



Date of Council Meeting: September 27, 2016

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Remote Participation in Public Body Meetings

Staff Contact: Barbara Notar, Town Attorney

Council Action Requested: Establish and approve policy on remote participation in public meetings.

Staff Recommendation: Staff recommends approval of the policy.

Commission Recommendation: Not applicable.

Fiscal Impact: None.

Work Plan Impact: None.

Executive Summary: Virginia Code Section 2.2-3708.1 allows individual members of public bodies to participate in a meeting through electronic communication means from a remote location that is not open to the public in the event of an emergency or personal matter, or temporary or permanent disability or other medical condition. The statute requires that a written policy must be adopted. The Town Code contains a written policy for the Town Council, but for members of the Planning Commission, the Economic Development Commission and other Town public bodies to utilize electronic participation, a broader written policy should be adopted.

Background: In 2014, the Virginia General Assembly amended Virginia Code Section 2.2-3708.1 to require written policy allowing for and governing participation of public body members by electronic communication means.

Specifically, § 2.2-3708.1 requires Town Council to adopt a written policy that includes an approval process. Once Town Council adopts the policy, the code requires strict and uniform application, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. Along with the adoption of a written policy, there must be a quorum of members physically assembled at the meeting location. And, the council, board or commission must make arrangements for the voice of the remote participant to be heard by all who attend the meeting.

Assuming the above-listed requirements are met, a member may participate remotely, if on or before the day of the meeting, the member notifies the chair that he/she is unable to

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attend due to an emergency or personal matter and identifies with specificity the nature of such emergency or personal matter. The nature of the emergency or personal matter and the remote location from which the member participated must be recording in the meeting minutes. There is a maximum limit for remote participate in two (2) meetings or 25 percent of the meeting held each calendar year. The other scenario under which a member may participate remotely is if he/she is unable to attending due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance. The meeting minutes must record the fact of the disability or medical condition along with the remote location from which the member participated.

With regard to an approval process as required by Va. Code § 2.2-3708.1, currently Town Code Section 2-23(c) permits a member of Town Council to participate by electronic means from a remote location under the circumstances listed in Va. Code § 2.2-3708.1. Further, that section prevents any member of Town Council from voting against the request if the member meets those criteria. The proposed written policy also includes this provision. The proposed policy was drafted from templates created by the Virginia FOIA Council and the Virginia Municipal League (VML) and tailored for the Town of Leesburg.

Attachments: Draft Remote Participation Policy
Proposed Resolution



REMOTE ELECTRONIC PARTICIPATION BY MEMBERS OF THE LEESBURG TOWN COUNCIL, BOARDS AND COMMISSIONS

The following policy is established for the Town of Leesburg Town Council, board and commission members' remote electronic participation in their public meetings. It is the policy of the Leesburg Town Council that individual council, board and commission members may participate in their public meetings by electronic means as permitted by Virginia Code § 2.2-3708.1. This policy shall apply to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

The town council, board or commission members reviewing an individual member's request to participate remotely must approve such request, unless that participation would violate this written policy or the provisions of Virginia Code § 2.2-3708.1. If a member's participation from a remote location is challenged based on a violation of this written policy or Virginia Code § 2.2-3708.1, then the town council, board or commission shall vote whether to allow such participation, and if the town council, board or commission votes to disapprove of the member's remote participation, such disapproval shall be recorded in the meeting minutes with specificity. Only a violation of this written policy or Virginia Code § 2.2-3708.1 shall be grounds for challenge and disapproval. In all other instances, members must approve a remote participation request.

Emergency or Personal Matter

1. On or before the day of the meeting, the member must notify the chair or the vice-chair in the absence of the chair, of the town council, board or commission, that he/she is unable to attend the meeting due to an emergency or personal matter.
2. The member must identify with specificity the nature of the emergency or personal matter.
3. Arrangements for the remote member's voice to be heard by all persons in physical attendance of the public meeting must be made.
4. A quorum of the town council, board or commission must be physically assembled at the meeting location.
5. The town council, board or commission must record in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated.
6. Such participation by the member shall be limited each calendar year to two (2) meetings or 25 percent of the public meetings, whichever is *fewer*.

Temporary or Permanent Disability

1. On or before the day of the meeting, the member must notify the chair, or the vice-chair in the absence of the chair, of the town council, board or commission, that he/s she is

unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance.

2. Arrangements for the remote member's voice to be heard by all persons in physical attendance of the public meeting must be made.
3. A quorum of the town council, board or commission must be physically assembled at the meeting location.

DRAFT

PRESENTED September 27, 2016

RESOLUTION NO. 2016-

ADOPTED _____

A RESOLUTION: REMOTE PARTICIPATION POLICY FOR TOWN OF LEESBURG PUBLIC BODY MEETINGS

WHEREAS, Section 2.2-3708.1 of the 1950 Code of Virginia, as amended, allows individual members of public bodies to participate in a meeting though electronic communication means from a remote location that is not open to the public in the event of an emergency or personal matter, temporary or permanent disability or other medical condition; and

WHEREAS, in order to effectuate such participation, a written policy must be adopted; and

WHEREAS, the Leesburg Town Code contains a written policy for the Town Council only; and

WHEREAS, a broader written policy must be adopted for members of the Planning Commission, Economic Development Commission and other town public bodies to utilize electronic participation.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that: the Remote Electronic Participation by Members of the Leesburg Town Council, Boards and Commissions Policy is hereby adopted pursuant to Code of Virginia § 2.2-3708.1 shall apply to all public bodies within the Town, and all public bodies shall approve such electronic participation by any member that requests such participation so long as the requirements of Code of Virginia § 2.2-3708.1 have been met.

PASSED this _____ day of _____, 2016.

David S. Butler, Mayor
Town of Leesburg

ATTEST:

Clerk of Council