

# Karp Neu Hanlon<sup>PC</sup>

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DATE: March 13, 2020  
TO: Minturn Mayor and Council  
FROM: Karp Neu Hanlon, P.C.  
RE: Emergency COVID-19 Resolutions

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Attached please find two resolutions, which are intended to put the Town in the best position possible to address COVID-19 on an ongoing basis.

The Emergency Declaration resolution grants the Town Manager the authority to declare a local disaster emergency related to the COVID-19 outbreak. While the manager has this authority, it is limited to seven days without ratification. To ensure continuity of operations, it is advisable to grant the Town Manager this authority at this time. The declaration of a local disaster emergency is an administrative tool to enable the receipt and spending of certain available funds. The resolution also lifts the cap on the Town Manager's spending authority to ensure that emergency response operations can be conducted. Such expenditures will require later Council ratification.

The Emergency Electronic Participation Policy supplements the Municipal Code's existing policies regarding electronic participation. It appears likely that Town business will need to be conducted telephone and video conference for the foreseeable future. As such, it is advisable to adopt policies to permit a quorum to meet via such methods to limit in-person contacts. Furthermore, this policy makes accommodations for quasi-judicial proceedings that require presentation of materials and opportunities for public comment. This policy will only be invoked by the Town Manager's declaration of a local disaster emergency or the Governor's state of emergency, and does not modify the existing code section 2-2-50.

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 12 – SERIES 2020**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN  
OF MINTURN, COLORADO, ADOPTING AN  
ELECTRONIC PARTICIPATION POLICY FOR USE IN  
THE EVENT OF A LOCAL EMERGENCY DECLARATION**

**WHEREAS**, the Town of Minturn (“Minturn” or the “Town”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Minturn Home Rule Charter (the “Charter”); and

**WHEREAS**, Section 2-2-50 of the Minturn Municipal Code provides for electronic participation in Town Council meetings, but does not permit such attendance to constitute a quorum; and

**WHEREAS**, pursuant to Section 24-33.5-709 of the Colorado Revised Statutes, the Town Manager and Town Council have authority to declare a local disaster emergency; and

**WHEREAS**, pursuant to the powers inherent in the office, the Governor of Colorado has authority to declare a state of emergency; and

**WHEREAS**, Town government must continue to operate during a local disaster or emergency, while taking measures to protect the health and welfare of its employees and officials; and

**WHEREAS**, It is the intent of this resolution to supplement Code section 2-2-50 in the event of an emergency declaration; and

**WHEREAS**, Town Council has determined that it is in the best interest of the public health, welfare, and safety of the residents of the Town of Minturn to adopt an Emergency Electronic Participation Policy.

**NOW, THEREFORE, IT IS RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO, THAT:**

**Section 1.** The above recitals are hereby incorporated as findings by the Town Council of the Town of Minturn.

**Section 2.** The Town Council of the Town of Minturn hereby adopts the Emergency Electronic Participation Policy, attached hereto as **Exhibit A**.

**Section 3.** The Electronic Participation Policy adopted herein shall only apply declaration of a local disaster emergency pursuant to Section 24-33.5-709 of the Colorado Revised Statutes, or the declaration of a state of emergency by the Governor of Colorado.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 18<sup>th</sup> day of March, 2020.**

TOWN OF MINTURN, COLORADO

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John Widerman IV, Mayor

ATTEST:

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Jay Brunvand, Town Clerk

**ELECTRONIC PARTICIPATION POLICY  
AT TOWN COUNCIL MEETINGS DURING A LOCAL DISASTER EMERGENCY OR  
STATE OF EMERGENCY**

**I. Purpose.**

The purpose of this Policy is to specify the circumstances and means under which the Town Council shall conduct regular and special meetings by telephone or other electronic means of participation, such as video-conferencing that is clear, uninterrupted and allows two way communication for the participating members ("Electronic Participation"). Electronic Participation has inherent limitations because Electronic Participation effectively precludes a member of the Town Council from contemporaneously observing documentary information presented during meetings; from fully evaluating a speaker's non-verbal language in assessing veracity or credibility; and from observing non-verbal explanations during a speaker's presentation or testimony. The Town Council finds that these limitations, inherent in Electronic Participation, may produce inefficiencies in meetings, increase the expense of meetings, and alter the decision-making process. As such, the Town Council shall only utilize the policies contained herein upon the adoption by the Town Council of a resolution declaring, or the Town Manager declaring, a local disaster emergency pursuant to Section 24-33.5-709, Colorado Revised Statutes, or by the declaration of a State of Emergency by the Governor of Colorado.

**II. Statement of General Policy.**

The Town Council or Planning Commission may conduct a regular or special meeting by electronic means only in accordance with this Policy.

**A. Emergency Situations.**

In the event a quorum is unable to meet at the day, hour, and place fixed by the rules and procedures of the Town Council because meeting in-person is not practical or prudent due to an emergency affecting the Town, meetings may be conducted by telephone, electronically, or by other means of communication so as to provide maximum practical notice. Meetings may be held by telephone, electronically, or by other means of communication if all of the following conditions are met:

1. A local disaster emergency has been declared pursuant to Section 24-33.5-709, Colorado Revised Statutes, or a State of Emergency declared by the Governor; and
2. The Town Manager or the Town Council determines that meeting in person is not practical or prudent, because of matters related to the declaration of local disaster emergency or state of emergency affecting the Town; and
3. All members of the Town Council, and at least one Town staff member can hear one another or otherwise communicate with one another and can

## Exhibit A

hear or read all discussion and testimony in a manner designed to provide maximum notice and participation; and

4. Members of the public can hear the Town Council's proceedings and are afforded opportunities to participate in public comment; and

5. All votes are conducted by roll call; and

6. Minutes of the meeting are taken and promptly recorded, and such records are open to public inspection; and

7. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, the fact that some members of the Town Council may participate by telephone, and the right of the public to monitor the meeting from another location.

### **III. Arranging for Electronic Participation.**

A. The Town Manager shall contact Council members at least twenty-four hours in advance of a regular or schedule meeting to provide notice of a meeting conducted under this policy.

B. The Town shall initiate the Electronic Participation not more than ten (10) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the Town Clerk shall make at least three attempts to re-initiate the connection.

### **IV. Effect of Electronic Participation.**

#### **A. Quasi-Judicial Matters.**

In the event that a pending application is scheduled for a public hearing that is quasi-judicial in nature at a meeting at which this policy is in effect, the Town shall advise the applicant of such circumstances and present the applicant with options for proceeding with the application. The applicant shall authorize the Town, in writing, to proceed with one of the following options.

1. Conduct the public hearing under this policy with accommodations made for electronic public participation; or

2. Suspend any and all review and decisions deadlines until such time that the local disaster emergency or state of emergency is lifted and the Town Council schedules a regular meeting at which a quorum will be physically present.

#### **B. Executive Sessions.**

In the event that the Town Council holds an executive session pursuant to Section 24-6-402, Colorado Revised Statutes and Section 4.10 of the Minturn Home Rule Charter, participants shall be authorized to attend via Electronic Participation. Any executive

## Exhibit A

session conducted under this policy shall be recorded electronically as provided for by statute.

### **V. Limited Applicability of Policy.**

This Policy shall only apply to regular and special meetings (including work sessions) of the Town Council and Planning Commission of the Town of Minturn. For the purposes of the Planning Commission's use of this policy, the word "Council" shall mean "Commission".

### **VI. Reasonable Accommodations.**

The Town shall provide reasonable accommodation and shall waive or modify provisions of this Policy to provide handicapped members of the Town Council and Planning Commission full and equal access to Town Council and Planning Commission meetings.