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MAY 24 2021

GALE A. NEULIEB  
CITY CLERK  
CITY OF MICHIGAN CITY

MICHIGAN CITY BOARD OF PUBLIC WORKS & SAFETY

RESOLUTION NO. 2821

**ADOPTING WRITTEN POLICY ESTABLISHING THE PROCEDURES THAT APPLY TO A BOARD OF PUBLIC WORKS & SAFETY MEMBER'S PARTICIPATION IN A MEETING BY ELECTRONIC MEANS PURSUANT TO I.C. 5-14-1.5-3.5**

**WHEREAS**, the Indiana General Assembly enacted changes to Indiana's Open Door Laws to allow a member of a governing board to participate in a meeting electronically so long as that governing body has adopted a written policy establishing the procedures that apply for participation via electronic means pursuant to I.C. 5-14-1.5-3.5; and

**WHEREAS**, the Michigan City Board of Public Works & Safety believes it is in the best interest of this Board to adopt a written policy to establish the procedures that apply for a member of this Board to participate in a meeting electronically.

**NOW, THEREFORE, BE IT RESOLVED BY THE MICHIGAN CITY BOARD OF PUBLIC WORKS AND SAFETY AS FOLLOWS:**

1. The aforementioned "Whereas" sentences are incorporated herein as if fully set forth herein.
2. The written policy setting forth the procedures that apply for a member of this Board to participate in a meeting electronically, which is attached hereto and incorporated herein, is hereby adopted.

Adopted by the Board of Public Works & Safety of the City of Michigan City, Indiana by a vote of 3-0 this 8<sup>th</sup> day of June, 2021.

Andrew White, President  
Board of Public Works & Safety

ATTEST:

Gale Neulieb, City Clerk  
Michigan City, Indiana

Prepared by Corporation Counsel Upon Request

CX BA 80  
BR 21  
P

1882

cc: BOARD  
CITY COUNSEL  
MAYOR





MICHIGAN



*Create. Play. Repeat.*

BOARD OF PUBLIC WORKS & SAFETY  
MICHIGAN CITY, INDIANA

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**POLICY ESTABLISHING THE PROCEDURE FOR A MEMBER OF THE  
BOARD OF PUBLIC WORKS & SAFETY TO PARTICIPATE IN A  
PUBLIC MEETING BY ELECTRONIC MEANS**

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**BOARD OF PUBLIC WORKS & SAFETY  
MICHIGAN CITY, INDIANA**

**POLICY ESTABLISHING THE PROCEDURE FOR A MEMBER OF THE BOARD OF  
PUBLIC WORKS & SAFETY TO PARTICIPATE IN A PUBLIC MEETING BY  
ELECTRONIC MEANS**

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- Purpose:** This policy defines how a board member of the Michigan City Board of Public Works & Safety may participate in a public meeting by electronic means.
- Scope:** The scope of this policy only applies to the Michigan City Board of Public Works & Safety. All other boards and commissions for the City must each adopt their own written policy if they would like to allow a member to participate in a public meeting by electronic means.

A change or revision to this policy is effective only with the consent and approval of the Michigan City Board of Public Works & Safety.

**Effective Date:** This policy is effective June 7, 2021.

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### **1.0 Policy Statement**

The Michigan City Board of Public Works & Safety (hereinafter referred to as “Board”) is a “governing board” of the City of Michigan City, Indiana and takes official action on public business. (I.C. 5-14-1.5-2(b)). Pursuant to newly enacted legislation by the Indiana General Assembly as set forth in I.C. 5-14-1.5-3.5 (HEA 1437), this Board may allow a Board member to participate in a public meeting electronically so long as the requirements of the statute are met including the adoption of this written policy.

### **2.0 Intent and Purpose**

The intent and purpose of this Policy is to allow a member of the Board to participate in a public meeting electronically and set forth the specific details that will govern when a member participates in a public meeting electronically.

### **3.0 Ability to Attend Meeting by Electronic Means**

Subject to the procedures established by this Policy and **Section 4.0** below, pursuant to I.C. 5-14-1.5-3.5(b), a member of the Board of Public Works & Safety who is not physically present at a meeting of the Board may participate in a meeting by any electronic means of communication that does the following:

- (A) Allows all participating members of the Board to simultaneously communicate with each other.

- (B) Allows the public to simultaneously attend and observe the meeting. However, this subsection does not apply to a meeting of the Board held in executive session.

Subject to the procedures established by this Policy and **Section 4.0** below, a Board member who participates in the meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum but may participate in any final action taken at the meeting only if the member can be seen and heard.

### **3.1 Roll Call Voting**

Pursuant to I.C. 5-14-1.5-3.5(f), all votes taken during a meeting in which a member of the Board is appearing electronically must be taken by roll call vote.

### **3.2 50% Members Must be Physically Present at Meeting**

Pursuant to I.C. 5-14-1.5-3.5(g), at least Fifty Percent (50%) of the members of the Board must be physically present at a meeting wherein a member is appearing electronically.

