

## **CITY OF BANGOR**

### **REMOTE PARTICIPATION POLICY**

Pursuant to Title 1, Section 403-B of the Maine Revised Statutes (Section 403-B), and after public notice and a hearing, the Bangor City Council hereby adopts the following policy to govern the participation, via remote methods, in all public proceedings or meetings of the City of Bangor.

#### **I. BACKGROUND**

The City has several public bodies that are subject to the public meetings laws of the Maine Revised Statutes (Title 1, Chapter 13 of those statutes). Those public bodies include boards, commissions, and committees as well as the City Council. Generally, the public bodies can be separated into three categories, which are as follows: (A) those with final decision-making authority, (B) advisory committees, and (C) subcommittees or working groups. This Policy will set the guidelines for Bangor's remote participation according to those three categories of meetings.

The purpose of this Policy is to further participation in meetings and balance said participation with staffing concerns.

#### **II. LEGAL AUTHORITY**

Title 1 M.R.S. Section 403-B was adopted on June 1, 2021 by emergency and thus became immediately effective. This statute generally allows for remote participation by board members and the public in City proceedings, and a recent amendment to the statute allows members of a public body to attend remotely in circumstances that can be decided by the body itself.

This Policy will guide when members of the public may participate in proceedings remotely in City proceedings and when members of the public body may do the same. It is intended to comply with Section 403-B.

#### **III. POSSIBLE MEANS OF REMOTE PARTICIPATION**

Remote methods of participation may include telephonic or video technology allowing simultaneous reception of information and may include other means necessary to accommodate disabled persons. Remote participation will not be by text-only means, such as e-mail, text messages, or chat functions.

When available (as detailed below), the City will use Facebook Live, the local government television channel, the City website, and internet-based meeting software (currently Zoom) to offer public participation. Public comment is only available through the use of internet-based meeting software (currently Zoom, but may change). Facebook Live is not monitored, and public comment is not offered through Facebook Live.

#### **IV. POLICY**

The following subsections detail the availability of remote participation by meeting type:

##### **A. PUBLIC BODIES WITH FINAL DECISION-MAKING AUTHORITY**

This subsection governs remote participation in public bodies that have final decision-making authority. Specifically, this subsection governs the meetings of the following public bodies:

- (1) the City Council,
- (2) the Planning Board,
- (3) the Historic Preservation Commission,
- (4) the Finance Committee
- (5) the Business and Economic Development Committee
- (6) the Infrastructure Committee,
- (7) the Airport Committee,

- (8) the Government Operations Committee,
- (9) the Board of Appeals,
- (10) the Board of Assessment Review, and
- (11) the Registration Appeals Board.

### Members

Members of the Council and the above boards, committees, and commissions are generally expected to be physically present for meetings. A member who is unable to attend a meeting in person, and wishes to participate remotely, will notify the chair or other presiding officer as far in advance as possible.

No member may participate remotely based upon a temporary absence<sup>2</sup> from the City if that absence extends beyond three weeks in time, and no member may participate remotely for more than one meeting of a specific public body in a row.<sup>3</sup>

Notwithstanding the forgoing, a public body may, by majority vote, extend the three weeks. In extenuating circumstances, remote participation beyond one meeting of a specific public body in a row may be allowed at the discretion of the City Council Chair.

To participate remotely, a member must be able to be heard by the rest of the public body and by the public.

### Public

Meetings of the public bodies identified in this section will, at all times and regardless of whether a member of the public body is participating remotely, be (1) broadcast on Facebook Live, (2) televised on the government channel, and (3) be broadcast through internet-based meeting software (e.g., Zoom) in such a way as to allow the public to offer comment. The public will additionally be provided an opportunity to attend the meeting in person unless there is an emergency or urgent issue that requires the public body to meet using remote methods.

## **B. ADVISORY PUBLIC BODIES**

This subsection governs remote participation in public bodies that are not governed by Section IV, Subsection A above and are advisory in nature. Specifically, this subsection governs the meetings of the following public bodies:

- (1) the Commission on Cultural Development,
  - (2) the Penjajawoc Marsh/Bangor Mall Management Commission,
  - (3) the Downtown Parking Advisory Committee,
  - (4) the Advisory Committee on Racial Equity, Inclusion and Human Rights,
  - (5) the Tree Board,
  - (6) the Parks and Recreation Advisory Committee,
  - (7) the Firearms Discharge Committee, and
  - (8) the Board of Ethics.
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### Members

Members of the Council and the above boards, committees, and commissions are expected to be physically present for meetings. A member who is unable to attend a meeting in person, and wishes to participate remotely, will notify the chair or other presiding officer as far in advance as possible.

If staffing concerns arise, remote participation for members of these public bodies may not be available.

Otherwise, no member may participate remotely based upon a temporary absence<sup>2</sup> from the City if that absence extends beyond three weeks in time, and no member may participate remotely for more than one meeting of a specific public body in a row.<sup>3</sup>

Notwithstanding the forgoing, a public body may, by majority vote, extend the three weeks. In extenuating circumstances, remote participation beyond one meeting of a specific public body in a row may be allowed at the discretion of the City Council Chair.

