

ORDINANCE BOC 2023-07

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF TIPTON COUNTY INDIANA ESTABLISHING POLICIES AND PROCEDURES FOR ATTENDANCE OF MEMBERS ELECTRONICALLY AT ALL PUBLIC MEETINGS

WHEREAS, technology permits public officials to reliably attend and participate in public meetings virtually; and,

WHEREAS, technology permits members of the public to view, participate, and communicate with public officials virtually during public meetings; and,

WHEREAS, Indiana House Bill 1437 ("HB 1437") was signed into law by the Governor of Indiana; and,

WHEREAS, HB 1437 amended I.C. 5-14-1.5-3.5 to provide policies and procedures to permit an elected official to virtually attend a public meeting; and,

WHEREAS, I.C. 5-14-1.5-3.5 requires all counties to adopt a written policy establishing the procedures that apply to an elected official's participation in a meeting by an electronic means of communication.

IT IS THEREBY ORDAINED by the Board of Commissioners of Tipton County, Indiana, as follows:

1. This policy establishes Tipton County's procedures and requirements for the Tipton County Board of Commissioners, Tipton County Council, Tipton County Plan Commission, Tipton County Board of Zoning Appeals, and the Tipton County Redevelopment Commission, or any other county group who's meetings are governed by public access rules (hereafter collectively referred to as the "Governing Body), to virtually or remotely attend public meetings by an electronic means of communication.

2. Any member of a Governing Body who is not physically present at a public meeting may participate in the meeting by an electronic means of communication that does the following:

a. Allows all participating members of the Governing Body to simultaneously communicate with each other; and,

b. Allows the public to simultaneously attend and observe the meeting.

I. This does not apply to a meeting held in executive session.

3. Subject to the restrictions mentioned below in Section 4, the member of a Governing Body who participates in a meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum and may participate in any final action

taken at the meeting only if the member can be seen and heard.

4. A member may not participate in a public meeting by electronic means of communicate by electronic means if the Governing Body is attempting to take a final action to:

- a. Adopt a budget;
- b. Make a reduction in personnel;
- c. Initiate a referendum;
- d. Establish or increase a fee;
- e. Establish or increase a penalty;
- f. Use the County's eminent domain authority; or
- g. Establish, raise, or renew a tax.

5. A technological failure in an electronic means of communication that disrupts or prevents:

- a. The simultaneous communication between a member who is not physically present at the meeting and Governing Body; or
- b. A member of the public who is not present at the meeting from attending and observing the meeting;

Does not prevent the Governing Body from conducting the meeting or affect the validity of an action taken by the Governing Body at the meeting if the sum of the Governing Body members physically present at the meeting and the member participating by electronic communication without technological failure satisfies the quorum requirements, and if final action is taken, would otherwise satisfy the other voting requirements of the Governing Body.

6. All votes taken during a meeting under this policy must be taken by roll call vote.

7. At least fifty percent (50%) of the Governing Body members must be physically present at a meeting.

8. A member may not attend more than fifty percent (50%) of the Governing Body's meetings in a calendar year by means of electronic communication, unless the member's electronic participation is due to:

- a. Military Service;
- b. Illness or other medial condition;
- c. Death of a relative; or,
- d. An emergency involving actual or threatened injury to persons or property.

9. Any obligation executed by the facsimile signature or electronic signature of the member attending the meeting by means of electronic communication, shall be valid with the same force and effect as manually executing the signature for any obligation.

10. For any meeting under this policy, the following shall be recorded as part of the meeting minutes:

- a. The date, time, and place of the meeting;
- b. The member recorded as either present or absent;
- c. State the names of each member who participated in the meeting by the use of electronic means of communication;
- d. The general substance of all matters proposed, discussed, or decided;
- e. A record of all votes taken by the member if there is a roll call vote; and,
- f. Identify the electronic means of communication by which:

I. Members participated in the meeting; and,

ii. The public attended and observed in the meeting, if the meeting was not held in executive session.

11. If the Governor declares a disaster emergency under I.C. 10-14-3-12 or if the Governing Body declares a local disaster emergency under I.C. 10-14-3-29, notwithstanding any provisions of this policy, the Governing Body is not required to be physically present at a meeting until the disaster emergency or local disaster emergency is terminated; the Governing Body shall meet all other requirements stated above in this policy.

12. This Ordinance supersedes any prior Ordinance pertaining to virtual meetings.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Tipton County,

Indiana, this 22nd day of May, 2023.

Board of Commissioners by:


Dennis Henderson


Tracey Powell


Nancy Cline

Attest:


Melissa Pickering, Tipton
County Auditor

Prepared by:

Mark R. Regnier #13757-80
Tipton County Attorney
120 South West Street
Tipton, Indiana 46072
765-675-2211
markregnieratty@gmail.com

I affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Mark R. Regnier