

Local Law Number 2 of 2022

Town of Barre Law Creating a Policy to Allow for Meetings to be Held via Videoconferencing in Certain Circumstances

Section 1. Authority

This Local Law relating to implementation of the Open Meetings Law is adopted pursuant to New York State Municipal Home Rule section 10(ii)(a)(12) which authorizes the Town of Barre to adopt and amend local laws that are not inconsistent with the State Constitution nor general law and that are related to the government, protection, order, conduct, safety, health, and well-being of persons or property of the Town. In the alternative, this local law is adopted pursuant to the Town's general power to enact local laws relating to the government, protection, order, conduct, safety, health, and well-being of persons or property within a municipality granted directly to local governments by the People of the State of New York through Article IX, Sections 1(a), 2(c), and 3(c) of the New York State Constitution. The law is also adopted pursuant to the supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision (1)(ii)(d)(3), New York Town Law sections 261-263, and New York Open Meetings Law section 103-a.

Section 2. Statement of Purpose

The people's right to witness and observe the governmental decision-making process in action is basic to our society. Access to public portions of meetings of public bodies must be protected and maintained. This Local Law is adopted to advance and protect the public health, safety, and welfare of Town of Barre by creating criteria for "extraordinary circumstances" which authorize the limited use of videoconferencing for Town Board members to attend meetings in accordance with New York Open Meetings Law section 103-a(2). Therefore, the Town of Barre hereby enacts this local law to ensure access to public meetings of the Town Board via videoconferencing as provided for herein and by law.

Section 3. A new chapter is hereby added to Part II of the Town of Barre Town Code to read as follows:

Part II, Chapter 351- Meetings

Article I Videoconferencing

§351-1. Title

The title of this article shall be Videoconferencing

§351-2. Purpose.

The people’s right to witness and observe the governmental decision-making process in action is basic to our society. Access to public portions of meetings of public bodies must be protected and maintained. This Local Law is adopted to advance and protect the public health, safety, and welfare of Town of Barre by creating criteria for “extraordinary circumstances” which authorize the limited use of videoconferencing for Town Board members to attend meetings in accordance with New York Open Meetings Law section 103-a(2).

§351-2. Statutory Authority.

This article is enacted pursuant to New York State Municipal Home Rule section 10(ii)(a)(12) which authorizes the Town of Barre to adopt and amend local laws that are not inconsistent with the State Constitution nor general law and that are related to the government, protection, order, conduct, safety, health, and well-being of persons or property of the Town. In the alternative, this local law is adopted pursuant to the Town's general power to enact local laws relating to the government, protection, order, conduct, safety, health, and well-being of persons or property within a municipality granted directly to local governments by the People of the State of New York through Article IX, Sections 1(a), 2(c), and 3(c) of the New York State Constitution. The law is also adopted pursuant to the supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision (1)(ii)(d)(3), New York Town Law sections 261-263, and New York Open Meetings Law section 103-a.

§351-3. Definitions

1. Extraordinary Circumstances

The following will be considered “extraordinary circumstances” allowing a town board member to participate via videoconference within the meaning of New York Open Meetings Law section 103-a:

- a. Disability,
- b. Illness,
- c. Caregiving responsibilities,
- d. Inclement weather,
- e. Traveling out of the area which prevents in-person attendance, or
- f. Any other significant unexpected factor or event which precludes the member’s physical attendance at such meeting.

2. Videoconference

A conference in which participants in different locations are able to communicate with each other in sound and vision.

§351-4. Procedure for Appearance via Videoconference

1. As authorized by the newly enacted New York Public Officers Law § 103-a, meetings of the Town Board may be conducted using videoconferencing to conduct meetings, provided that all requirements of Public Officers Law § 103-a are met.
2. A quorum of members of the Town Board must be physically present at all meetings where videoconferencing will be used.
3. The Town Board shall provide an opportunity for the public to view the meeting and participate both in person and via video conferencing in real time.
4. The Town Board shall ensure its members can be heard, seen, and identified during the meeting, especially when any matter is being formally discussed and/or voted upon.
5. The meeting minutes shall identify the names of the members who participated remotely and the names of the members who participated physically in person.
6. The public notice of the meeting shall inform the public where to view and participate in the meeting virtually, where to participate and attend physically, and where records will be made available.
7. Transcriptions of a public meeting shall be made available only upon request.
8. All videoconferencing shall use technology consistent with the 1990 Americans with Disabilities Act.
9. Town Board members intending to attend a meeting via videoconferencing shall, to the extent practicable, give notice to the Town Clerk advising of their intent to do so at least 24 hours in advance of the meeting.
10. Attendance via videoconference shall be allowed only under extraordinary circumstances as defined in §351-3(1) of this Article.
11. All other boards and committees of the Town are similarly permitted to conduct meetings using videoconferencing provided that all requirements of Public Officers Law § 103-a are met, if applicable.

12. Although the Public Officers Law expressly allows members of a public body to attend and participate in meetings using videoconferencing, Town Law § 62(2) states that town board meetings must take place within the town thereby making it unclear if a town board member may participate via videoconference from a location outside the town's boundaries. This local law is meant to expressly provide that authority to members of the Town Board. This local law hereby supersedes Town Law § 62(2) to expressly allow Town Board members to participate in Town Board meetings using videoconferencing from locations that fall outside the geographical limitations of the Town.
13. After June 8, 2022, virtual meetings without physical presence shall be held only during a State of Emergency declaration by a state, county, or local municipal governing authority, and only where the disaster circumstances would affect the ability to meet safely in person.

Section 4. Repeal.

All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 5. Severability

If any provision of this law or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

Section 6. Effective Date.

This local law shall be effective immediately upon filing with the New York Secretary of State.