

DRAFT
VILLAGE OF UPPER NYACK
Local Law #11 of 2022

Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

SECTION 1. TITLE

A Local Law adopted pursuant to Public Officers Law §103-a authorizing the use of videoconferencing within the Village of Upper Nyack.

SECTION 2: PURPOSE AND LEGISLATIVE INTENT

It is the intent of this Local Law to authorize the Village of Upper Nyack to conduct meetings consistent with the videoconferencing provisions of Public Officers Law §103-a.

SECTION 3: DEFINITIONS

3.1. Terms Not Defined. Any term not defined herein shall be given the meaning ascribed to it in the Open Meetings Law.

3.2. Defined Terms:

3.2.1. BOARD OF TRUSTEES shall mean the Board of Trustees of the Village of Upper Nyack.

3.2.2. EXECUTIVE SESSION shall mean that portion of a meeting that is not open to the public and that is conducted pursuant to Open Meetings Law §105.

3.2.3. EXTRAORDINARY CIRCUMSTANCES shall mean disability, illness, caregiving responsibilities or any other significant or unexpected factor or event that precludes a Member of the Board of Trustees from Physical Attendance at a meeting thereof.

3.2.4. MEMBER shall mean the Mayor of the Village of Upper Nyack or any Trustee of the Village of Upper Nyack (including the Deputy Mayor).

3.2.5. OPEN MEETINGS LAW shall mean Article 7 of the New York Public Officers Law as it may be from time to time amended.

3.2.6. PHYSICAL ATTENDANCE shall mean in person attendance at a meeting of the Board of Trustees at a location that is open to the public as indicated in the public meeting notice.

3.2.7. VIDEOCONFERENCING shall mean technology through which a Member who is not in Physical Attendance at a meeting can be heard, seen and identified in real time during the meeting (except during an Executive Session), including when any motions, proposals, resolutions and any other matter is formally discussed or voted upon.

SECTION 4: HYBRID MEETINGS AUTHORIZED; QUORUM

4.1. Authorization: The Board of Trustees hereby authorizes its Members who experience an Extraordinary Circumstance to attend meetings of the Board of Trustees by Videoconferencing from a location that is not open to the public provided that all requirements of this Local Law and the Open Meetings Law are met.

4.2. Quorum.

4.2.1. Members who participate in a public meeting in-person or by Videoconferencing at a location that is open to the public and which has been included in the meeting notice may count toward a quorum of the Board of Trustees.

4.2.2. Members who participate in a public meeting via Videoconferencing in a location that is not open to the public as permitted by this Local Law do not count toward a quorum of the Board of Trustees but may participate and vote in the meeting.

SECTION 5: RULES, PROCEDURES AND REQUIREMENTS.

5.1. Notice of Videoconferencing Participation. If a Member is unable to be in Physical Attendance at a meeting in one of the noticed public meeting locations and wishes to participate by Videoconferencing from a private location due to Extraordinary Circumstances, the Member must notify the Village Clerk and the Mayor (or if the Mayor wishes to attend via Videoconferencing from a private location due to Extraordinary Circumstances, then the Deputy Mayor) no later than four (4) business days before the meeting to allow proper notice to the public to be given if required. If Extraordinary Circumstances present themselves on an emergent basis within four (4) days of a meeting, the Board of Trustees shall update its notice, if required, to allow notice to the public to be given.

5.2. Public Notice. The public notice of a meeting at which a Member will appear via Videoconferencing from a private location because of Extraordinary Circumstances shall inform the public: (i) if Member(s) experience Extraordinary Circumstances and cannot attend the meeting in person Videoconferencing may be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.

5.3. Viewing and Participation by Members of the Public. If any Member of the Board of Trustees attends a meeting thereof via Videoconferencing from a private location due to Extraordinary Circumstances, the Board of Trustees shall provide an opportunity for

members of the public to view such meeting via video in real time and shall allow the members of the public to participate in the meeting to the same extent as members of the public who are physically present at the meeting.

- 5.4. Meeting Recordings. Each meeting of the Board of Trustees in which a Member participates via Videoconferencing from a private location due to Extraordinary Circumstances, other than the portions of such meetings that are Executive Sessions, shall be recorded and such recordings linked to or published on the Village's website within five (5) business days following the meeting and shall remain so available for a minimum of five (5) years thereafter. A transcription of a public meeting at which a Member participated by Videoconferencing from a private location due to Extraordinary Circumstances (other than the Executive Session portion thereof) shall be made available only upon request.
- 5.5. Minutes. The minutes of a meeting in which a Member(s) participates via Videoconferencing from a private location due to Extraordinary Circumstances shall indicate which Member(s) participated in such manner and shall be made available to the public as required by the Open Meetings Law.
- 5.6. ADA Compliance. Meetings of the Board of Trustees that are broadcast or that use Videoconferencing must utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act as it may be from time to time amended. For the purposes of this section, the term "disability" has the meaning defined in New York Executive Law §292.

SECTION 6: AUTHORIZATION FOR OTHER PUBLIC BODIES OF THE VILLAGE TO ALLOW MEMBERS THEREOF TO PARTICIPATE IN MEETINGS VIA VIDEOCONFERENCING FROM A PRIVATE LOCATION IN EXTRAORDINARY CIRCUMSTANCES

All other boards, committees or any local public body of the Village of Upper Nyack are hereby authorized to allow the members thereof who experience an Extraordinary Circumstance to attend meetings thereof via Videoconferencing from a private location provided that all requirements of Open Meetings Law §103-a are met. Prior to permitting meeting participation in this manner such board, committee or local public body shall hold a public hearing regarding the same and adopt a resolution providing for the procedures for member attendance by Videoconferencing from a private location.

SECTION 7: EXCEPTIONS

The in-person participation requirements of the Open Meetings Law shall not apply during a state disaster emergency declared by the Governor pursuant to New York State Executive Law §28 or a local state of emergency proclaimed by the chief executive of the Village or Rockland County pursuant to Executive Law §24 if the Mayor determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Board of Trustees to hold an in-person meeting.

SECTION 8: AUTHORITY

This Local Law is adopted pursuant to Municipal Home Rule Law §10 and Open Meetings Law §103-a.

SECTION 9: SEVERABILITY

Should any section, sentence or provision of this Local Law be determined by any court of competent jurisdiction to be unconstitutional or invalid in any way, such determination shall not affect the validity of this Local Law as a whole or any part thereof other than the part expressly so determined to be unconstitutional or invalid.

SECTION 10: EFFECTIVE DATE AND REPEALER

This Local Law shall take effect immediately upon filing with the New York State Department of State. This Local Law shall expire and shall be deemed repealed on July 1, 2024, the same date that Open Meetings Law §103-a expires.

LI Authorizing Videoconferencing