

1 Introduced by Council President Wilson and Co-Sponsored by Council
2 Member Ferraro and amended on the Floor of Council:

3
4 **ORDINANCE 2020-200-E**

5 AN ORDINANCE APPROVING AND AUTHORIZING
6 TEMPORARY POLICY AND PROCEDURES FOR "OPEN
7 MEETINGS" AND PUBLIC HEARINGS DURING THE
8 COVID-19 STATE OF EMERGENCY; PLACING SUCH
9 POLICY ON FILE WITH LEGISLATIVE SERVICES AND
10 ON THE COJ WEBSITE; PROVIDING FOR WAIVER OF
11 COUNCIL RULE 4.605 (PROXY VOTING PROHIBITED),
12 PART 6 (VOTING), CHAPTER 4 (PROCEDURES),
13 COUNCIL RULES, AS TO THE REQUIREMENT THAT NO
14 PERSON OTHER THAN A COUNCIL MEMBER MAY RECORD
15 HIS OR HER VOTE; PROVIDING FOR WAIVER OF
16 COUNCIL RULE 4.1101 (APPEARANCE BEFORE
17 COMMITTEE), PART 11 (APPOINTMENTS AND
18 CONFIRMATIONS), CHAPTER 4 (PROCEDURES),
19 COUNCIL RULES, AS TO THE REQUIREMENT THAT EACH
20 APPOINTEE, PRIOR TO CONFIRMATION, SHALL BE
21 REQUIRED TO APPEAR BEFORE THE COMMITTEE TO
22 WHICH CONSIDERATION OF THE APPOINTMENT HAS
23 BEEN REFERRED; WAIVING ANY OTHER COUNCIL RULE
24 WHICH MAY BE IN CONFLICT WITH THE POLICY AND
25 PROCEDURES FOR THE LIMITED DURATION OF THE
26 EMERGENCY; REQUESTING EMERGENCY PASSAGE UPON
27 INTRODUCTION; PROVIDING AN EFFECTIVE DATE.

28
29 **WHEREAS**, on March 1, 2020, Governor DeSantis issued Executive
30 Order 20-51 directing the Florida Department of Health to issue a
31 Public Health Emergency as a result of COVID-19; and

1 **WHEREAS**, on March 9, 2020, Governor DeSantis issued Executive
2 Order 20-52 declaring a state of emergency for the entire State of
3 Florida as a result of COVID-19; and

4 **WHEREAS**, on March 16, 2020, President Donald J. Trump and the
5 Centers for Disease Control and Prevention ("CDC") issued the "15
6 Days to Slow the Spread" guidance advising individuals to adopt far-
7 reaching social distancing measures, such as working from home and
8 avoiding gatherings of more than 10 people; and

9 **WHEREAS**, on March 13, 2020, Mayor Lenny Curry declared a state
10 of emergency for the City of Jacksonville related to the COVID-19
11 virus; and

12 **WHEREAS**, on March 19, 2020, Attorney General Ashley Moody
13 issued, AGO 2020-03, an advisory legal opinion to the Governor related
14 to the use of technology to establish quorum as a result of the COVID-
15 19 and the Governor's declaration of a statewide emergency, wherein
16 she opined that that a local government body may only conduct meetings
17 by teleconferencing or other technological means and establish quorum
18 by such means if either a statute permits it or if the in person
19 requirement for quorum is lawfully suspended during the state of
20 emergency; and

21 **WHEREAS**, on March 20, 2020, Governor DeSantis issued Executive
22 Order 20-69 suspending the quorum requirements for local government
23 bodies to meet at a specific public place and to allow for quorum to
24 be established through virtual technology to reduce the spread of
25 COVID-19; and

26 **WHEREAS**, there have been approximately 296 Duval County
27 residents and 10 non-residents who have tested positive in Duval
28 County as of noon on April 3, 2020, and 9 deaths reported as due to
29 the COVID-19 virus, and the Mayor has encouraged all City residents
30 to remain at home and work remotely where possible in Emergency
31 Executive Order No. 2020-03; and

1 **WHEREAS**, the CDC continues to provide guidance to reduce
2 introduction of the COVID-19 virus into new communities and to slow
3 the spread of infection in communities already infected by the virus.
4 Because the virus is spread through close social contact, including
5 among individuals who are currently asymptomatic, federal, state and
6 City government officials continue to promote social distancing and
7 has strongly encouraged that members of the local community to stay
8 at home; and

9 **WHEREAS**, on March 29, 2020, President Trump announced that he
10 was extending the CDC stay-at-home guidelines until April 30, 2020;
11 and

