



**Town of Arlington  
Legal Department**

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**MEMORANDUM**

TO: Town Boards, Committees and Commissions

FROM: Douglas W. Heim

DATE: June 16, 2021

RE: **\*UPDATE\* Open Meeting Law Requirements & Remote Participation Post-State of Emergency**

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Arlington boards, committees, and commissions, please accept this memorandum as an update with respect to your obligations and options under the Open Meeting Law for holding public meetings and hearings in light of Governor Baker's decision to end the COVID-19 State of Emergency and rescind related Executive Orders effective June 15, 2021, including the March 12, 2020 "Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20" ("The Order").

In short, following his decision to rescind the Order, Governor Baker filed special legislation to extend public bodies' ability to conduct public meetings remotely in exactly the same manner set forth by the Order. That initial bill was received favorably but amended and signed by the Governor in its new form late last night. It must be noted that in an effort to pass the much need legislation quickly, minor administrative issues in the bill may require correction.

Nonetheless, germane to remote meetings, the bill as passed accomplishes three critical things for Arlington meetings:

1. *Allows for remote meetings and hearings by public bodies through April 1, 2022; (the initial legislation only extended these allowances through September 1, 2021);*
2. Retroactively approves any remote *meetings*<sup>1</sup> held yesterday; and
3. Allows for remote town meetings through December 15, 2021.

### **Options for the Future**

The bill allows committees and commissions to continue to conduct meetings entirely remotely but you will also have the options to conduct them entirely in-person, or in a “hybrid” manner where the public body meets in person, but the public is provided remote access (as allowed by Town and School policy respectively, and sufficiently resourced to meet requirements for remote meetings).<sup>2</sup>

As you will recall, remotely conducted meetings under the Order must provide “[a]dequate, alternative means” for public access which may include providing public access through telephone, internet, satellite enabled audio or video conferencing, or any other technology that enables the public to clearly follow the proceedings of the public body in real time (for most committees and commissions, the Zoom platform or similar technology). Remote participation also requires:

1. The Chair announce the name of the member or members who are participating remotely at the start of each meeting (and that the remotely participating members be reflected in the minutes)
2. That all votes be taken by roll call.
3. That members of the public body must be clearly audible to each other and to members of the public at all times;
4. That public bodies in remote executive sessions identify and approve any other persons present for executive session

If a hybrid meeting is held where only members or members and persons with business before the meeting are physically present, it is recommended that the foregoing requirements be applied to aid the public and other participants’ ability to follow the proceedings. Furthermore, please ensure that the public can access Zoom-based meetings without registration (by affording a dial-in option to listen rather than participate by video).

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<sup>1</sup> The status of hearings performed yesterday is not clear.

<sup>2</sup> Boards and Commissions holding legal hearings are reminded that they must also provide for public comment and testimony, which are not covered under the Open Meeting Law.

### **Already Noticed and Noticing Meetings in the Immediate Term**

For those public bodies who already noticed “in person” meetings but wish to switch to remote meetings, please contact the Town Clerk with updated information on the meeting “location” which can be published on the Town’s website and Community Calendar.

For those bodies noticing meetings or hearings taking place in the coming days and weeks, but still discerning where and how such meetings will take place, please include some version of the following contingency language:

*\*Meeting venue subject to change while remote participation legislation is pending. Please check the Town’s Website and Calendar for the latest information on the location or means to access the meeting. Meetings may be moved to physical locations.\**