

HURON COUNTY DRAIN COMMISSION

POLICY REGARDING ELECTRONIC MEETING PROCEDURES FOR DRAIN CODE PUBLIC BODIES

Rules and procedures proposed by the Huron County Drain Commission (“Drain Commission”), to protect health, safety, and welfare by developing proposed meeting procedures, for presentment to and approval by public bodies under the jurisdiction of the Drain Commission pursuant to the Michigan Drain Code, Act 40 of 1956, *et seq.* (“Drain Code”), in compliance with the Michigan Open Meetings Act, Act 267 of 1976, *et seq.* (“OMA”).

THE HURON COUNTY DRAIN COMMISSION DECLARES AS FOLLOWS:

Section I. Title. This policy may be cited as the Huron County Drain Commission’s Policy Regarding Electronic Open Meetings Act Procedures for Drain Code Public Bodies (“Policy”).

Section II. Purpose. It is the intent of the Drain Commission to develop reasonable rules and procedures, in compliance with Sections 3 and 3a of the OMA, for presentment to and approval by the public bodies under the jurisdiction of the Drain Commission pursuant to the Drain Code (“Public Body”), for meetings of a Public Body to be held electronically by telephonic or video conferencing or in which there exists the electronic participation of a member or members of such bodies, and which may minimize the possibility of disruptions during such electronic meetings.

Section III. Presentment to Public Body for Approval

A. The proposed rules and procedures, as set forth in Section IV of this Policy (“Proposed Procedures”), shall be presented to each public body, convened after adoption of this Policy, that has not adopted rules and procedures required by Sections 3 and 3a of the OMA.

B. For a meeting of a public body scheduled on or after March 31, 2021, but before January 1, 2022, where the public body has not approved rules and procedures required by Sections 3 and 3a of the OMA and a declared statewide or local state of emergency is in effect within the jurisdiction of the public body, the Drain Commission may declare that the meeting will be held fully electronically, for both members of the public body and the public, and will ensure compliance with the OMA and requirements under this Policy in scheduling and hosting the fully electronic meetings. At the beginning of a fully electronic meeting of the public body as described in this section, after any necessary administrative positions on the public body have been assigned, the public body shall consider and adopt rules and procedures to comply with Sections 3 and 3a of the OMA. The Drain Commission shall present the Proposed Procedures as part of this consideration. If the public body fails to adopt said rules and procedures, the Drain Commission shall declare the meeting adjourned due to non-compliance with the OMA and no further action of the public body shall be taken.

Section IV. Proposed Procedures for Presentment to Public Body

ELECTRONIC MEETINGS PROCEDURES

Rules and procedures adopted by the [INSERT PUBLIC BODY] (“Public Body”) to protect health, safety, and welfare by establishing meeting procedures for the Public Body in compliance with the Michigan Open Meetings Act, Act 267 of 1976, *et seq* (“OMA”).

[INSERT PUBLIC BODY] DECLARES AS FOLLOWS:

A. Title. These rules and procedures may be cited as [INSERT PUBLIC BODY] Electronic Open Meetings Act Procedures (“Procedures”).

B. Purpose. It is the policy of the Public Body to develop reasonable rules and procedures in compliance with Sections 3 and 3a of the OMA for fully electronic meetings of the Public Body, or in which there exists the electronic participation of a member or members of the Public Body, and which may minimize the possibility of disruptions during such electronic meetings.

C. Electronic Meetings Authorization.

1. Authorization to hold remote electronic meetings. Sections 3 and 3a of the OMA provide that a physical place is not required for meetings held, in whole or in part, electronically by telephonic or video conferencing, in the following circumstances:

- a. Before March 31, 2021, under any circumstance;
- b. On or after March 31, 2021 through December 31, 2021, only in circumstances in which there is an absence of a member(s) of the body due to:
 - i. Military duty;
 - ii. A medical condition; or
 - iii. A statewide or local state of emergency or state of disaster declared pursuant to law or charter by the Governor or a local official or local governing body that would risk the personal health or safety of members of the public or the public body if the meeting was held in person.
 - a. For the purpose of permitting an electronic meeting due to a local state of emergency or state of disaster, only to permit the electronic attendance of a member of the Public Body who resides in the affected area or to permit the electronic meeting of a public body that usually holds its meetings in the affected area.

c. After December 31, 2021, only in circumstances requiring accommodation of members absent due to military duty.

