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Board of Commissioners Policy

Electronic Participation in Board of Commissioners Meetings & Electronic Meetings of Board of Commissioners (Adopted April 15, 2020)

The Town of Nags Head Board of Commissioners (the "Board") is committed to conducting its meetings in compliance with Article 33C of Chapter 143 of the North Carolina General Statutes ("the North Carolina Open Meetings Law"). To enable all Board members to participate fully in Board meetings, the following requirements shall apply whenever Board member(s) are unable to be physically present and are only able to participate in a Board meeting through electronic means:

1. **Where a quorum of the Board members are physically present** in the Board chambers for the meeting:
 - A. A remote Board member must be able to hear the Board's discussion and any presentations made to the Board during the meeting.
 - B. Technical arrangements must be made so that a remote Board member's comments can be heard by all present for the meeting, including the public.
 - C. A remote Board member must notify the Town Clerk sufficiently in advance of the meeting to ensure that all requirements for remote participation, including technical and equipment needs can be addressed in advance of the meeting.
 - D. A remote Board member may not vote on any matter.
 - E. A remote Board member will not be included in determining whether a quorum is present for the meeting.
 - F. A remote Board member may not participate in a closed session.
 - G. A remote Board member may not participate in any quasi-judicial proceeding.
 - H. The Board minutes must reflect that a remote Board member was not physically present.
 - I. A Board member is discouraged from participating remotely in more than 3 regular Board of Commissioners meetings in a 12-month period.
2. **In the event of a declared State of Emergency** and/or when health or safety of the public, the Board of Commissioners members and Town staff may be adversely affected by the presence of Board of Commissioners members in the Board chamber or in the same meeting room, the following rules apply:
 - A. The Board may meet electronically pursuant to this policy without a quorum physically present in the Board chambers so long as a quorum of the Board is participating, regardless whether the Board members are acting remotely or present in the Board chambers. A remote Board member must be able to hear the Board's discussion and any presentations made to the Board during the meeting.

- B. A remote Board member must notify the Town Clerk sufficiently in advance of the meeting to ensure that all requirements for remote participation, including technical and equipment needs can be addressed in advance of the meeting. Technical arrangements must be made so that a remote Board member's comments can be heard by all present for the meeting, including the public.
- C. Remote Board members may vote on matters before the Board as if they are present in the Board chambers.
- D. The Board may hold a closed session if otherwise allowed by law when it would be unreasonable to wait until a future in-person meeting to hold the closed session, and when the Board can confirm that the technology being used does not allow anyone who would not be allowed to participate in the closed session to intercept or participate in the closed session.
- E. The Board should take reasonable precautions to limit voting actions to those items which must be voted on at that time or within the time that an in-person meeting could safely and conscientiously occur. Except for exigent circumstances and then only with the applicant's consent, quasi-judicial proceedings should be rescheduled, postponed or continued to the time when an in-person meeting can safely and conscientiously occur.
- F. The Board shall comply with N.C. Gen. Stat. Sec. 143-318.13 as same may be amended from time to time, including providing a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by law shall specify that location. A fee of up to twenty-five dollars (\$25.00) may be charged to each listening member of the public to defray in part the cost of providing the necessary location and equipment. In addition, the Board shall make a reasonable attempt to allow for:
 - i. Real time transmission of audio of the meeting to the public, and if such transmission is not possible, then a reasonable attempt to publish the audio and video, if any, on the Town's website as soon as reasonably possible;
 - ii. Public participation during a public comment period if the meeting is a regular meeting and the only regular meeting of the Board that month; and
 - iii. Public participation for any public hearings required by law for the decisions being made during the meeting.
- G. The Board should also consider taking action at the next meeting having an in-person quorum to ratify any actions taken electronically under this provision which occurred without a physically present quorum and without all the necessary votes for the action physically present in the Board chambers.
- H. This section to of this policy shall also apply to all boards or committees appointed by the Board of Commissioners.