

MADISON COUNTY ELECTRONIC MEETING PROTOCOL
September 25, 2020

Note two distinct situations articulated in the Code of Virginia and in Sec. 2.4 of the Board's Bylaws and Rules of Procedure as follows:

2.4 Quorum and Method of Voting

- A. **During times of local, state, or national emergency**, the Board may conduct its meetings through electronic communication, when meeting in person is unsafe or impractical, in compliance with Virginia Code §2.2-3708.2. (This paragraph was added on April 14, 2020)
- B. The Madison County Board of Supervisors may **conduct any meeting** in which public business is discussed or transacted through **electronic communications** if, on or before the day of the meeting, a member of the Board of Supervisors notifies the Chair of the Board that they are unable to attend the meeting for any of the following reasons:
 - a. Due to a temporary or permanent disability or other medical condition that prevents that member's personal attendance.
 - b. The member is unable to attend the meeting due to a personal matter, and the member provides a description of the specific nature of the personal matter to the Chair.

No member of the Board of Supervisors shall be entitled to rely on this provision more than twice in any calendar year.

If the Chairman of the Board approves the electronic participation set forth in this Section, the Board shall record in its minutes the fact that a member participated remotely through electronic communications and specify the remote location from which the absentee member participated electronically. The Board shall also include in its minutes the reason(s) in 2.4.F the absentee member participated remotely.

If the Board Chairman denies participation from a remote location, the basis for such disapproval shall be recorded in the minutes with specificity. (This paragraph was added on April 14, 2020)

**MADISON COUNTY MEETING
 CONDUCTED ELECTRONICALLY DURING A STATE OF EMERGENCY
 WHEN A QUORUM CANNOT BE PRESENT**

Suggested language to use for an emergency meeting conducted electronically:

Mr. Chairman, Madison County is under a State of Emergency, as declared by the Governor of the Commonwealth of Virginia. Accordingly, I move pursuant to Section 2.4.E of the Madison County Board of Supervisors By-Laws and Rules of Procedure to conduct this meeting electronically in compliance with Virginia Code §2.2-3708.2 as follows:

- A. an emergency ordinance authorizing emergency meetings has been adopted in compliance with Virginia Code §2.2-3708.2, which ordinance is currently in effect,
- B. the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location,
- C. the purpose of the meeting is to address the emergency,
- D. due notice has been given to the public notice using the best available method given the nature of this emergency, which notice was given contemporaneously with the notice provided to members of the public body conducting the meeting, and
- E. arrangements have been made for public access to this meeting.

	Foster	Jackson	Hoffman	McGhee	Yowell
Motion:					
Second:					
“Aye”:					
“Nay”:					
Absent:					

Certification

I move to (a) certify that this meeting took place pursuant to Section 2.4.E of the Madison County By-Laws, and in compliance with Virginia Code §2.2-3708.2, and all of the safeguards set forth in Virginia §2.2-3708.2 have been followed and to (b) instruct the Clerk to state the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held in the minutes.

	Foster	Jackson	Hoffman	McGhee	Yowell
Motion:					
Second:					
“Aye”:					
“Nay”:					
Absent:					

**MADISON COUNTY NON-EMERGENCY MEETING
CONDUCTED ELECTRONICALLY**

Suggested language to use for a non-emergency meeting conducted electronically:

Mr. Chairman, Supervisor _____ (the Member) advised you on _____ (*must be the day prior to the meeting or earlier*) that the Member will be unable to be physically present for this meeting due to (a) a temporary or permanent disability or other medical condition that prevents the Member’s physical attendance or (b) a personal matter involving _____. (*Note that the nature of the personal matter needs to be identified with specificity and that electronic participation by a Member under the second reason is limited each calendar year to two meetings.*)

For the record, please note that the Member is participating from _____ (*the remote location*).

Accordingly, pursuant to Section 2.4.F of the Madison County Board of Supervisors By-Laws and Rules of Procedure I move to conduct this meeting electronically in compliance with Virginia Code §2.2-3708.2 and confirm that:

- A. A quorum of the Board is physically present
- B. Adequate arrangements have been made for the voice of the Member to be heard by all persons in this room.

