

**Proposed
Town of Bovina
Local Law ³ of the year 2022**

A Local Law of the Town of Bovina in relation to authorizing videoconferencing for the Town of Bovina public boards and bodies.

Be it enacted by the Town Board of the Town of Bovina, County of Delaware, as follows:

SECTION I. PURPOSE AND FINDINGS.

This Local Law is authorized by Chapter 56 of the Laws of 2022 of New York, which amends the New York Open Meetings Law. Section 103-a of the New York Public Officers Law allows expanded use of videoconferencing in circumstances where there are “extraordinary circumstances,” as opposed to a state of emergency. The Open Meetings Law (Public Officers Law Art. 7) authorizes remote participation in meetings by members of a public body only if “an opportunity for the public to attend, listen and observe at any site at which a member participates” is provided. The circumstances of the COVID-19 pandemic demonstrated the impracticality of in-person meetings. On April 9, 2022, the Governor signed into law an amendment of the Public Officers Law to make videoconferencing more available to public bodies than it had been before the pandemic, without authorizing fully remote meetings permanently. With approval of a local law from the Town Board, members of all Bovina public boards will be allowed to participate in meetings by videoconference, using remote access technology, but only when: 1) a quorum of members are present in the physical location of the meeting, and 2) the member(s) seeking to participate remotely satisfy one of the “extraordinary circumstances” that prevent physical presence.

SECTION II. AMENDMENT

Section 1. The Code of the Town of Bovina is hereby amended by adding a new chapter, Chapter 2, to read as follows:

§ 2.1 Authorization of Meetings By Videoconferencing.

- A. All public bodies of the Town of Bovina are authorized to use videoconferencing technology to conduct their meetings in accordance with the provisions of Section 103-a of the NY Public Officers Law, subject to the following conditions:
- (1) A minimum number of members of the public body sufficient to fulfill the public body’s quorum requirement must be present in the same physical location where the public can attend;
 - (2) All members of the public body shall be physically present at any meeting of the public body unless a member is unable to be physically present due

to extraordinary circumstances, including, but not limited to: disability; illness; quarantine order; the death of an immediate family member where such term is defined to include a spouse, parent, sibling, child, domestic partner, or individual for whom the member is the designated guardian; caregiving responsibilities for an immediate family member, or any other significant or unexpected factor that may preclude physical attendance.

- (3) A member who wishes to participate in a meeting by videoconference must provide advance notice and justification for their absence to the extent possible to the appointed leadership of the public body. For purposes of the Town Board, such notice shall be provided to the Supervisor, or in the Supervisor's absence, to the Deputy Supervisor. In the case of the Planning Board or the Zoning Board of Appeals, notice shall be provided to the Chair or his/her designee when the Chair is unavailable.
- (4) The leadership of a public body may require any member requesting to participate in a meeting by teleconference to provide documentation, to the extent possible, supporting such request and may publicly confirm that such documentation was received without publicly stating the contents of such documentation.
- (5) Except in the case of executive sessions, the public body shall ensure that members who are participating remotely can be heard, seen, and identified at all times when the meeting is being conducted.
- (6) The minutes of meetings involving videoconferencing shall state which members, if any, participated by videoconference, and shall be available to the public.
- (7) If videoconferencing is being used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend.
- (8) If videoconferencing is used to conduct a meeting, the public body shall provide the opportunity for members of the public to view such meeting via video, and to participate in proceedings via videoconference in real time where public comment or participation is authorized and shall ensure that videoconferencing authorizes the same public participation as in person participation.
- (9) Any and all videoconferencing technology used for public meetings shall be made accessible to members of the body and the public with disabilities.

in accordance with the Americans with Disabilities Act of 1990, as amended.

- (10) Nothing herein shall prohibit the Town Board or any other board or body of the Town of Bovina from holding meetings entirely by videoconference, with no in-person requirement, during a state of emergency declared by the Governor of New York pursuant to Executive Law § 28 or by the Otsego County Executive or by the Supervisor if such public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting.

- B. The written procedures set forth in subsection (A) of this Chapter governing member attendance by videoconference at meetings of public bodies, together with any supplemental, but not contrary, written procedures that public bodies may adopt on the subject of videoconferencing, shall be conspicuously posted on the Town's website.

SECTION III. NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW.

As part of budget bills for fiscal year 2022-2023, the State legislature passed a new law adding a new section 103-a to the Open Meetings Law, entitled "Videoconferencing by public bodies." Under that law, "A public body may, in its discretion, use videoconferencing to conduct its meetings..." once "the governing board of [the] [Town]...has adopted a local law...following a public hearing, authorizing the use of video conferencing for itself and its committees or subcommittees." NY Public Officers Law § 103- a (2)(a)(i). Before they may conduct meetings by videoconference in accordance with Section 103-a or this local law, public bodies must "establish written procedures governing member and public attendance consistent with this section, and such written procedures shall be conspicuously posted on the public website of the public body." NY Public Officers Law § 103-a (2)(b). This local law authorizes all public bodies of the Town of Bovina to conduct meetings by videoconference in accordance with state and local law, and sets forth written procedures therefor, which will be posted on the Town's website.

SECTION IV. EFFECTIVE DATE.

This local law shall take effect upon filing with the Secretary of State.

SECTION V. AUTHORITY.

This local law is enacted by the Town Board of the Town of Bovina pursuant to its authority to adopt local laws under Article IX of the New York State Constitution, Article 18 of the General Municipal Law, and the Municipal Home Rule Law.

SECTION VI. VALIDITY.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect without such invalid part or parts.

SECTION VII. REPEAL OF OTHER LAWS.

All local laws in conflict with provisions of this local law are hereby superseded.
STATE OF NEW YORK
COUNTY OF OTSEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been or had been taken for the enactment of the local law annexed hereto.

Signature

Catherine Dewitt
Bovina Town Clerk

Date:

8/9/2022