2. Physical Presence. At a meeting that accommodates members absent due to military duty or a medical condition, only those members absent due to military duty or a medical condition may participate electronically. Any other member must be physically present at the meeting.

3. Notice of Needed Accommodation. Members of the Public Body that must meet electronically on account of the member's military duty or medical condition, shall file a Notice of Needed Accommodation with the Drain Commission. Copies of the Notice of Needed Accommodation will be available through the Drain Commission office and shall be submitted seventy-two (72) hours in advance of the first meeting the member will participate in electronically on account of their medical condition or military duty. Once filed, the Notice of Needed Accommodation will remain in effect until it is withdrawn by the member or until the public body can no longer accommodate the member's electronic participation under the OMA. It is a member's sole responsibility to withdraw a Notice of Needed Accommodation if they cease to have a medical condition or no longer have military duty obligations that enable their electronic participation. A Notice of Needed Accommodation filed with the Drain Commission only applies to this Public Body. A separate Notice of Needed Accommodation must be filed for any other public body overseen by the Drain Commission for which electronic attendance is sought.

4. Attendance at Meetings Held Electronically In-Part. Members of the Public Body or members of the public participating electronically in a meeting held pursuant to these Procedures that occurs in a physical space in part are to be considered present and in attendance at the meeting for all purposes.

5. Meetings Held Fully Electronically. When a statewide or local state of emergency has been declared within the jurisdiction of the Public Body, fully electronic meetings of the Public Body may be called at the discretion of the Drain Commission, unless otherwise decided by the Public Body at a legally held meeting, for both the members of the Public Body and the public. In the event that a fully electronic meeting is scheduled due to a statewide or local state of emergency, and the state of emergency is rescinded prior to the date of the meeting, the Drain Commission shall take such action as necessary to reschedule the meeting in compliance with the OMA.

Notwithstanding the provisions of this section, the Drain Commission or Public Body may decide, if legally permissible, to conduct an in-person meeting during a statewide or local state of emergency when deemed appropriate.

6. Participation Requirement. A meeting of the Public Body held electronically must be conducted in a manner that permits two-way communication so that members of the Public Body can hear and be heard by other members of the Public Body, and so that public participants can hear members of the Public Body and can be heard by members of the Public Body and other participants during a public comment period. The Public Body may use technology to facilitate typed public comments that may be read to or shared with members of the Public Body and other participants.

D. Notice Requirements

1. Notice Requirements. Notices of any electronic meeting shall be posted, on behalf of the Public Body, on a portion of the Drain Commission's website fully accessible to the public at least 18 hours before the meeting. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled or electronic meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of non-regularly scheduled or electronic public meetings. The public notice shall contain the following information:

- a. Why the Public Body is meeting electronically;
- b. Which member(s) of the Public Body will be participating in the meeting electronically;
- c. How members of the public may participate in the meeting electronically, including a telephone number, internet address, or both;
- d. How members of the public may contact members of the Public Body to provide input or ask questions on any business that will come before the Public Body at the meeting; and
- e. How persons with disabilities may participate in the meeting.

2. Agendas. If an agenda exists for an electronic meeting of the Public Body held pursuant to these Procedures, and the Drain Commission directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the Deputy Drain Commissioner, on behalf of the Public Body, shall make the agenda available to the general public through the Drain Commission's website at least two (2) hours before the electronic meeting begins.

E. Electronic Meeting Procedures. Consistent with the authority to establish reasonable rules under the OMA and the obligation of the Public Body to establish procedures for electronic meetings authorized by the OMA, such meetings shall be conducted in accordance with the following:

1. Use of Electronic Service. Public Body members and members of the public, when permitted by the Public Body, may participate in electronic meetings through software or interface using telephonic or video conferencing as facilitated by the Public Body.