	Foster	Jackson	Hoffman	McGhee	Yowell
Motion:					
Second:					
“Aye”:					
“Nay”:					
Absent:					

§ 15.2-1413. Governing bodies of localities may provide for continuity of government in case of enemy attack, etc.

Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster. Such ordinance shall be limited in its effect to a period not exceeding six months after any such attack or disaster and shall provide for a method for the resumption of normal governmental authority by the end of the six-month period.

1964, c. 307, § 15.1-13.1; 1997, c. 587.

§ 15.2-1415. At what meetings governing body may act.

Unless otherwise specially provided, a governing body may exercise any of the powers conferred upon it at any meeting of the governing body, regular, special or adjourned at which a quorum is present. A majority of the governing body shall constitute a quorum except as may be otherwise provided in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Meetings of governing bodies shall be subject to the applicable provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 15.2-1427. Adoption of ordinances and resolutions generally; amending or repealing ordinances.

- A. Unless otherwise specifically provided for by the Constitution or by other general or special law, an ordinance may be adopted by majority vote of those present and voting at any lawful meeting.

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§ 2.2-3708.2. Meetings held through electronic communication means.

A. The following provisions apply to all public bodies:

1. Subject to the requirements of subsection C, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that:

- a. Such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or
- b. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision is limited each calendar year to two meetings.

2. If participation by a member through electronic communication means is approved pursuant to subdivision 1, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision 1 a, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance. If participation is approved pursuant to subdivision 1 b, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision 1 b is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

3. Any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency. The public body convening a meeting in accordance with this subdivision shall:

- a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
- b. Make arrangements for public access to such meeting; and
- c. Otherwise comply with the provisions of this section.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

B. The following provisions apply to regional public bodies:

1. Subject to the requirements in subsection C, regional public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.
2. If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public.

If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

C. Participation by a member of a public body in a meeting through electronic communication means pursuant to ~~subsections A~~ subdivisions A 1 and 2 and subsection B shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;
2. A quorum of the public body is physically assembled at one primary or central meeting location; and
3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

D. The following provisions apply to state public bodies:

1. Except as provided in subsection D of § 2.2-3707.01, state public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided that (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subdivision 2, and (iii) members of the public are provided a substantially equivalent electronic communication means through which to witness the meeting. For the purposes of this subsection, "witness" means observe or listen.

If a state public body holds a meeting through electronic communication means pursuant to this subsection, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

2. Notice of any regular meeting held pursuant to this subsection shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary or central meeting location and any remote locations that are open to the public pursuant to subdivision 4; shall include notice as to the electronic communication means by which members of the public may witness the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

3. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body conducting the meeting.

4. Public access to the remote locations from which additional members of the public body participate through electronic communication means shall be encouraged but not required. However, if three or more members are gathered at the same remote location, then such remote location shall be open to the public.

5. If access to remote locations is afforded, (i) all persons attending the meeting at any of the remote locations shall be afforded the same opportunity to address the public body as persons attending at the primary or central location and (ii) a copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body for the meeting shall be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the meeting.

6. The public body shall make available to the public at any meeting conducted in accordance with this subsection a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

7. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes. For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes.

8. Any authorized state public body that meets by electronic communication means pursuant to this subsection shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

a. The total number of meetings held that year in which there was participation through electronic communication means;

b. The dates and purposes of each such meeting;

c. A copy of the agenda for each such meeting;

d. The primary or central meeting location of each such meeting;

e. The types of electronic communication means by which each meeting was held;

f. If possible, the number of members of the public who witnessed each meeting through electronic communication means;

- g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;
 - h. The identity of any members of the public body who were recorded as absent at each meeting and any members who were recorded as absent at a meeting but who monitored the meeting through electronic communication means;
 - i. If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;
 - j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and
 - k. A written summary of the public body's experience conducting meetings through electronic communication means, including its logistical and technical experience.
- E. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.**

2018, cc. 55, 56; 2019, c. 359.