

TOWN OF BLUE RIVER, COLORADO

PUBLIC MEETING POLICY 2021

IN-PERSON, REMOTE, AND HYBRID MEETING PROCESSES AND PROCEDURES FOR THE TOWN BOARD OF TRUSTEES, PLANNING & ZONING COMMISSION, AND OTHER FORMALLY CONSTITUTED COMMITTEES

I. Purposes and Applicability.

With advancements in communication equipment, meeting participation through telephonic or other electronic means such as web-based meetings and voice or videoconferencing has become more popular within many local governments. However, telephonic or other electronic participation has inherent limitations because such participation may make more difficult a board, commission, or committee member's ability to fully view documentary information presented during meetings, to fully evaluate a speaker's non-verbal language in assessing veracity or credibility, and to fully observe nonverbal explanations (e.g., pointing at graphs and charts) during a speaker's presentation or testimony.

The purposes of this Policy are:

- To authorize and recognize the limited use of fully remote and hybrid meetings, together with in-person meetings, as a means of conducting public business.
- To specify the rules and procedures by which individual members of the Town Board, Planning and Zoning Commission, and Town committees may participate in meetings by telephone or other electronic means.

II. Definitions

"Board" shall mean the Board of Trustees for the Town of Blue River.

"Commission" or "P&Z Commission" shall mean the Planning and Zoning Commission of the Town of Blue River.

"Electronic participation" or "electronically participate" shall mean participating in a meeting by telephone or another web-based video or audio-conferencing platform (such as Zoom or Microsoft Teams) as determined by the Town Clerk.

"Fully in-person meeting" shall mean a meeting at which the only means of attending and participating in the meeting for all attendees is by actual physical presence. No opportunity for electronic participation shall be made available except for a member as permitted by Section VII below.

"Fully remote meeting" shall mean a meeting at which the only means of attending and participating in the meeting for all attendees is by electronic participation.

"Hybrid meeting" shall mean a meeting at which:

- A. All Board or P&Z Commission members attend the meeting by physical presence (in-person) except as permitted by Section VII below; and

- B. Town administrative staff must attend in-person except where excused from in-person attendance by the Town Manager; and
- C. The general public and all other interested participants are afforded an opportunity for electronic participation; and
- D. The Town may, at its discretion, provide opportunities for in-person attendance by the general public to the extent the meeting room and resources of the Town permit.

“Meeting” shall mean a meeting of the Town Board, the P&Z Commission, or a Town committee that is required to be an “open meeting” by the Colorado Open Meetings Law.

“Member” shall mean, where the context indicates, the Mayor or the chairperson, and all other members, of the Town Board of Trustees, the P&Z Commission, and any formally constituted committee of the Town of Blue River.

“Town Manager” shall mean the appointed Town Manager of the Town of Blue River or the Manager’s designee.

“Video conference” shall mean a meeting at which all or some attendees participate through a program, application, or other means of electronic communication that provides the ability to project visual images of the participants or the meeting room.

III. Town Board Meetings.

All regular and special board meetings of the Town Board of Trustees shall customarily be conducted as a hybrid meeting. However, at the direction of the Town Manager, after consultation with the Mayor, the Town Board may be required to meet in a fully in-person or in a fully remote meeting.

A Board member may be excused from meeting attendance by the Mayor or presiding officer due to unforeseen familial obligations, illness or injury to the member or a person under the member’s care, a previously planned vacation, or other reason determined by the Mayor as reasonably justifying absence. Approval or rejection of the reason for absence shall be a discretionary determination of the Mayor or presiding officer.

IV. Planning & Zoning Commission Meetings.

All regular and special board meetings of the Planning and Zoning Commission shall customarily be conducted as a hybrid meeting. However, at the direction of the Town Manager, after consultation with the P&Z Chairperson, the P&Z Commission may be required to meet in a fully in-person or a fully remote meeting.

A P&Z member may be excused from meeting attendance by the P&Z Chairperson (or presiding officer) due to unforeseen familial obligations, illness or injury to the member or a person under the member’s care, a previously planned vacation, or other reason determined by the Chairperson (or presiding officer) as reasonably justifying absence.

Approval or rejection of the reason for absence shall be a discretionary determination of the P&Z Chairperson or presiding officer.

V. Other Town Committee Meetings.

All meetings of any formally constituted committee of the Town (other than the Town Board and the P&Z Commission) shall be conducted only as either a fully in-person meeting or a fully remote meeting. The Town Manager, after consultation with the committee chairperson, shall determine the appropriate format of each meeting based on the proposed agenda, the ability to arrange for and accommodate electronic participation, and the need for the in-person presence of the members of the committee to engage in the joint review documents or exhibits during the meeting. Hybrid meetings are not permitted or made available to committees.

