

**PLANNING BOARD  
TOWNSHIP OF MONTCLAIR**

**RESOLUTION ADOPTING EMERGENCY REMOTE  
MEETING PROTOCOLS, PROCEDURES AND  
REQUIREMENTS FOR PUBLIC PARTICIPATION  
AT REMOTE MEETINGS**

**WHEREAS**, the purpose of N.J.A.C. 5:39-1.1 through 1.7, Emergency Remote Meeting Protocol for Local Public Bodies, which is incorporated herein in its entirety, is to ensure that local public bodies can continue to conduct official business in an open and transparent manner whenever a declared emergency exists that prohibits physical attendance by members of the public; and

**WHEREAS**, in the Protocol, a “declared emergency” means “a public health emergency, pursuant to the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 *et seq.*), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 *et seq.*), or both, or a state of local disaster emergency which has been declared by the Governor and is in effect; and

**WHEREAS**, N.J.A.C. 5:39-1.3 permits a local public body to hold a remote public meeting to conduct public business during a declared emergency if the emergency reasonably prevents a local public body from safely conducting public business at a physical location with members of the public present; and

**WHEREAS**, if during a declared emergency the Planning Board of the Township of Montclair (the “Planning Board”) holds a physical meeting in a location where, pursuant to state/federal guidelines meant to mitigate risk, capacity restrictions are required to reduce the number of individuals that can be present in a meeting, the Planning Board shall either:

- 1) Hold the public meeting at another location with adequate capacity for the reasonable expected attendance by the public; or
- 2) Hold the public meeting as both an in-person and remote public meeting; and

**WHEREAS**, a public meeting held solely in-person without a remote access alternative provided shall not prohibit members of the public from attending in person; and

**WHEREAS**, adequate notice of the remote public meeting (as defined in N.J.A.C. 5:39-1.2) shall also include, in addition to the Open Public Meeting Act requirements of N.J.S.A. 10:4-8, clear and concise instructions for accessing the remote public meeting, the means for making public comment and how to access any public documents on the Township’s website in the manner set forth at N.J.A.C. 5:39-1.5; and

**WHEREAS**, at the commencement of a remote public meeting the Chair or the Chair's designee, or in their absence, the Secretary, shall announce publicly and shall cause to be entered into the minutes an accurate statement regarding adequate and electronic notice or an explanation of the reason or reasons such notice was not adequately provided as set forth in N.J.A.C. 5:39-1.5(g); and

**WHEREAS**, prior to the commencement of a remote public meeting, the Planning Board shall make a copy of the agenda available to the public for download on the Township website and shall post a copy of same at the building where the meeting would otherwise be held, including posting of same at any designated and clearly delineated handicap accessible entrance to the building, by no later than 3:00 p.m. on the date of the meeting; and

**WHEREAS**, the content of the electronic notice shall be posted on the main access door of the building where the public would routinely attend public meetings of the local public body in person and the notice must be viewable from the outside; and

**WHEREAS**, the electronic communications used for a remote public meeting shall have a function that allows the Planning Board to mute the audio of all members of the public, as well as allow members of the public to mute themselves, and same shall be announced at the beginning of every remote public meeting; and

**WHEREAS**, pursuant to N.J.A.C. 5:39-1, if the Planning Board holds a remote meeting to conduct public business, it shall use electronic communication technology routinely used in business settings that can be accessed by the public at no cost and with participant capacity consistent with the reasonable expectations of the Planning Board for the type of public meeting being held, and such participant capacity shall, at minimum, not be limited to fewer than 50 public participants (not including persons required to be present to conduct business at the meeting such as the Planning Board members, Planning Board professionals, and all members of the Applicant's team); and

**WHEREAS**, remote public meetings may be held by the Planning Board in a format as selected by the Planning Board by means including, but not limited to, electronic communications platforms with video and audio or live streaming via the internet and, additionally, shall provide a telephonic conference line to allow members of the public to dial in by telephone to listen and to provide public comment; and

**WHEREAS**, when the Planning Board holds a remote public meeting, it shall allow members of the public who identify themselves and their addresses for the record to ask questions of witnesses and comment on the application/matter as permitted by the Planning Board Rules during the hearing, by audio or by audio and video if the meeting is being held over both; and

**WHEREAS**, members of the public may also submit written questions or comments to the Planning Board through the Planning Board Secretary by (a) e-mail to [jtalley@montclairnjusa.org](mailto:jtalley@montclairnjusa.org); (b) written letter to Planning Board Secretary, Township of Montclair, 205 Claremont Avenue, Montclair, NJ 07042, both of which, to be read aloud and considered during the meeting in a manner audible to all meeting participants and the public, shall be received no later than 4:00 p.m. on the day of the remote meeting; or (c) via the “Chat” or “Question and Answer” functions of the video platform used during the meeting; and

**WHEREAS**, any remote public meeting where sworn testimony is being taken shall be broadcast by video as well as audio, and all individuals giving sworn testimony shall appear by video and audio; and

**WHEREAS**, any presentation or documents that would otherwise be viewed by, or made available to, members of the public physically attending an in-person public meeting shall be made available on the internet website of the Township or made visible during the video broadcast of the remote public meeting; and

**WHEREAS**, a reasonable time limit uniformly applied by the Planning Board Chair shall be placed on the reading of individual written comments, all of which shall be read from the beginning until the established time limit is reached; and

**WHEREAS**, in support of, and in respect for, an open, fair and informed decision-making process, the Planning Board recognizes that civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making; and

**WHEREAS**, in an effort both to preserve the intent of open government and to maintain a positive environment for citizen input and Planning Board decision making, policies and rules shall be established to promote civility and maintain decorum at in-person public meetings and at remote public meetings in accordance with N.J.A.C. 5:39-1.4 (f)-(h); and

**WHEREAS**, if a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Chair or the Chair’s designee, or in their absence the Secretary, shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in the member of the public being prevented from speaking during the remote public meeting or removed from the remote public meeting; and

**WHEREAS**, disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behaviors including, but not necessarily limited to, shouting, interruption, obstruction and/or use of profanity; and

**WHEREAS**, any member of the public who continues disruptive conduct at a remote public meeting after receiving an initial warning, may be muted while other members of the public are allowed to proceed with their questions or comments; and

**WHEREAS**, if time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make comment and, if the person still remains disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting; and

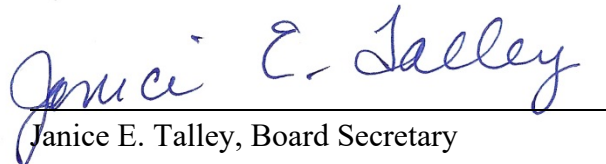
**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Montclair that the standards and procedures for emergency remote meetings, as set forth in this Resolution are hereby established and adopted; and

**BE IT FURTHER RESOLVED** that procedures and requirements for public participation are hereby established and adopted in order to safeguard public participation in any in-person or remote public meetings of the Planning Board in the Township of Montclair and shall apply to all members of the public in attendance at any in-person public or remote public meeting before the Planning Board of the Township of Montclair.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board as follows:

1. The foregoing recitals are incorporated herein as if set forth in full.
2. This Resolution shall take effect immediately following the present meeting.

The foregoing Resolution was adopted by the Planning Board of the Township of Montclair at its meeting held on December 7, 2020.

  
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Janice E. Talley, Board Secretary