



New Hampshire Municipal Association

Guidance Regarding Public Meetings, Right-to-Know Law and COVID-19

September 17, 2020

Under [Emergency Order #12](#) important elements of the Right-to-Know law still apply:

A Checklist* should be used by the chair to ensure compliance because the remainder of RSA 91-A:2, III still applies which requires:

- That each member of the public body articulate in the minutes why they have elected to participate virtually in order to avoid the potential for exposure to Covid-19.
- Each member participating virtually shall identify other persons present in the location from which the member is participating.
- That all votes be by roll call vote.

Emergency Order #12 – What are the Minimum Requirements:

The public body must provide public access to the virtual public meeting by telephone, with additional access possibilities by video or other electronic means;

The public body must provide posted, public notice of the necessary information for accessing the meeting through electronic and/or telephone means;

The public body must provide a mechanism for the public to alert the public body during the meeting if there are problems with access; and

The public body must adjourn the meeting if the public is unable to gain and maintain access to the meeting.

Did you know that . . . ?

*An excellent meeting checklist prepared used by the City of Concord can be downloaded [here](#)

Virtual meeting information is deemed to be a “public record” and if a member of the public requested the Zoom virtual meeting information under RSA 91-A:4, that information would have to be disclosed.

Under RSA 91-A:2, III, together with paragraph 4 of Emergency Order #12, if least one member of a public body is participating remotely, the rest of the public body could be meeting at a physical location, such as town hall, and you could tell the public they can only participate via online access or by telephone.

Conducting In-Person Meetings

If a public body wants to have a meeting in a physical location, and no member of the public body is participating virtually, the ordinary Right-to-Know law meeting rules apply. Under RSA 91-A:2, II, all members of the public have a right to attend public meetings at the physical location if no member of the public body is participating virtually. You can still allow the public to watch the meeting remotely and even offer public comments remotely, but that is merely an optional supplement to the required public access at the meeting’s physical location. The special requirements for virtual meetings, such as roll call votes and a mechanism to alert the public body if there is a problem with electronic access, do not apply if the meeting is accessible to the public at the physical location.

Your meeting place may already have a posted place of assembly permit that limits the number of people in the room at any one time. During the current Covid-19 Pandemic, guidance issued by the CDC recommends that a six (6) foot separation between people be maintained at indoor meeting places. This type of spacing would likely reduce the normal seating capacity by 50%.

Consequently, if the meeting capacity of your meeting room is exceeded, whether due to the normal meeting room capacity or due to the reduced capacity due to Covid-19, the meeting must be adjourned. It would be improper to deny a person entry under such circumstances and continue conducting the meeting in the physical location.

Other Considerations for In-Person Meetings

The wearing of face coverings at public meetings can be required. All people at your meetings could be required to wear a face covering, including all public officials and public employees.

If a person refuses to wear a face covering because they don’t want to, they can be denied physical access to the meeting and directed to attend online.

If the person claims they cannot wear a face covering due to a medical condition, and they insist on attending the physical location of the meeting, the meeting should be adjourned and be rescheduled to be conducted in a virtual manner.

Have a sign at the entry point to the meeting that identifies symptoms of Covid-19 and urging those with such symptoms to participate through online access rather than attending in person.