

## RESOLUTION NO. 02-2021

### A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF SOUTH BEND AND ST. JOSEPH COUNTY, INDIANA ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE COMMISSION MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION

WHEREAS, the Historic Preservation Commission of South Bend and St. Joseph County, Indiana (the "Commission") operates pursuant to Article 13 of Chapter 21 of the South Bend Municipal Code, as may be amended from time to time, Title XV, Chapter 154, §§ 154.245-154.263 of the St. Joseph County Code of Ordinances, as may be amended from time to time, and the terms of the Interlocal Agreement between the City of South Bend and St. Joseph County dated December 12, 2017, as the same may be amended from time to time; and

WHEREAS, the Commission abides by I.C. 5-14-1.5-1 *et seq.* (the "Open Door Law"); and

WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended the Open Door Law, effective April 20, 2021, by amending Section 3.5 to prescribe new requirements by which members of a governing body of a public agency of a political subdivision may participate in a meeting by any electronic means of communication; and

WHEREAS, Section 3.5 states that a member of a governing body may participate by any means of communication that:

- Allows all participating members of the governing body to simultaneously communicate with each other; and
- Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting; and

WHEREAS, the Open Door Law requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by Section 3.5(d); and

WHEREAS, the Commission may adopt a policy and rules of procedure by majority vote of the Commissioners at a regularly scheduled meeting where a quorum is present.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION:

Section 1. (a) The provisions of Section 3.5 of the Open Door Law, including definitions, apply to this resolution.

(b) This resolution shall be known as the "Electronic Meetings Policy" of the Commission and applies to the Commission and any committee appointed directly by the Commission President ("Committee").

Section 2. (a) Subject to Sections 3 and 5 hereof, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the

Commission or any Committee to communicate with each other simultaneously; and (ii) other than a an executive session, allows the public to attend and observe the meeting simultaneously.

(b) A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and (2) may participate in final action only if the member can be seen and heard.

(c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 3. (a) At least fifty percent (50%) of the members of the Commission or any Committee must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

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

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

(c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:

- (1) military service;
- (2) illness or other medical condition;
- (3) death of a relative; or
- (4) an emergency involving actual or threatened injury to persons or property.

Section 4. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

(a) identify each member who:

- (1) was physically present at the meeting;

(2) participated in the meeting by electronic means of communication;  
and

(3) was absent; and

(b) identify the electronic means of communication by which:

(1) members participated in the meeting; and

(2) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 5. No member of the Commission or any Committee may participate by means of electronic communication in a meeting at which the Commission may take final action (as applicable) to:

(a) adopt a budget;

(b) make a reduction in personnel;

(c) initiate a referendum;

(d) impose or increase a fee;

(e) impose or increase a penalty;

(f) exercise the power of eminent domain; or

(g) establish, impose, raise, or renew a tax.

Section 6. (a) If an emergency is declared by:

(1) the governor under IC 10-14-3-12; or

(2) the mayor under IC 10-14-3-29;

members are not required to be physically present for a meeting until the emergency is terminated.

(b) Members may participate in a meeting by any means of communication provided that:

(1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.

(2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.

(3) The minutes or memoranda of the meeting must comply with Section 4 of this resolution.

(c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 7. This resolution shall be effective from and after adoption by this Commission.

ADOPTED at a meeting of the Historic Preservation Commission of South Bend and St. Joseph County, Indiana, held electronically on \_\_\_\_\_, 2021, as authorized by Executive Order 20-09 issued by the Governor of the State of Indiana, as subsequently renewed by Executive Orders 20-17, 20-25, 20-30, 20-34, 20-38, 20-41, 20-44, 20-47, 20-49, 20-52, 21-03, and 21-05.

**HISTORIC PRESERVATION COMMISSION  
OF SOUTH BEND AND ST. JOSEPH COUNTY**

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**ATTEST:**

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