PLANNING BOARD
TOWNSHIP OF MONTCLAIR

RESOLUTION ADOPTING EMERGENCY REMOTE
MEETING PROTOCOLS, PROCEDURES AND
REQUIREMENTS FOR PUBLIC PARTICIPATION
AT REMOTE MEETINGS

WHEREAS, the purpose of N.J.A.C. 5:39-1.1 through 1.7, Emergency Remote Meeting Protocol for Local Public Bodies, which is incorporated herein in its entirety, is to ensure that local public bodies can continue to conduct official business in an open and transparent manner whenever a declared emergency exists that prohibits physical attendance by members of the public; and

WHEREAS, in the Protocol, a “declared emergency” means “a public health emergency, pursuant to the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, or a state of local disaster emergency which has been declared by the Governor and is in effect; and

WHEREAS, N.J.A.C. 5:39-1.3 permits a local public body to hold a remote public meeting to conduct public business during a declared emergency if the emergency reasonably prevents a local public body from safely conducting public business at a physical location with members of the public present; and

WHEREAS, if during a declared emergency the Planning Board of the Township of Montclair (the “Planning Board”) holds a physical meeting in a location where, pursuant to state/federal guidelines meant to mitigate risk, capacity restrictions are required to reduce the number of individuals that can be present in a meeting, the Planning Board shall either:

1) Hold the public meeting at another location with adequate capacity for the reasonable expected attendance by the public; or

2) Hold the public meeting as both an in-person and remote public meeting; and

WHEREAS, a public meeting held solely in-person without a remote access alternative provided shall not prohibit members of the public from attending in person; and

WHEREAS, adequate notice of the remote public meeting (as defined in N.J.A.C. 5:39-1.2) shall also include, in addition to the Open Public Meeting Act requirements of N.J.S.A. 10:4-8, clear and concise instructions for accessing the remote public meeting, the means for making public comment and how to access any public documents on the Township’s website in the manner set forth at N.J.A.C. 5:39-1.5; and
WHEREAS, at the commencement of a remote public meeting the Chair or the Chair’s
designee, or in their absence, the Secretary, shall announce publicly and shall cause to be entered
into the minutes an accurate statement regarding adequate and electronic notice or an explanation
of the reason or reasons such notice was not adequately provided as set forth in N.J.A.C. 5:39-
1.5(g); and

WHEREAS, prior to the commencement of a remote public meeting, the Planning Board
shall make a copy of the agenda available to the public for download on the Township website
and shall post a copy of same at the building where the meeting would otherwise be held,
including posting of same at any designated and clearly delineated handicap accessible entrance
to the building, by no later than 3:00 p.m. on the date of the meeting; and

WHEREAS, the content of the electronic notice shall be posted on the main access door
of the building where the public would routinely attend public meetings of the local public body
in person and the notice must be viewable from the outside; and

WHEREAS, the electronic communications used for a remote public meeting shall have
a function that allows the Planning Board to mute the audio of all members of the public, as well
as allow members of the public to mute themselves, and same shall be announced at the
beginning of every remote public meeting; and

WHEREAS, pursuant to N.J.A.C. 5:39-1, if the Planning Board holds a remote meeting
to conduct public business, it shall use electronic communication technology routinely used in
business settings that can be accessed by the public at no cost and with participant capacity
consistent with the reasonable expectations of the Planning Board for the type of public meeting
being held, and such participant capacity shall, at minimum, not be limited to fewer than 50
public participants (not including persons required to be present to conduct business at the
meeting such as the Planning Board members, Planning Board professionals, and all members of
the Applicant’s team); and

WHEREAS, remote public meetings may be held by the Planning Board in a format as
selected by the Planning Board by means including, but not limited to, electronic
communications platforms with video and audio or live streaming via the internet and,
additionally, shall provide a telephonic conference line to allow members of the public to dial in
by telephone to listen and to provide public comment; and

WHEREAS, when the Planning Board holds a remote public meeting, it shall allow
members of the public who identify themselves and their addresses for the record to ask
questions of witnesses and comment on the application/matter as permitted by the Planning
Board Rules during the hearing, by audio or by audio and video if the meeting is being held over
both; and
WHEREAS, members of the public may also submit written questions or comments to the Planning Board through the Planning Board Secretary by (a) e-mail to jtalley@montclairnjusa.org; (b) written letter to Planning Board Secretary, Township of Montclair, 205 Claremont Avenue, Montclair, NJ 07042, both of which, to be read aloud and considered during the meeting in a manner audible to all meeting participants and the public, shall be received no later than 4:00 p.m. on the day of the remote meeting; or (c) via the “Chat” or “Question and Answer” functions of the video platform used during the meeting; and

WHEREAS, any remote public meeting where sworn testimony is being taken shall be broadcast by video as well as audio, and all individuals giving sworn testimony shall appear by video and audio; and

WHEREAS, any presentation or documents that would otherwise be viewed by, or made available to, members of the public physically attending an in-person public meeting shall be made available on the internet website of the Township or made visible during the video broadcast of the remote public meeting; and

WHEREAS, a reasonable time limit uniformly applied by the Planning Board Chair shall be placed on the reading of individual written comments, all of which shall be read from the beginning until the established time limit is reached; and

WHEREAS, in support of, and in respect for, an open, fair and informed decision-making process, the Planning Board recognizes that civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making; and

WHEREAS, in an effort both to preserve the intent of open government and to maintain a positive environment for citizen input and Planning Board decision making, policies and rules shall be established to promote civility and maintain decorum at in-person public meetings and at remote public meetings in accordance with N.J.A.C. 5:39-1.4 (f)-(h); and

WHEREAS, if a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Chair or the Chair’s designee, or in their absence the Secretary, shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in the member of the public being prevented from speaking during the remote public meeting or removed from the remote public meeting; and

WHEREAS, disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behaviors including, but not necessarily limited to, shouting, interruption, obstruction and/or use of profanity; and

WHEREAS, any member of the public who continues disruptive conduct at a remote public meeting after receiving an initial warning, may be muted while other members of the public are allowed to proceed with their questions or comments; and
WHEREAS, if time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make comment and, if the person still remains disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Montclair that the standards and procedures for emergency remote meetings, as set forth in this Resolution are hereby established and adopted; and

BE IT FURTHER RESOLVED that procedures and requirements for public participation are hereby established and adopted in order to safeguard public participation in any in-person or remote public meetings of the Planning Board in the Township of Montclair and shall apply to all members of the public in attendance at any in-person public or remote public meeting before the Planning Board of the Township of Montclair.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board as follows:

1. The foregoing recitals are incorporated herein as if set forth in full.
2. This Resolution shall take effect immediately following the present meeting.

The foregoing Resolution was adopted by the Planning Board of the Township of Montclair at its meeting held on December 7, 2020.

Janice E. Talley, Board Secretary