A committee member may be excused from meeting attendance by the chairperson or presiding officer due to unforeseen familial obligations, illness or injury to the member or a person under the member's care, a previously planned vacation, or other reason determined by the chairperson or presiding officer as reasonably justifying absence. Approval or rejection of the reason for absence shall be a discretionary determination of the chairperson or presiding officer.

VI. Special Procedural Rules Governing Fully Remote and Hybrid Meetings.

- A. Open to the Public. Every fully remote or hybrid meeting shall be open to the public at all times except for executive sessions.
- B. Notice and Access. Together with notice requirements imposed by the Colorado Open Meetings Law, notice of a fully remote meeting shall include information to enable the public to gain telephonic or electronic access to the meeting. Prior to any fully remote meeting, the Town administrative staff shall reasonably confirm that the information provided to the public for access is accurate and results in access. Additionally, a telephone number may be made available to enable participants to contact an administrative staff person during a meeting to report problems associated with access. The Town shall not be obligated to trouble-shoot or resolve individual access problems for any member of the general public except to the extent such issues are caused by failure or malfunction of Town communication equipment. If an electronic participant is unable to make or to continue access to a meeting due to no fault of the Town, such inability to access the meeting shall be considered a risk inherent in the participant's election to participate by electronic means and considered no different than the participant being unable to attend a meeting due to a malfunction of the participant's personal vehicle that is needed to reach an in-person meeting.
- C. Effect Electronic Participation. Electronic participation by a member of the Board, P&Z Commission, or committee shall constitute actual attendance for purposes of establishing a quorum for the meeting.
- D. Participant Caused Disruptions. The Town Manager shall terminate the electronic participation access of any participant that substantially or repeatedly

engages in actions with the evident intent to disrupt or interfere with the conduct of the meeting. Such disruption may include, but not be limited to: the playing of loud music or producing unnecessary noise; screaming or yelling; engaging in actions such as the rustling of paper, repeated interruption of speakers, or engaging in discussions with others unrelated to the meeting, after instruction to cease such action. The use of profanity, use of forceful or loud speech while afforded the right to speak, or infrequent interruptions of other speakers or the meeting – without the evident intent to disrupt the meeting – shall not constitute a basis for termination of access.

E. Legislative and Administrative Matters in Fully Remote and Hybrid Meetings.

- a. During a fully remote or hybrid meeting, the public shall always be reasonably able to hear comments made during any *legislative or administrative matter* on the agenda. It is not necessary to provide a means for the general public to speak unless required by state law and, in the case of a fully remote or hybrid meeting held by video conference, it is not necessary to provide a means for the public to view the meeting.
- b. For any matter requiring a vote by the Board or P&Z Commission, all votes shall be conducted by roll call.
- c. If at any time the Town Manager determines it is not possible or prudent to hold or continue a fully remote or hybrid meeting, whether due to technical issues or an inability to do so while meeting all legal requirements, the meeting shall be continued to a future meeting. Such decision to continue a meeting shall be a final administrative decision of the Town Manager.

F. Quasi-Judicial Hearings in Fully Remote and Hybrid Meetings.

- a. The Town Manager has discretion to determine that any quasi-judicial matter shall or shall not be placed on the agenda of a fully remote or hybrid meeting and such administrative decision is final. In exercising such discretion, where the quasi-judicial matter likely involves significant documentation introduced at the hearing, involve greater citizen attendance than may be typical for a hearing, involves substantial issues affecting the Town as a whole, or will otherwise best be handled during a full in-person hearing, the Town Manager shall customarily schedule the hearing during a full in-person meeting. This Policy creates no right in favor of any party to have a quasi-judicial matter heard at a fully remote or hybrid meeting.
- b. The Town Manager shall during the application process for a quasi-judicial matter encourage applicants and others to submit all documentation to the Town prior to the quasi-judicial hearing. All documents submitted shall be promptly made available upon request by any person without resort to a formal process for review or access such as the Colorado Open Records Act.

