can be seen and heard if using video technology, and heard if using only audio technology, by the other members of the public body and the public.

Public Attendance and Participation

Public attendance at a proceeding will not be limited solely to remote methods except when the existence of an emergency or urgent issue that requires the public body to meet by remote methods. The council chair, the town manager, or their designees, shall have the authority to determine the existence of an emergency or urgent issue. Members of the public must be provided a meaningful opportunity to attend by remote methods when all members of the body are participating by remote methods. Further, reasonable accommodations should be provided when necessary to provide access to individuals with disabilities. If the full body meets by remote methods, it shall provide an effective means of communication between the members of the body and the public.

Those who are not members of the public body, including the public, municipal staff, consultants, and advisors may be permitted to participate remotely by any means permitted by this policy.

Notice Requirements

Notice of the proceeding must be provided in accordance with Maine FOAA. When the public is allowed to attend solely by remote methods, the notice must include the means by which members of the public may access the proceedings using remote methods.

Meeting Materials Available to the Public

The public body must make all documents and other materials considered by the public body available, electronically or otherwise, to the public who attend by remote methods, to the same

extent customarily available to members of the public who attend the proceedings of the public body in person.

Adopted by Town Council: July 19, 2021
Proposed Amendments: February 6, 2023
Amended by Town Council: February 6, 2023

Attachment: 1 MRSA § 403-B

§403-B. Remote participation in public proceedings

1. Remote participation. This section governs remote methods of participation in public proceedings of certain public bodies. For the purposes of this section, "remote methods" means telephonic or video technology allowing simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Public proceedings may not be conducted by text-only means such as e-mail, text messages or chat functions.

[PL 2021, c. 290, §1 (NEW).]

2. Requirements. A public body subject to this subchapter may allow members of the body to participate in a public proceeding using remote methods only under the following conditions:

A. After notice and hearing the body has adopted a written policy governing the conditions upon which members of the body and the public may participate in a public proceeding of that body by remote methods.

(1) If a public body has not adopted a policy authorizing remote methods of participation under this section and if the chair of the body determines that an emergency or urgent issue exists that prevents the public body from meeting in person to adopt a policy, the chair may call a meeting of the body in which the members may participate by remote methods. Notice of the meeting must include information about how the public can participate in the meeting and the proposed policy or instructions on how to obtain a copy of the proposed policy in advance of the meeting. Once the meeting is convened, the members shall vote on whether to support the chair's determination that an emergency or urgent issue exists that prevents the public body from meeting in person.

(2) If 2/3 of the members vote in support of the chair's determination under subparagraph (1), after an opportunity for hearing, the members may vote on whether to adopt a policy authorizing remote methods of participation in public proceedings of the body under this section; [PL 2021, c. 611, §1 (AMD).]

B. [PL 2021, c. 666, §1 (RP).]

C. The policy adopted pursuant to paragraph A must provide members of the public a meaningful opportunity to attend by remote methods when members of the body participate by remote methods, and reasonable accommodations may be provided when necessary to provide access to individuals with disabilities; [PL 2021, c. 290, §1 (NEW).]

D. If the body allows or is required to provide an opportunity for public input during the proceeding, an effective means of communication between the members of the body and the public must be provided; [PL 2021, c. 290, §1 (NEW).]

E. Notice of the proceeding must be provided in accordance with section 406. When the public may attend by remote methods pursuant to paragraphs C and D, the notice must include the means by which members of the public may access the proceeding using remote methods. The notice must also identify a location for members of the public to attend in person. The body may limit public attendance at a proceeding solely to remote methods if there is an emergency or urgent situation that requires the body to meet only by remote methods; [PL 2021, c. 666, §2 (AMD).]

F. A member of the body who participates in a public proceeding by remote methods is present for purposes of a quorum and voting; [PL 2021, c. 290, §1 (NEW).]

G. All votes taken during a public proceeding using remote methods must be taken by roll call vote that can be seen and heard if using video technology, and heard if using only audio technology, by the other members of the public body and the public; and [PL 2021, c. 290, §1 (NEW).]

H. The public body must make all documents and other materials considered by the public body available, electronically or otherwise, to the public who attend by remote methods to the same extent customarily available to members of the public who attend the proceedings of the public body in person, as long as additional costs are not incurred by the public body. The public body must make the proposed policy regarding remote participation available in advance of the meeting if meeting remotely under paragraph A, subparagraphs (1) and (2). [PL 2021, c. 611, §2 (AMD).]

The policy adopted pursuant to this subsection applies to a board or committee that is within the jurisdiction of the public body, unless the board or committee adopts its own policy under this subsection.

[PL 2021, c. 611, §§1, 2 (AMD); PL 2021, c. 666, §§1-3 (AMD).]

3. Remote participation not permitted. This section does not authorize town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings held pursuant to Title 20-A, section 1482-A to be conducted using remote methods.

[PL 2021, c. 290, §1 (NEW).]

4. Application. This section does not apply to:

A. The Legislature; or [PL 2021, c. 290, §1 (NEW).]

B. A public body to which specific statutory provisions for remote participation apply. [PL 2021, c. 290, §1 (NEW).]

[PL 2021, c. 290, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 290, §1 (NEW). PL 2021, c. 611, §§1, 2 (AMD). PL 2021, c. 666, §§1-3 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 130th Maine Legislature and is current through October 1, 2022. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.