### **3.3 Number of Meetings Member can Attend Each Year Electronically**

Pursuant to I.C. 5-14-1.5-3.5(h), a member of the Board may not attend more than Fifty Percent (50%) of the Board's meetings in a calendar year by means of electronic communication, unless the member's electronic participation is due to:

- Military service;
- Illness or other medical condition;
- Death of a relative; or
- An emergency involving actual or threatened injury to persons or property.

### **3.4 Notice to Board President of Intent to Attend Meeting By Electronic Means**

Except in the event a meeting is called to deal with an emergency involving actual or threatened injury to a person or property, or actual or threatened disruption of the government activity under the jurisdiction of this Board by any event, a member wishing to attend a meeting by electronic means shall notify the Board President as soon as possible and no later than three (3) days, absent exigent circumstances, prior to the meeting of their intent to attend electronically so that arrangements may be made for the members participation by electronic means.

### **3.5 Attending Consecutive Meetings Electronically**

Pursuant to I.C. 5-14-1.5-3.5(j), the Board may not prohibit a Board member from attending consecutive meetings by electronic communication. A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member shall physically attend at least one (1) meeting between sets of meetings that the member attends by electronic

communication, unless the member's absence is due to:

- Military service;
- Illness or other medical condition;
- Death of a relative; or
- An emergency involving actual or threatened injury to persons or property.

In said circumstance, a member shall file with the City Clerk a *Certification of Member's Absence*, which is attached hereto and incorporated herein as **Exhibit A**, for each meeting the member is not able to physically attend at least one (1) meeting between sets of meetings that the member attends by electronic means. The City Clerk shall maintain all completed *Certification of Member's Absence* forms.

#### **4.0 Exceptions to Ability to Attend Meeting by Electronic Means/Specific Instances When Attendance by Electronic Means is Not Allowed**

Pursuant to I.C. 5-14-1.5-3.5(i), a member of the Board may not participate in a meeting of the Board by electronic means if the Board is attempting to take final action to do any of the following:

- Make a reduction in personnel;
- Initiate a referendum;
- Establish or increase a fee;
- Establish or increase a penalty;
- Use the governing body's eminent domain authority; or
- Establish, raise, or renew a tax.

#### **5.0 Technological Failure In Electronic Means that Disrupts or Prevents Communication**

Pursuant to I.C. 5-14-1.5-3.5(c), a technological failure in an electronic means of communication that disrupts or prevents:

- (1) the simultaneous communication between a member who is not physically present at the meeting and the Board; or
- (2) a member of the public who is not present at the meeting from attending and observing the meeting;

does not prevent the Board from conducting the meeting or affect the validity of an action taken by the Board at the meeting if the sum of the Board members physically present at the meeting and the Board members participating by electronic communication without technological failure satisfy the quorum and (if a final action is taken) the voting requirements of the Board.

#### **6.0 Minutes for Meeting; Recording Keeping for Attendance**

Pursuant to I.C. 5-14-1.5-3.5(e), the minutes for a meeting in which a member participates by an electronic means of communication must:

- (1) State the name of each member of the Board who:

- (A) was physically present at the place where the meeting was conducted;
  - (B) participated in the meeting by using any electronic means of communication; and
  - (C) was absent; and
- (2) Identify the electronic means of communication by which:
- (A) members of the Board participated in the meeting; and
  - (B) the public attended and observed the meeting, if the meeting was not held in executive session.

In addition to the minutes, the City Clerk shall maintain an *Annual Record of Board Members Who Attend Meetings Via Electronic Means*, which is attached hereto and incorporated herein as **Exhibit B**.

## CERTIFICATION OF MEMBER'S ABSENCE

I, \_\_\_\_\_ (name), hereby affirm that I cannot physically attend at least one (1) meeting between sets of meetings that I have attended electronically and pursuant to I.C. 5-14-1.5-3.5(j), my absence at the meeting to be held on \_\_\_\_\_ (date of meeting) is due to the following: (check one)

\_\_\_\_\_

Military service

\_\_\_\_\_

Illness or other medical condition

\_\_\_\_\_

Death of a relative

\_\_\_\_\_

An emergency involving actual or threatened injury to persons or property

NAME OF BOARD MEMBER:

\_\_\_\_\_

SIGNATURE OF BOARD MEMBER:

\_\_\_\_\_

DATE:

\_\_\_\_\_



# ANNUAL RECORD OF BOARD MEMBERS WHO ATTENDED MEETINGS VIA ELECTRONIC MEANS

YEAR:

Date of Regular or Special Meeting

Member Name:

INITIALS OF OFFICER VERIFYING ATTENDANCE	Date of Regular or Special Meeting												

**INSTRUCTIONS:** List members' names on the right. List the date of all regular and special meetings across the top. List member participation type as follows:  
**E = Electronic    P = Physically Present    A = Absent**

If the member qualifies for an exemption from the "Consecutive-50" requirements, draw a circle around the E for that member/meeting -- ⓔ

The official record keeper or appropriate officer should initial to verify that the attendance record is accurate in the column for that meeting.