2. Muting. During the meeting, each participant shall be permitted to mute or unmute themselves to the extent it does not create any distractions or disruptions of the meeting. To the extent necessary, a meeting host may mute or unmute participants to facilitate effective two-way communication and prevent disruption of the business of the meeting.

3. Public Comment. Members of the public shall speak only when called upon. The Public Body will designate an opportunity for each member of the public to be heard. Members of the public not speaking should remain muted unless and until called upon to provide comment and shall not otherwise cause disruptions. The Public Body shall make reasonable rules at a meeting to facilitate public comment in an orderly manner.

4. Public Announcement. For any member of the Public Body attending electronically, the member must make a public announcement at the outset of the meeting, to be included in the meeting minutes, that the member is in fact attending the meeting electronically. If the member is attending electronically for any other purpose other than for military duty, they shall identify their location by stating the city/township/village, county, and state from which they are attending.

5. Contacting Absent Members. Members of the public shall be informed of the electronic participation of a member of a Public Body through the notice required in Section D of these Procedures. The public may contact those absent members prior to the meeting to provide input on any business that will come before the public body by emailing or calling the Public Body with information provided in the notice. The Deputy Drain Commissioner shall then compile the input and transmit it to the absent member in advance of the meeting. For purposes of this section, an “absent member” is defined as any member authorized to participate in a meeting electronically.

6. Roll Call. During the electronic meeting, members of the Public Body will vote by roll call to avoid any questions about how each member of the Public Body votes. Each member of the Public Body must be asked how they vote, and their name and vote must be recorded in the meeting minutes.

7. Right to Record. The right of a person to participate in an electronic meeting includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of the meeting. The exercise of this right does not depend on the prior approval of the Public Body. However, individuals shall at a minimum provide written or oral notice to the Public Body prior to the start of an electronic meeting of their intent to tape-record, videotape, broadcast, or telecast the meeting in order to enable the Public Body to minimize the possibility of disrupting the meeting.

8. Registration. The Public Body may not require a person participating in an electronic meeting to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in the public comment period of the meeting.

9. Breach of Peace. A person must be permitted to address the Public Body during an electronic meeting under these Procedures, provided that no specific rules by order of the Public Body are needed to address specific circumstances or technical issues that arise during the meeting. A person must not be excluded from an electronic meeting otherwise open to the public except for a breach of the peace committed during the meeting.

10. Closed Session. Members of the general public participating in an electronic meeting may be excluded from participation in an electronic closed session of the Public Body if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.

11. Discussion, Deliberation, and Voting. The Public Body's electronic meeting will effectuate as fully as possible, the purposes of the OMA, which include promoting government accountability and fostering openness in government to enhance responsible decision-making. Except as it relates to closed sessions, the full discussions and deliberations of the Public Body, not just the voting, must still be done with public access.

12. Additional Rules. The chair or host of an electronic meeting has the authority to ensure that the meeting is conducted in an orderly manner. This includes the ability to institute additional rules and procedures reasonably necessary to further the requirements of the OMA.

F. Review of Procedures. The Deputy Drain Commissioner shall review these Procedures if any substantive changes are made to the current provisions of the OMA and present any proposed revisions to the Public Body for approval as necessary.

G. Validity and Severability. If any part of these Procedures are declared by any court of competent jurisdiction to be invalid, that declaration does not affect the validity of the remainder of the Procedures.

H. Repealer. While in effect, these Procedures supersede all policies (or parts of policies) of the Public Body that conflict with these Procedures.

I. Effective Date. These Procedures are effective immediately.

Adopted by [INSERT PUBLIC BODY].

Section V. Review of Policy. The Deputy Drain Commissioner shall review this Policy and the Proposed Procedures if any substantive changes are made to the current provisions of the OMA and present any proposed revisions of the Policy to the relevant public bodies.

Section VI. Validity and Severability. If any part of this Policy is declared by any court of competent jurisdiction to be invalid, that declaration does not affect the validity of the remainder of the Policy.

Section VII. Repealer. While in effect, this Policy supersedes all policies (or parts of policies) of the Drain Commission that conflict with this Policy.

Section VIII. Effective Date. This Policy is effective immediately.

Adopted by the Huron County Drain Commission.