12 **WHEREAS**, on April 1, 2020, Governor DeSantis issued Executive
13 Order 20-91 which encourages citizens and visitors of the State to
14 stay safe at home and not to partake in any nonessential activities;
15 and

16 **WHEREAS**, also on April 1, 2020, Mayor Curry issued a "Safer at
17 Home" Executive Order, effective April 3, 2020, which mandates that
18 citizens remain at home except for critical and essential needs; and

19 **WHEREAS**, in recognition of the extraordinary circumstances
20 brought on by the national outbreak of COVID-19 and to ensure the
21 public health, safety and welfare of the community, which in this
22 case requires citizens to modify their business, social, educational
23 and personal practices and in person social interactions to reduce
24 the alarming spread of COVID-19, the Council has determined that it
25 is in the best interest of the public health, safety and welfare to
26 adopt an emergency policy and procedures for conducting public open
27 meetings and public hearings through virtual technology; now
28 therefore

29 **BE IT ORDAINED** by the Council of the City of Jacksonville:

30 **Section 1. Approving and Authorizing a Temporary Policy and**
31 **Procedures for Open Meetings and Public Hearings during the COVID-19**

1 **State of Emergency.** The Council hereby approves and authorizes a
2 temporary policy and procedures regarding public attendance and
3 participation in public "open meetings" during the COVID-19 state of
4 emergency. A copy of the City of Jacksonville City Council Temporary
5 Policy and Procedures for "Open Meetings" and public participation
6 during the COVID-19 state of emergency is attached hereto as **Revised**
7 **Exhibit 1**, labeled as "Revised Exhibit 1, Revised Policy, April 6,
8 2020 - Floor."

9 **Section 2. Location of the Policy.** The Chief of
10 Legislative Services shall retain a copy of the policy on file. A
11 copy of the policy shall also be placed on the City Council page of
12 the City website for the duration of the emergency.

13 **Section 3. Waiver of Council Rule 4.605 (Proxy Voting**
14 **Prohibited), Council Rules.** Council Rule 4.605 (Proxy Voting
15 Prohibited), Part 6 (Voting), Chapter 4 (Procedures), *Council Rules*,
16 is hereby waived as to the requirement that no person other than the
17 Council Member may record his or her vote, so that upon roll call
18 vote of the Council Legislative Services may record the vote of each
19 Council Member as if he or she had voted in person.

20 **Section 4. Waiver of Council Rule 4.1101 (Appearance Before**
21 **Committee), Council Rules.** Council Rule 4.1101 (Appearance Before
22 Committee), Part 11 (Appointments and Confirmations), Chapter 4
23 (Procedures), *Council Rules*, is hereby waived as to the requirement
24 that each appointee, prior to confirmation, shall be required to
25 appear before the committee to which consideration of the appointment
26 has been referred, and there may be interviewed by any member of the
27 committee or any Council Member. To the extent that prospective board
28 members are not able to appear, a waiver of Council Rule 4.1101 is
29 needed so that appointees who have not appeared at the Rules Committee
30 may be discharged and voted on by Council.

31 **Section 5. Waiver of Council Rules to the extent of**

1 **conflict with Emergency Policy and Procedures for the duration of the**
2 **State of Emergency.** To the extent that compliance with other rules
3 within the Council Rules would conflict with the Emergency Policy and
4 Procedures adopted herein, it is the intent of the Council to waive
5 such rules in order to effectuate the policy and procedures adopted
6 herein and for the limited timeframe in which the policy and
7 procedures are in effect. Further, it is the intent of Council that
8 the emergency Policy and Procedures shall cease upon the expiration
9 of the Governor's Executive Order 20-69. Upon the expiration of the
10 Governor's Executive Order 20-69, restoration of the Council Rules
11 and the prior procedures for public meetings and public participation
12 shall occur. Provided however, these procedures may be extended
13 automatically upon extension of the Governor's Executive Order 20-
14 69.

15 **Section 6. Requesting emergency passage upon introduction**
16 **pursuant to Council Rule 4.901 Emergency.** Emergency passage upon
17 introduction of this legislation is requested. The nature of the
18 emergency is that the unprecedented nature of the public health
19 emergency caused by COVID-19 requires that the Council take action
20 immediately to adopt an emergency policy and procedures for conducting
21 public open meetings through virtual technology.

22 **Section 7. Effective Date.** This ordinance shall become
23 effective upon signature by the Mayor or upon becoming effective
24 without the Mayor's signature.