To participate remotely, a member must be able to be heard by the rest of the public body and by the public.

### Public

Where possible, meetings under this Section IV, Subsection B will be broadcast on Facebook live and/or the government channel. These meetings will also be recorded (audio and, where possible, video). Whenever meetings under this Section IV, Subsection B are able to be broadcast on Facebook live and/or the government channel, those meetings will also be broadcast through internet-based meeting software (*e.g.*, Zoom) in such a way as to allow the public to offer comment. The public will also be provided an opportunity to attend those meeting in person unless there is an emergency or urgent issue that requires the public body to meet using remote methods.

### Exception During Emergency

When an emergency or urgent issue exists that does or would require the City Council to meet entirely by remote means, the public bodies covered by this Section IV, Subsection B may meet remotely provided that members of the public are offered the same meaningful opportunity to attend remotely as members of the public body, which means will allow for communication, when appropriate, between the public and the public body.

## **C. SUBCOMMITTEES, WORKING GROUPS, AND ALL OTHER COMMITTEES, COMMISSIONS, BOARDS, OR OTHER PUBLIC BODIES OF THE CITY OF BANGOR**

This subsection governs remote participation for all subcommittees and working groups as well as all other Committees, Commissions, Boards or other public bodies of the City that were not listed above. As such, this subsection is the default rule.

### Members

Due to staffing concerns, remote participation for members of these public bodies is and will not generally be available. Participation for these public bodies will be in person

### Public

Due to staffing concerns, remote participation for the public for meetings governed by this subsection will not be available. Except for executive or other confidential sessions, the public is welcome to attend in person at the time and place of the meetings as advertised and noticed.

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Exception During Emergency

When an emergency or urgent issue exists that does or would require the City Council to meet entirely by remote means, the public bodies covered by this Section IV, Subsection C may meet remotely provided that members of the public are offered the same meaningful opportunity to attend remotely as members of the public body, which means will allow for communication, when appropriate, between the public and the public body.

**V. PROCEDURE FOR DETERMINING EMERGENCY OR URGENT ISSUE**

The procedure set forth in this Section V is intended to allow the City and its public bodies to meet the notice requirements of Section VI below and Section 403-B. By way of background, the City typically posts the agendas for its public bodies on the Friday of the week prior to those meetings. These agendas, which are posted both online and at City Hall, serve as notice under Title 1, Section 406 of the Maine Revised Statutes (“Section 406”) and the City Charter.

With the background in mind, the Council Chair, in consultation with the City Manager, shall have authority to determine the existence of an emergency or urgent issue for all public bodies of the City. In determining the existence of an emergency or urgent issue, the Council Chair will use the following procedures:

1. On the Thursday or Friday prior to any given week, the Council Chair in consultation with the City Manager will evaluate and decide whether any emergency or urgent issue that would require public bodies to meet remotely exists.

In deciding whether such an emergency or urgent issue exists, the Council Chair will not be limited by the definitions of “civil emergency” contained in the Code of Ordinances or State Law. Instead, the Council Chair should apply the generally understood definitions of emergency<sup>4</sup> or urgent issue.<sup>5 6</sup>

If the Council Chair decides that such an emergency or urgent issue exists, City bodies shall only meet by remote means.

2. If the Council Chair determines that an emergency or urgent issue exists, the Chair in, consultation with the City Manager, will ensure that (a) each agenda contains a notification to the public that remote participation will be available and the means through which it will be available,<sup>7</sup> and (b) that sufficient staffing and resources exist to hold the meetings remotely; and
3. Once the Council Chair determines that such an emergency or urgent issue exists, that proper notification has been made, and that there is sufficient staffing and resources available to hold remote meetings, the Council Chair and/or city staff will notify the chairs of each of the City’s public bodies that are to hold meetings in the coming week.

In the event of an emergency or urgent issue that arises after the Council Chair has made an initial determination that none existed, the following procedure will be used:

The City Manager, a City Councilor, or the chair of any of the City’s public bodies, may bring a potential emergency or urgent issue to the Council Chair’s attention. The Council Chair, or in the event that a chair of a public body is unable to reach the Council Chair after multiple attempts, the chair of said body will then, in consultation with the City Manager or the public body’s assigned city staff,<sup>8</sup> determine whether an emergency or urgent issue that would require remote meetings exists. If the Council Chair or, when applicable, public body chair determines that such an emergency or urgent issue exists, the Council Chair or public body chair, in consultation with the City Manager (or applicable assigned city staff), will determine (a) if there is time to provide notification to the public of the ability to attend the meeting(s) remotely, and (b) if staffing and resources are available to hold a remote meeting or meetings. If there is both times to provide notification and staffing and resources are available, the City Manager and other city staff will take all steps necessary to make notification of the availability of remote participation to the public and members of the affected public bodies.

