

**AN ORDINANCE AMENDING CHAPTER 2 OF THE CARRBORO TOWN CODE TO
TO ALLOW REMOTE PARTICIPATION BY COUNCIL MEMBERS
AT OFFICAL TOWN COUNCIL MEETINGS**

Ordinance No. __ / FY 23-24

WHEREAS, Chapter 2 of the Carrboro Town Code sets forth the Carrboro Town Council (the “Council) rules of procedure for its official public meetings; and

WHEREAS, in May of 2020, the General Assembly amended the State Open Meetings Law to specifically authorize local governing boards the option to conduct remote public meetings in accordance with G.S. § 166A-19.24 and Article 33C of Chapter 143 of the General Statutes, which remote public meeting statutes apply only during a declared State of Emergency; and

WHEREAS, on August 15, 2022, the Governor’s State of Emergency in response to the COVID-19 pandemic expired, thus, the remote public meeting statutes will no longer apply to public governing boards; and

WHEREAS, Article 33C, Chapter 143, of the North Carolina General Statutes (*see* G.S. § 143-318.13) contemplates that members of public bodies may participate in official meetings by use of conference telephone or other electronic means; and

WHEREAS, the Council’s rules of procedure in Chapter 2 of the Town Code does not address whether a Council Member can participate remotely in official meetings now that the declared State of Emergency is no longer in effect; and

WHEREAS, to promote full participation of Council Members while ensuring access and transparency for the public as required by the Open Meetings Law, G.S. § 143-318.9 *et seq.*, the Council desires to amend its rules of procedure in Chapter 2 of the Town Code to allow remote participation by Council Members at its official meetings, when appropriate.

NOW THEREFORE, the Town Council of the Town of Carrboro ordains as follows:

Section 1. Chapter 2, Article II, of the Carrboro Town Code is amended to add a new section 2-19 entitled “Remote Participation by Council Members,” as follows:

Council Members may remotely participate in official meetings of the Town Council, including regular, special and emergency called meetings as set forth in Article I of this Chapter (hereinafter, “meeting”) subject to the following rules and procedures:

- (a) A Council Member may attend a meeting and participate in Council deliberations and decisions by remote participation if the Council Member is prevented from physically attending the meeting due to:

1. Personal illness, disability, order of quarantine or isolation, government issued “stay-at-home” mandate, or recommendation of medical provider or public health officials to limit public interaction;
2. Out-of-town travel;
3. Unexpected lack of child-care;
4. Family member illness or other family emergency;
5. Weather conditions;
6. Military service;
7. Employment obligations;
8. Scheduling conflict; or
9. State or local declaration of a state of emergency that makes in-person attendance at a meeting a violation of an order or reduce social contact or to stay at home for reasons of public health.

(b) Remote participation shall be allowed only when a quorum of the Council is physically present at the meeting and the Council Member(s) participating remotely are not necessary to establish a valid quorum.

(c) Remote participation shall not be allowed during quasi-judicial public hearings.

(d) Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participation and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email, and web chat without audio are not acceptable means of remote participation.

(e) No Council Member may participate remotely more than four (4) times during a calendar year for a reason other than order of quarantine or isolation, “stay-at-home” mandate, or recommendation to limit public interaction, as described in subsection (a), above; however, in other justifiable circumstances, the Council may, by majority vote, agree to waive this limitation.

(f) A Council Member participating remotely will be considered present at the meeting and will be entitled to participate in open session deliberations at the meeting if, and while:

1. The Council Member is able to hear other members of the Council and any individuals addressing the Council, including members of the public who are recognized by the Council during public comment;
2. All persons present at the meeting location are able to hear the Council Member who is participating remotely; and

3. If video technology is used, it is preferred that the remote participant is visible to all persons present at the meeting location.

(g) A Council Member who is entitled to participate in open session deliberations may also participate in a closed session of the meeting so long as no other person is able to hear, see, or otherwise participate in the closed session from the Council Member's remote location.

(h) A Council Member considered present through remote participation will be permitted to vote on any action item at the meeting except:

1. Any item for which the Council Member was not participating remotely during the entire discussion and deliberation of the matter preceding the vote; and
2. Any item that was being discussed when an interruption to the electronic communication occurred, if the Council's discussion was not suspended during the interruption. A brief loss of simultaneous communication, such as a few seconds, will not disqualify the Council Member from voting on the matter under discussion.

(i) A Council Member who desires to participate in a meeting remotely shall notify the Town Clerk at least four (4) hours in advance of the meeting so that necessary arrangements can be made. If the Council Member has not already received the agenda packet and all documents to be considered at the meeting, the Town Clerk shall arrange for delivery of the materials in a manner that is practicable under the circumstances.

(j) At the beginning of the meeting, the Mayor shall announce the remote Council Member participant and the means of remote participation at the beginning of the meeting.

(k) A Council Member participating remotely shall notify the Mayor if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.

(l) All votes taken shall be a voice vote and the remote Council Member participant shall provide a voice vote which can be heard by the public and recorded by the Town Clerk.

(m) The Town Clerk shall reflect in the minutes of the meeting that (i) the meeting was conducted by use of simultaneous electronic communication, (ii) which Council Member(s) were in attendance by simultaneous communication, and (iii) when such Council Member(s) joined or left the meeting. Any interruption to or discontinuation of the Council Member's participation shall also be noted in the minutes.

Section 2. All provisions of any Town ordinance or resolution in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

The foregoing Ordinance, having been submitted to a vote, received the following vote and was duly adopted this ____ day of _____, 2023.

Ayes: _____

Noes: _____

Absent or Excused: _____

Damon Seils, Mayor

Attest:

Wesley Barker, Town Clerk