

# REMOTE PARTICIPATION POLICY

## TOWN OF NORTON, MA

*Adopted by the Board of Selectmen, October 21, 2019*

### 1. PURPOSE

The Office of The Attorney General promulgated a regulation, pursuant to its authority under the Open Meeting Law, G.L. c. 30A, §§18-25, to allow members of public bodies, in limited circumstances, to participate remotely in meetings. Although acknowledging the value of attending meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when circumstances prevent them from being physically present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by all public bodies of the Town, including boards, committees, and commissions, hereinafter referred to as “public body” or “public bodies”, pursuant to the provisions of the Open Meeting Law M.G.L. c. 30A, §§18 through 25.

Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

### 2. APPLICABILITY

A. Adoption: In accordance with 940 CMR 29.10(2)(a), the Board of Selectmen, on October 21, 2019, voted to authorize remote participation for all public bodies in the Town. Accordingly, all public bodies of the Town, whether appointed or elected, permanent or temporary, are authorized to utilize remote participation subject to the requirements of the applicable regulations, the Open Meeting Law, and within the policy.

Public bodies must affirmatively adopt this policy at a scheduled meeting and provide the Board of Selectmen with a copy of the policy signed by all members of the public body prior to participation.

B: Revocation: Note that in accordance with 940 CMR 29.10(3), the Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time. If such action is taken, the Board or its designee shall provide immediate notice thereof to public bodies.

C. Note to Public. Unless the Board revokes its authorization for the use of remote participation, each public body shall include on its meeting notices the following statement:

Members may participate remotely in accord with the provisions of 940 CMR 29.10 and the Town’s Remote Participation Policy, available for review on the Town’s website at:

<https://www.nortonma.org/board-selectmen>

### **3. REMOTE PARTICIPATION**

#### **A. Minimum Requirements and Implications.**

i. No member of a public body shall participate in a meeting remotely unless:

(a) Members of a public body who participate remotely and all persons present at the meeting location are clearly audible to each other and the audience; and

(b) A quorum of a public body, including the chair of the meeting, is physically present at the meeting location; provided, however, that notwithstanding the first clause of this section, only the person chairing a meeting of the Commission on Disability need be physically present at the posted meeting location.

ii. Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

#### **B. Permissible Reason.**

A member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7) and as set forth herein, only if physical attendance would be unreasonably difficult.

Despite its approval of the use of remote participation to facilitate greater participation in public meetings, the Board of Selectmen underscores its preference that remote participation be used only infrequently by individual board members and by public bodies generally. Chairs of public bodies are encouraged to prioritize in-person attendance at meetings, including rescheduling of meetings if possible, to respect the inherent benefits of having members of a public body present at a meeting.

#### **C. Technology.**

(i) The Board of Selectman has determined that the technology currently available is adequate to allow use of remote participation.

(ii) The chair, or in the chair's absence, the acting chair (hereinafter referred to as "chair") is authorized to address, in the manner deemed most appropriate, technical difficulties that arise as a result of utilizing remote participation. Said chair is encouraged, wherever possible, to suspend discussion while efforts are made to restore clear communications between the person on the phone and the persons attending the meeting. If a remote participant is disconnected from the meeting for any reason, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

#### **D. Procedures.**

(i) Any member of a public body who plans to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair of their intent and the reason therefor.

(ii) At the start of the meeting, the chair shall announce the name of any member participating remotely. This information shall also be recorded in the meeting minutes.

(iii) All votes taken during any meeting in which a member participates remotely shall be by roll call vote, even if unanimous.

(iv) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(v) Members participating remotely are cautioned that the same obligations of consideration apply as at any physical meeting. Remote participants should direct all their attention to the meeting and make their decisions based upon the information 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 and could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.

(vi) When feasible, the chair shall distribute to remote participants, in advance, copies of any documents or exhibits reasonably anticipated to be used during the meeting. If used, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, §22.

(vii) When remote participation is used, the chair shall provide to the Board of Selectmen, within 5 business days following the meeting, notice of meeting attendance, identifying who participated remotely.

(viii) A member of a public body participating remotely shall be responsible for any out-of-pocket expenses associated with such participation and shall not be reimbursed by the Town for the same.

#### **E. Violations.**

Violations of 940 CMR 29.10 may be considered by the Attorney General or court of competent jurisdiction to constitute violations of the Open Meeting Law. Therefore, compliance with such regulations and this policy are imperative to protect the work of the public body using remote participation.