- c. During a fully remote or hybrid meeting, persons electronically participating shall always be reasonably able to hear comments made during any *quasi-judicial hearing* on the agenda. In the case of a fully remote or hybrid meeting held by video conference, it is not necessary to provide a means for the public to view the meeting.
- d. During a fully remote or hybrid meeting, the public shall always be afforded a reasonable opportunity to be heard during a quasi-judicial hearing.
- e. If at any time the Mayor, P&Z Chairperson, or Town Manager determines that it is not possible or prudent to hold or continue the quasi-judicial hearing at a fully remote or hybrid meeting, whether due to technical issues or an inability to do so while meeting all legal requirements, the hearing shall be vacated and the matter will be continued to, and reheard in its entirety, at a future meeting. Such decision to vacate a hearing shall be a final administrative decision.
- f. If documents of a substantive nature are introduced *during the hearing* that make it difficult for persons participating electronically to view and/or review or to otherwise understand the document introduced, the hearing may, in the discretion of the Mayor or P&Z Chairperson be continued to a date certain to allow for such viewing/reviews. The Mayor or Chairperson may, when deemed appropriate, describe or read a document introduced at the hearing in order to afford persons participating electronically to generally understand the content of the document.
- g. For any matter requiring a vote, all votes shall be conducted by roll call.

VII. Member Authority Electronically Participate in an In-person or Hybrid Meeting.

- A. It is expected that every member of the Board or P&Z Commission shall physically attend a scheduled in-person or a hybrid meeting. However, this Policy recognizes that from time to time in-person participation may present an unreasonable hardship for a member and may necessitate an opportunity to electronically participate.
- B. A member may electronically participate in an in-person or hybrid meeting under the following circumstances and procedure:
 - 1. Electronic participation shall be made available to a member when such member's absence is excused in accordance with Section III or IV of this Policy.
 - 2. Electronic participation must at all times permit clear, uninterrupted, and two-way communication for the participating member. The presiding officer or Town Manager may discontinue electronic participation by one or more members during a meeting where the electronic

participation results in delays or interference in the meeting process, e.g., where the telephone or electronic connection is repeatedly lost, the quality of the connection is unduly noisy, or a participating member is unable to hear speakers using a normal speaking voice amplified to a level suitable for the meeting audience in attendance.

3. To arrange for electronic participation, a member shall contact the Town Manager in advance of the meeting regarding the need for electronic participation. Requests for electronic participation may be unable to be accommodated when made within 72 hours of the day of the meeting and, therefore, members should contact the Town Manager at the earliest opportunity concerning the need for electronic participation. If electronic participation can be timely arranged and made available to the requesting member, the Town Manager shall provide instructions for the means of accessing the meeting through electronic participation.
- C. The Town may limit the number of members that may participate electronically during a meeting due to limitations imposed by the telephone or another web-based video or audio-conferencing platform. If a limit exists concerning the available capacity of the platform, access shall be on a first-come, first-served basis.
- D. Electronic participation is intended to be an infrequent or occasional substitution for physical attendance. The Board or P&Z Commission may, by majority vote of a quorum present, declare a member's repeated use of electronic participation excessive and deny a member's privilege to electronically participate for a specific meeting or meetings. Such declaration shall only be made when the member seeking to electronically participate is afforded advance notice and the opportunity to participate in the discussion regarding excessive use and the continuation of such electronic participation by the member. Provided that the member is provided notice of the date and time of the planned discussion, the member's inability to be available to participate in the discussion shall not preclude the authority to discuss and decide whether such member's use of electronic participation is excessive.
- G. Executive Sessions.
- a. Electronic participation by a member of the Board or P&Z Commission in an executive session held during a fully remote or hybrid meeting is permitted. In order to participate:
 1. The member's absence from the executive session must be recognized as an excused absence from in-person attendance pursuant to Section III or IV of this Policy; and
 2. Prior to the meeting at which the member is electronically participating, the member must contact the Mayor or the P&Z Chairperson, as applicable, and also contact the Town Manager to request the opportunity to participate electronically. If the Mayor (or P&Z Chairperson) and the Town Manager agree that

electronic participation can be reasonably accommodated during the meeting, electronic participation shall be permitted; and

3. At the commencement of the executive session, the member must affirm on the record that he or she is participating in a secure and confidential manner in a location where no other persons can hear the content of the executive session and such participant shall not record or otherwise transmit the executive session.
- b. Members seeking access to review an executive session recording must have attended the executive session in-person, have attended the executive session by electronic participation, or was excused from attendance from the meeting or executive session in accordance with Section III or IV of this Policy.

VIII. Reasonable Accommodation.

The Town shall provide reasonable accommodation and shall waive or modify provisions of this Policy to provide disabled members or members of the public full and equal access to meetings.

**APPROVED BY RESOLUTION OF THE BOARD OF TRUSTEES AND MADE EFFECTIVE
SEPTEMBER 21, 2021**