

Introduced 09.08.2021
Public Hearing 09.20.2021
Council Action 10-4-2021
Executive Action 10-13-2021
Effective Date 12-13-2021

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 15

Bill No. 13-2021

Introduced by the Chairperson at the request of the County Executive

AN ACT confirming and ratifying the authority of boards and commissions to hold their meetings in person, by telephone, video conferencing, or other electronic means, or any combination thereof; and generally relating to board and commission meetings.

Introduced and read first time Sept 8, 2021. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on Sept 20, 2021.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on October 4, 2021 and Passed , Passed with amendments _____, Failed _____
By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5 day of October, 2021 at 1⁰⁰ a.m./p.m.

By order Michelle Harrod
Michelle Harrod, Administrator

Approved/ Vetoed by the County Executive October 13, 2021

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the
2 *Howard County Code is amended as follows:*

3 *By amending:*

4 *Title 2, Subtitle 1 "The Administrative Procedures Act"*

5

6 *Title 6 "County Executive and the Executive Branch"*

7 *Section 6.305 "Meetings to be public"*

8

9 **Title 2. Administrative Procedure.**

10 **Subtitle 1. Administrative Procedures Act.**

11

12 **Section 2.101. Definitions.**

13 Words and phrases used in this subtitle shall have their usual meanings except as
14 specifically defined as follows:

15 (a) *Agency* means a Board, Commission, Department or other unit of County
16 Government which is authorized by law to make rules or adjudicate contested cases.

17 (b) *Contested case* means a proceeding in which the legal rights, duties or privileges of a
18 person are required by law or constitutional right to be determined only after an
19 opportunity for a hearing.

20 (c) *Open meeting* means a meeting of a public body that the general public is entitled to
21 attend pursuant to the Open Meetings Act, subtitle 5, title 10 of the State Government
22 article of the Annotated Code of Maryland, as amended from time to time, AND
23 THE PROVISIONS OF SECTION 2.102 OF THIS SUBTITLE.

24 (d) *Order* means the whole or any part of an Agency's final disposition of a contested
25 case. An order includes licensing, but does not include rule making. An order may be
26 affirmative, negative, injunctive or declaratory in form.

27 (e) *Party* means a person or Agency named or admitted as a party in a contested case, or
28 a person or Agency properly seeking and entitled as of right to be admitted as a party in a
29 contested case. An Agency may admit any person or Agency as a party for limited
30 purposes.

1 (f) *Person* means an individual, partnership, corporation, association, or public or private
2 organization. "Person" does not include an Agency.

3 (g) *Procedural rules* means the rules that an Agency adopts to govern contested cases.

4 (h) *Public body* means a Board, Commission, or other entity of County Government that
5 is a "public body" within the meaning of section 10-502(h) of the Open Meetings Act,
6 subtitle 5, title 10 of the State Government article of the Annotated Code of Maryland, as
7 amended from time to time.

8 (i) *Rule* means a statement, or an amendment or repeal of a statement, of general
9 applicability and future effect that is authorized by law to be adopted by an Agency to
10 implement a law that the Agency administers or to govern the Agency's procedures. *Rule*
11 does not include a statement which does not affect the rights of the public or the
12 procedures available to the public and which is solely concerned with the internal
13 management of the Agency. *Rule* does not include an order or declaratory ruling of an
14 Agency.

15
16 **SECTION 2.102. OPEN MEETINGS.**

17 (A) AN OPEN MEETING MAY BE CONDUCTED IN PERSON, BY TELEPHONE, VIDEO
18 CONFERENCING, OR OTHER ELECTRONIC MEANS, OR ANY COMBINATION THEREOF.

19
20 **Section ~~[[2.102]]~~2.103. - Severability.**

21 If any section, paragraph or provision of this subtitle is held to be invalid or unenforceable for any
22 reason, the invalidity or unenforceability of the section, paragraph or provision shall not affect
23 any of the remaining provision of the subtitle.

24
25 **Title 6. County Executive and the Executive Branch.**

26 **Subtitle 3. Boards and Commissions.**

27
28 **Section 6.305. - Meetings to be public.**

29 (a) *Open Meetings*. All meetings of Howard County Boards and Commissions shall be public
30 meetings and open to the public at all times, except under circumstances in which a closed
31 meeting is permitted by law. Agendas shall be made available at least three days prior to the
32 meeting in an electronic medium readily available to the public. Minutes of open meetings shall

1 be made available as soon as practicable in at least one electronic medium readily available to the
2 public.

3 (b) *Prohibition for Meeting on Certain Days.* All Howard County Boards and Commissions shall
4 be prohibited from holding meetings which include an opportunity for public testimony on any
5 day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed.

6 (c) *METHOD OF CONDUCTING.* AN OPEN MEETING MAY BE CONDUCTED IN PERSON, BY
7 TELEPHONE, VIDEO CONFERENCING, OR OTHER ELECTRONIC MEANS, OR ANY COMBINATION
8 THEREOF.

9
10 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that***
11 ***this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on October 13, 2021.

