

# COVID-19 and West Virginia's Open Governmental Proceedings Act: How Municipalities are Continuing with Business as Usual

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While most of the country is slowly adapting to the “new normal,” many West Virginia municipalities and other public bodies are beginning to ask how they continue business as usual when public meetings can no longer safely be held in-person. The answer lies within West Virginia's Open Governmental Proceedings Act and paves the way for these public bodies to continue to safely involve the public without violating social distancing requirements and State gathering restrictions.

The Open Governmental Proceedings Act, W. Va. Code § 6-9A-1 *et seq.*, specifically provides that: “Except as expressly and specifically otherwise provided by law, whether heretofore or hereinafter enacted, and except as provided in section four of this article, all meetings of any governing body shall be open to the public.” W. Va. Code § 6-9A-3(a). While many municipalities comply with this requirement by conducting monthly public meetings of their stormwater, sewer, or other local managing boards in-person, COVID-19 and the need for social distancing has changed the way we operate, and has essentially put a hold on these essential meetings, leaving local officials scrambling for a method to comply with West Virginia's Sunshine Law.

While standard operating procedure has been to hold in-person meetings, the Open Governmental Proceedings Act is not that limiting, as the Act defines “meeting” as: “The convening of a governing body of a public agency for which a quorum is required in order to make a decision or to deliberate toward a decision of any matter which results in an official action. **Meetings may be conducted by teleconference or other electronic means.**” W. Va. Code § 6-9A-2(5) (emphasis added). This interpretation is further supported by recent [Guidance](#) from the West Virginia Ethics Commission regarding COVID-19 and compliance with the Act. Thus, our new normal can easily be adapted to time-tested public meetings either through teleconferences, Zoom meetings, or other web-conferencing platforms.

While the Act provides a path forward for municipalities looking to continue business as usual, these public bodies will still need to comply with the Act's notice requirements, especially since many municipalities will be straying from their standard conduct. These public bodies should ensure that their meeting notices clearly delineate the date, time, purpose, and location of the meeting, and

should provide specific instructions as to how the public can access these meetings remotely. While there are many options for conducting these meetings remotely, officials will need to ensure that, at a minimum, the public has audio access to the meeting such that the public can hear the proceedings and officials can hear the public. Since there will be no in-person meeting, officials should ensure remote access to a meeting agenda, either through publication on a website, making copies available for remote, socially distant, pickup, or through other accessible means. Finally, public officials may consider including a copy of [Governor Justice's March 16, 2020 State of Emergency Declaration](#) declaring the need to take certain actions to protect West Virginia citizens during this global pandemic, and may consider inclusion of this order and reference for the need for a remote meeting within the written minutes of the public meeting.

While the challenges of Stay Home orders and other restrictions require us to adapt, adapting does not mean we have to completely alter the course of business. West Virginia's Open Governmental Proceedings Act provides a path forward for governing bodies to continue to conduct essential business.

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National Law Review, Volume X, Number 122

Source URL: <https://natlawreview.com/article/covid-19-and-west-virginia-s-open-governmental-proceedings-act-how-municipalities>