If the Council Chair or public body chair decides that such an emergency or urgent issue exists,

the Council Chair or, where applicable, the public body chair, shall also decide whether the emergency or urgent issue requires the City public bodies to meet *only* by remote means or if a hybrid meeting may be conducted.

A meeting may not be changed to a remote participation only meeting when there is less than twenty-four hours available to notify the public.<sup>9</sup>

## VI. NOTICE

Notice of all meetings will be provided in accordance with Title 1, Section 406 of the Maine Revised Statutes, and the City Charter, City Code or policy, if applicable. When the public may attend via remote methods, the notice will include the means by which the public may access the meeting remotely and will provide a method for disabled persons to request necessary accommodation to access the meeting. Notice will also identify the location where the public may attend the meeting in person. The public body will not restrict in person, public attendance to meetings except in the case of an emergency or urgent issue that requires it to meet using only remote methods of attendance.

## VII. MEETING MATERIALS

When remote participation is allowed under this Policy, the public body will make all documents and materials to be considered by it during a meeting available, electronically or otherwise, to the public who attend remotely to the same extent customarily available to the public who attend in person, provided no additional costs are incurred. Generally, this will be done through the calendar on the City's website, which can be found at [www.bangormaine.gov/calendar](http://www.bangormaine.gov/calendar).

## VIII. VOTES

All votes taken during a meeting of a public body in which a member is participating through remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the public body and the public. A member of the public body who participates remotely will be considered present for purposes of establishing a quorum and voting.

## IX. DURATION

This Policy will remain in effect indefinitely until repealed or amended by the City Council.

Last Amended: October 2022

<sup>1</sup> It is noted that the remote participation authorization for emergency or urgent issues, as is required by 30- A M.R.S.A. § 403-B, pertains to an emergency or urgent issue that affects the entire body (and not an emergency of an individual). However, it is understood that Section 403-B(2) would allow for a so-called "hybrid" meeting, in which there is both in person and remote participation by members of a public body. *See* 1 M.R.S. § 403-B(2) ("a public body *may . . . allow* members of the body to participate . . . using remote means . . . (emphasis added)). Therefore, this Policy allows for both hybrid and entirely remote meetings under the related emergency or urgent issues. This policy also allows for the Council Chair or the chair of a public body, where appropriate, to determine that the public body meet only by remote means.

<sup>2</sup> It is noted that this restriction applies to remote participation by a member of a public body based upon a temporary absence from the City. It does not apply to remote participation based upon an illness or emergencies or urgent issues that apply to the entire public body. It is acknowledged that an illness (or generally applicable emergencies or urgent issues) may be immediately before, after, or during the temporary absence of a single member and that remote participation that is based upon said illness, emergency, or urgent issues will not be calculated in the time frame allowed for the remote participation of that member due to a temporary absence from the City.

<sup>3</sup> To be clear, this means that a councilor may attend a council meeting in week one of a temporary absence and a government operations committee meeting in week two of the same absence, and a finance committee meeting in week three.

<sup>4</sup> Two such useful definitions of emergency are as follows: (1) “a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action,” and (2) “a state, especially of need for help or relief, created by some unexpected event.” “Emergency.” *Dictionary.com*. 2021 [https://www.dictionary.com/ browse/emergency](https://www.dictionary.com/browse/emergency) (17 August 2021).

<sup>5</sup> One such useful definition that may relate to an “urgent issue” is the definition of “urgency,” which follows: “the quality of being very important and needing attention immediately.” “Urgency.” *Cambridge Dictionary*. 2021. [https://dictionary.cambridge.org/us/ dictionary/english/urgency](https://dictionary.cambridge.org/us/dictionary/english/urgency) (17 August 2021).

<sup>6</sup> These same standards will apply to any determination of the existence of an emergency or urgent issue under this policy, regardless of who is making such a determination.

<sup>7</sup> While such notices can take any form that reasonably conveys the necessary information, the following or similar language is suggested:

Public participation in the meeting may be through remote means that include Zoom and the City’s Facebook page. Anyone who wants to offer public comment, evidence, or testimony through remote means must attend the meeting through Zoom (Facebook is not monitored). Information on, and a link to, the Zoom meeting can be found by going to [www.bangormaine.gov/calendar](http://www.bangormaine.gov/calendar) and then clicking on the meeting that you wish to attend. Links to Zoom meetings will be posted to the calendar by the day of the meeting. Additionally, Zoom links to meetings can be found under “events” on the City of Bangor’s Facebook page at and clicking on the meeting (which is listed as an event) that you want to attend.

Public comment through Zoom requires a person to state their name and address. Any inappropriate or offensive remarks may be removed or cause removal of the person making them. The public may be recognized to speak by using the hand wave function in Zoom or, on a phone, by pressing \*9.

The above language should be adjusted based upon whether the meeting is a hybrid meeting or a remote only meeting.

<sup>8</sup> Which Staff Member must make all reasonable attempts to contact the City Manager, Acting City Manager, or other senior city staff.

<sup>9</sup> This minimum twenty-four hour notice provision does not apply to emergency meetings as provided for in Section 406 when the standards of Section 406 are met.