Michelle Harrod
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

Sayers, Margery

From: joel hurewitz <joelhurewitz@gmail.com>
Sent: Monday, October 4, 2021 9:21 AM
To: CouncilMail
Subject: Re: CB63-2021- Favorable with Amendments

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilmembers,

I unfortunately need to supplement my prior email for CB63-2021 regarding the public's virtual participation in meetings. Last November, I had to go to great lengths to get the Webex link for a Board of Health meeting. The staff would arrogantly only provide a phone call-in number for the meeting. This meant that the public would not have an opportunity to see any documents shared during the meeting.

Hopkins, Kandyce <kahopkins@howardcountymd.gov>

Fri, Nov 20, 2020, 12:40

The standard the Board must uphold is to offer the public an opportunity to observe and an agenda, which is attached to this email. The Webex link for the special meeting was extended as a courtesy. Moving forward, we will be providing dial-in information for the conference line and an agenda, allowing the public access to the required means of observation. Have a great weekend!

Kandyce Hopkins

Management Associate

Executive Assistant to the Health Officer

Howard County Health Department

8930 Stanford Blvd.

Columbia, MD 21045

410-313-6363

kahopkins@howardcountymd.gov

Now the same situation is occurring for next week's meeting of the Citizens' Election Fund Commission. The agenda states the meeting will be conducted via Webex:

Howard County Citizen's Election Fund Commission: The Howard County Citizens' Election Fund Commission will consider amendments to its Rules of Procedure at its October 12, 2021 public meeting. The Commission will consider amendment to change the process to amend the Frequently Asked Questions and Summary Guide. The proposed amendments will be available on the Commission's website 30 days before its October 12th meeting when they may be proposed for adoption. The meeting will be conducted as a virtual web meeting/conference call. Instructions for attending are on the Commission's webpage. <https://www.howardcountymd.gov/Departments/Finance/Citizens-Election-Fund>

<https://www.howardcountymd.gov/resource/meeting-agenda-10-12-2021> However, the public is being invited to participate only via phone and will thus not see any documents that might be shared.

Next Schedule Meeting

Our next meeting has been rescheduled from Tuesday, September 7th to **Tuesday October 12th**. The meeting will be conducted as a virtual Webex meeting/conference call. To join, please call 1-650-479-3207. The meeting number (access code) is 172-591-1950.

<https://www.howardcountymd.gov/boards-commissions/citizens-election-fund-commission>

Also note that there is no time specified on the website for this meeting on October 12th.

Please make appropriate amendments to CB63 to address these issues.

Sincerely,

Joel Hurewitz

On Wed, Sep 29, 2021 at 12:44 PM joel hurewitz <joelhurewitz@gmail.com> wrote:

Dear Council,

CB63-2021 by its terms allows an open meeting to be conducted in person by telephone, video conferencing, or other electronic means, or **any combination thereof**. One possible combination would be where the body meets in person and the public has to participate remotely. While apparently this is authorized by the Open Meetings Act, I believe that if a quorum of a body is meeting in person, then the public should be invited to that location. I worry that some of the County boards and commissions might interpret the provision to allow such bifurcated hybrid meetings. This would be particularly problematic in contested cases where some of the parties are allowed to attend in person while others are not given the same opportunity.

In addition, related to the concerns expressed by Councilmember Jung during the public hearing, any hybrid meeting should be clearly posted with the physical location. I note the recent September 9, 2021 meeting of the Zoning Board. It

was not clear at the time or even when now reviewing the postings that this was a hybrid meeting. The agenda does not state the physical location for the meeting:



**Howard County Council
Zoning Board of Howard County**

George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043-4392

A G E N D A

Thursday September 9, 2021
10:00 am
Deliberation Day 1
ZB 1118M Erickson

BOARD MEMBERS

Christina Rigby, Chairperson
Deb Jung, Vice Chairperson
Opal Jones
Liz Walsh
David Yungman

Ashley Agullar
Administrator

- I. Update/Discuss ZB 1119 Hickory Ridge Village Center Mediation

Nor did the calendar page make it clear the location of the meeting. While it says "hybrid," it also says that the location is "virtual." There seems to be no clear announcement that the Board was meeting in the Banneker Room.

SUMMARY:

Zoning Board

Date: 09/09/2021 10:00 AM

DETAILS:

Category: Zoning Board

Location: Virtual Hearing

Description: **ZB 1118M - Erickson at Limestone Valley**

AGENDA

Zoning Board Deliberations

AM work session: 10:00 am – Noon

Lunch: Noon – 1:00 pm

PM work session: 1:00 pm – 3:00 pm

Hybrid WebEx Hearing - Register [Here](#)

Call-in toll number (US/Canada)

1-650-479-3207

Access code: 2314 852 5427

Improvingly, the September 29, 2021 Zoning Board calendar page does say "Banneker Room and WebEx."

Furthermore, "other electronic means" could be read to include texting, instant messaging, posting on Facebook, or by email. See 14 OMCB 33 (2020) (email exchanges of the HCPSS Board).

Lastly, because the bill only applies to open meetings, it is unclear what means are permissible for closed meetings.

I hope that the bill can be amended to clarify these issues.

Sincerely,

Joel Hurewitz