

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Erie

Local Law No. 2 of the year 20 23

A local law *(Insert Title)* A Local Law providing for remote public meetings and remote participation of the Legislature in the County of Erie.

Be it enacted by the Erie County Legislature of the  
*(Name of Legislative Body)*

County  City  Town  Village  
(Select one.)

of Erie as follows:

## Section 1. Legislative Findings and Intent

It is the intent of this local law to give the Erie County Legislature ("Legislature") the authority to participate in meetings via videoconference in a manner consistent with the Legislature's videoconferencing policy and the authority granted in Public Officers Law §103-a.

## Section 2. Authority

This local law is adopted pursuant to Public Officers Law § 103-a which expressly authorizes the Legislature to adopt a local law giving the Legislature the authority to participate in meetings via videoconference from locations not accessible to the public so long as a quorum of the Legislature participates from locations where the public may be physically present and other conditions are met.

## Section 3. Videoconferencing for Public Meetings

The Legislature hereby authorizes members of the Legislature to participate in meetings using videoconferencing technology in a manner consistent with Public Officers Law § 103-a and the Legislature's videoconferencing policy approved by the Legislature.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**Section 6. Effective Date**

This Local Law shall take effect upon filing with the New York State Secretary of State.

**Section 7. Severability**

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its specific application.

**Sponsor:**

April N.M. Baskin

# **ERIE COUNTY LEGISLATURE VIDEOCONFERENCING PARTICIPATION POLICY**

## **Section 1. Legislative Findings and Intent**

The Erie County Legislature (herein "Legislature") desires to provide the proper procedures and policy for compliance with videoconferencing for public meetings held virtually and for any remote participation by an Erie County Legislator in any Erie County Legislature public meeting.

The Legislature's videoconferencing participation policy is required to follow Section 103-a of the New York Public Officers Law ("POL"), as enacted by Part WW of Chapter 56 of the Laws of 2022. POL § 103-a permits public bodies such as the Legislature to authorize their members to attend meetings by videoconference from locations that are not open to the public ("private locations"), when necessitated by "extraordinary circumstances," provided that:

- (i) the number of members of the public body who attend the meeting at location(s) where the public can attend is at least equal to the number required to satisfy the public body's quorum requirement.
- (ii) the public body has established written procedures governing member and public attendance consistent with Section 103-a of the POL.
- (iii) such written procedures are conspicuously posted on the public website of the public body.
- (iv) the other criteria specified in Section 103-a of the POL are satisfied.

## **Section 2. Legislator Attendance**

- A. All Legislators shall be physically present at the location(s) of the public meeting unless a Legislator cannot be physically present at the public meeting for one (1) or more of the circumstances enumerated in subsection B herein.
- B. Members may be excused from physically attending any public meeting of the Agency, and may instead attend via videoconferencing from a private location, if any of the following circumstances (thereinafter "Extraordinary Circumstances"):
  - (i) Disability of a Legislator.
  - (ii) Illness of a Legislator.
  - (iii) The Legislator has caregiving responsibilities for:
    - (a) one (1) or more dependents, or
    - (b) family member(s) with an illness or disability.
  - (iv) A Legislator has a significant or unexpected factor or event.
- C. In the event a Legislator is unable to be physically present at the designated public meeting location(s) and wishes to participate by videoconferencing from a private

location due to an Extraordinary Circumstance, the Legislator must notify the Clerk of the Legislature in writing and state which Extraordinary Circumstance(s) is preventing them from appearing in person.

### **Section 3. Public Attendance**

Members of the public shall be allowed to attend any public meeting conducted via video at the physical location of the public meeting, or if the public meeting is authorized for public comment, members of the public may participate via videoconferencing.

### **Section 4. Rules and Procedures for Public Meetings Conducted Via Video Conference.**

- A. A quorum of the Legislature must be physically present at the meeting location(s) open to the public for the meeting to be properly convened. A Legislator participating in the meeting via videoconferencing shall not count towards the Legislature's quorum requirements for the meeting but may participate and vote if a physical quorum of the Legislature exists.
- B. Except in the case of executive sessions conducted pursuant to POL § 105, a Legislator participating by videoconferencing from a private location must be seen, heard, and identified at all times during the public meeting. Such Legislator shall ensure their names appear on their videoconferencing screen or video feed.
- C. If public comment or participation in the meeting is authorized or required, the video feed, and public participation therein, must be in real time, and the Legislature shall conduct the public participation portion of the meeting in a manner ensuring virtual public participation or testimony equal to in-person participation or testimony.
- D. The meeting minutes for a public meeting where a Legislator attends via videoconferencing shall include which Legislator participated remotely, and the meeting minutes shall be made available to the public pursuant to POL § 106.
- E. The public notice for any meeting held via video conference shall include the following information:
  - a. Notification that videoconferencing will be used to conduct the meeting.
  - b. Identification of where the public can view and/or participate in the meeting, including:
    - i. the physical location(s) of the meeting.
    - ii. any web addresses for video links.
    - iii. Identification of the location(s) where any required documents and/or records will be posted or available for public viewing.

- F. Each open portion of meetings held via videoconference must be recorded. The recording:
- a. Must be posted or linked on the website of the Agency within five (5) business days of the meeting.
  - b. Must remain available for a minimum of five (5) years after it is posted.
  - c. Shall be transcribed upon written request subject to any reasonable fees for the production thereof.
- G. Meetings held via video conference must utilize technology to permit access by individuals with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and the corresponding guidelines thereto. For purposes of this section, the term "disability" shall have the meaning defined in New York Executive Law § 292.

### **Section 5. Exceptions**

The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state emergency proclaimed by the chief executive of a county pursuant to Executive Law § 24 if the Legislature determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Legislature to hold an in-person meeting.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_23\_\_ of the (County)(City)(Town)(Village) of Erie was duly passed by the Erie County Legislature on May 10 2023, and was (approved)(~~not approved~~) ~~(repassed after disapproval)~~ by the Erie County Executive and was deemed duly adopted on May 10 2023, in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: \_\_\_\_\_

A Public Hearing was held on the foregoing **Local Law Intro. No. 4-1-2023** on May 9,  
**2023** due notice thereof having been published in the official newspapers of the County of Erie  
designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ,  
County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 10  
day of **May, 2023**.

  
\_\_\_\_\_  
Mark C. Poloncarz

A Public Hearing was held on the foregoing **Local Law Intro. No. 4-1-2023** on \_\_\_\_\_,  
**2023** due notice thereof having been published in the official newspapers of the County of Erie  
designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ,  
County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this  
\_\_\_\_ day of **May, 2023**.

\_\_\_\_\_  
Mark C. Poloncarz