

HN-7-2022

A local law to amend the Code of the Village of Hewlett Neck, to authorize the use of videoconferencing for public bodies.

Section 1. The Code of the Village of Hewlett Neck is hereby amended, by adding thereto a new Chapter, to be Chapter 28, to read as follows:

“Chapter 28. Videoconferencing of Meetings of Public Bodies.

§28-1. Legislative Intent

It is the intent of this Article to authorize all public bodies of the Village of Hewlett Neck to conduct meetings consistent with the videoconferencing provisions of Public Officers Law § 103-a, the provisions of this Chapter, and the videoconferencing polices adopted by the Village Board of Trustees.

§28-2. Authority

This local law is adopted pursuant to Public Officers Law § 103-a, which expressly authorizes the Board of Trustees to adopt local legislation, authorizing the use of videoconferencing.

§28-3. Definitions. As used in this Chapter, the following terms shall have the meaning indicated:

- A. Public Body. Any public body of the Village of Hewlett Neck, as defined in Public Officers Law Article 7.
- B. Videoconferencing. A means of conducting a meeting of a public body as authorized by Public Officers Law Article 7.
- C. Public meeting. Any meeting of a public body which is required to be open to the public pursuant to the Open Meetings Law, but not including any portion of such meeting from which the public may be excluded as permitted by law.
- D. Minutes. The minutes of a meeting as defined in Public Officers Law Article 7.
- E. Open Meetings Law. Public Officers Law Article 7
- F. Freedom of Information Law. Public Officers Law Article 6.
- G. Present at a meeting. Physically present at a meeting location, or present by videoconference, except where otherwise provided in this article.

§28-4. Use of Video Conferencing for Meetings of Public Bodies.

All public bodies of the Village of Hewlett Neck are authorized to use videoconferencing when conducting meetings of such public bodies, subject to the following:

- A. A quorum of the members of the public body must be physically present at the meeting in one or more physical locations at which members of the public are permitted to attend the

meeting. Members of the public body who are not present at a physical location at which members of the public are permitted to attend shall not be included in determining whether there is a quorum of the body present, but may participate and vote if a quorum of members are physically present at one or more locations open to public attendance.

B. In order to participate in, and vote at, a videoconference meeting, members of the public body must be physically present at one or more of the meeting location(s) at which the public is permitted to attend in person, except that a member of the public body may attend, participate and vote without being physically present where such member is unable to be physically present due to extraordinary circumstances. Any member participating in a meeting of a public body without being physically present shall not be included in any quorum of the public body, unless expressly otherwise provided by law.

(1) "Extraordinary circumstances" as used in this Chapter shall mean and include any disability or illness, caregiving responsibilities, or any significant or unexpected factor or event that precludes a member of the public body from being physically present at such meeting, including being out of state on the scheduled meeting date.

(2) The existence of extraordinary circumstances in any instance may be approved by the presiding officer of the public body, and only after a written request from the member claiming such circumstances. No such written request shall be approved unless received by the presiding officer and the clerk of the public body by mail, personal delivery, or electronic mail at least seventy-two (72) hours prior to the scheduled time for the meeting. The approval of any such request shall be given no later than twelve (12) hours prior to the scheduled time for the meeting, and shall be given to the member requesting such approval and the other members of the public body by personal delivery or electronic mail as expeditiously as feasible under the circumstances.

(a) Notwithstanding the provisions of this section, where a written request to approve an extraordinary circumstance demonstrates that the extraordinary circumstance claimed by any member of a public body first arose, or the member of the public body first became aware of such circumstance, no more than seventy-two (72) hours prior to the scheduled time for the meeting, the presiding officer of such body may grant a written approval for such member to attend and participate. Copies of such written request and approval shall be filed with the clerk of the body, and the details announced at the meeting.

C. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105, or as otherwise expressly provided by law, members of the public body present and participating at a meeting by video conference must be able to be heard, seen, and identified at all times while such member is present, including but not limited to any motions, proposals, resolutions, and any other matter discussed or voted upon. Except in the case

where excused by the presiding officer for good cause, each member of the body participating by video conference from a location not open to the public shall be identified by such member's full first and last name appearing on their videoconferencing screen.

- D. The minutes of meetings conducted in whole or in part by videoconferencing shall include which, if any, members of the public body participated using videoconferencing technologies.
- E. Any public meeting at which videoconferencing is used shall be recorded, and such recordings shall be posted to or linked on the Village website within five business days after the close of the meeting, and remain so posted to or linked on the website for a minimum of five years thereafter. Transcriptions of any such recordings shall be available upon request pursuant to the Freedom of Information Law, and any person requesting such transcription shall be responsible to pay or reimburse the Village for copies of such transcriptions as permitted by the Freedom of Information Law.
- F. The public notice for any meeting at which video conferencing will be used for attendance and participation of one or more members of the public body shall be given as provided in the Open Meetings Law, and shall include the following information in addition to any other information required by law:
 - i. a statement that videoconferencing will be used,
 - ii. the physical locations where any member of the public body will be physically present or attending by videoconferencing and where the public is permitted to attend in person, but not including any location at which a member of the public body is attending under extraordinary circumstances.
 - iii. any other locations, including electronic link information, where members of the public may attend in person, or view and/or participate in such meeting via videoconference.
 - iv. the date and time, and location (physical or electronic), at which documents and records for the meeting will be posted or available as required by law.
- G. Except with respect to portions of any meeting from which the public may be excluded, members of the public shall be permitted to view the video broadcast of any meeting using videoconferencing simultaneously when the meeting is conducted. This provision shall not be construed to require video broadcasting of any meeting where not required by law.
- H. At any meeting or portion of a meeting at which public comment or participation is authorized, or required by law, members of the public shall be able to participate in the proceedings using videoconference technologies in real time and with the same opportunities for public participation or testimony as in-person participation or testimony.

§28-5. Emergency Meetings. Each public body may conduct meetings entirely by videoconference, with no in-person requirement, provided that:

- A. A state of emergency has been declared by the Governor of the State of New York pursuant to Executive Law § 28, or
- B. A local state of emergency has been declared by the Chief Executive Officer of the Village pursuant to Executive Law § 24, and the presiding officer of the 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.
- C. Whenever a public body invokes the emergency exception as defined in this section, and takes action at such meeting without allowing members of the public to be physically present, at the next succeeding meeting of the public body at which the public is permitted to attend, the public body shall acknowledge the previous such emergency meeting(s) and summarize any action(s) taken thereat. Minutes of each emergency meeting shall be made available pursuant to the requirements of Public Officers Law § 106.

§28-6. Additional Rules. Each public body, acting by resolution at a duly convened public meeting, may adopt additional rules and regulations for the conduct of its meetings, provided, however, that no such rule or regulation shall be inconsistent with (a) any law applicable to such public body, (b) this Chapter, or (c) any local law, rule, regulation or resolution adopted by the Village Board of Trustees. Nothing in this section shall be construed to limit the authority of the Board of Trustees to adopt any local law, rule, regulation or resolution applicable to the meetings of the Board of Trustees or any other public body of the Village.”

Section 2. Severability. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 3. Effective date. This local law shall take effect immediately upon filing with the Secretary of State.