25
26 Form Approved:

27 
28

29 Office of General Counsel

30 Legislation prepared by: Paige H. Johnston

31 GC-#1360627-v1-2020-200-E.docx

2020 APR -6 PM 2:17

CITY OF JACKSONVILLE

CITY COUNCIL

POLICY AND PROCEDURES FOR CONDUCTING OPEN PUBLIC MEETINGS AND PUBLIC PARTICIPATION BY MEANS OF COMMUNICATIONS MEDIA TECHNOLOGY ("CMT")

The intent of this policy is to provide the public with openness and transparency in government decision-making but also to comport with the executive orders and other guidance provided by the federal, state and City government, as well as the CDC and other healthcare professionals, to reduce large-scale exposure which could result when high numbers of individuals are gathered in one open location for a public meeting.

In furtherance of this goal, the Council adopts the following Policy and Procedures regarding public attendance and participation in public "open meetings" during the COVID-19 state of emergency (herein referred to as the "Emergency"), or other emergencies that may require meeting by communications media technology (herein "CMT") allowed by law.

Notices for Public Meetings:

- For any public meeting, hearing or workshop that is conducted by means of CMT (which includes but is not limited to telephone, videoconferencing or other web-based or technology platform), or if attendance may be provided by such means, the notice shall so state.
- The notice for public meetings, hearings and workshops utilizing CMT shall include the date, time and general substance of such meeting, as well as the internet website address or link from which the meeting will be broadcast and directions about how to access such website. The City may choose to provide facilities from which the meetings can be observed online; however, it is not required to do so. *Please note at this time that City offices and buildings are closed pursuant to Executive Order by the Mayor and the Council intends to comply with all recommendations of the Mayor concerning public building operations.*

Attendance by CMT of Council and Public at Meetings

- If members of the Council are not physically gathered in one location, i.e., Council Chambers, and the meeting is conducted by CMT, then members of the public must be able to join in the electronic conferencing or telephone in order to listen to or observe the meeting.
- If members of the Council are physically gathered for a meeting but cannot allow all members of the public to be present due to emergency limitations (including state and local states of emergency or shelter in place limitations or health distance restrictions), then the Council must take steps to allow members of the public to listen to or observe the meeting by telephone, website, videoconferencing, television broadcast or similar method. *Please note at this time that City offices and buildings are closed pursuant to Executive Order by the Mayor and the Council intends to comply with all recommendations of the Mayor concerning public building operations.*
- There must be a method for distributing or publishing any agenda or other written materials that ordinarily could be picked up in person by members of the public attending the meeting. Any materials that are planned to be discussed at the meeting can be posted to the Council's webpage in advance of the meeting such as agendas, agenda packets or presentation materials. The

procedures for obtaining such materials should be referenced in the notice for the meeting or on the Council's webpage prior to the beginning of the meeting.

Procedures for Action at Public Meetings

- When the public is attending a public meeting by CMT, the Council, through the Council President and Floor Leader, must take steps to help the public understand the proceedings. For example, each speaker in the meeting should identify himself or herself by name before speaking so that remote listeners or observers know who is speaking. Likewise, the bill number and each motion on a particular bill (motion to amend, withdraw, etc.) should be clearly stated prior to each vote on a motion and the vote tally on the final vote announced after the vote. Any documents that are discussed during the meeting should also be identified for those listening or observing.
- Unanimous consent for amendments, *Roberts Rules of Order*. In cases where there appears no opposition to a matter, time can be saved by the procedure of "unanimous consent." Unanimous consent can be used to adopt a measure without a motion or second, but by consent, as long as there is no objection from a Council Member. If any Council Member objects, the traditional process of voting will occur. Any Council Member wanting to amend the amendment, or have further changes, can object. The Council Committees and Council Meetings will use this *Robert Rules* procedure during the Emergency for approving amendments and substitutes in order to avoid a roll call vote on each amendment or substitute. Should any Council Member object then the amendment will be voted upon by roll call vote, prior to proceeding to the bill as amended.

Public Hearings and Public Participation

- Public Hearings Continued; Public Hearing Procedures. All public hearings (both quasi-judicial and non quasi-judicial) scheduled through April 14, 2020 before the City Council or the Committees are continued until they are closed by the City Council or applicable Committee. During the term of the Emergency, the Council President or a Committee Chair may limit public hearings that are required to remain open for items that are being deferred to a later date, so long as the public hearing is held immediately prior to City Council or Committee final action. Evidence and testimony may be submitted any time through the public participation/public hearing email address provided for each Council cycle.
- Findings regarding Quasi-Judicial hearings. Applicants may request deferral of quasi-judicial matters until the conclusion of the Emergency. If an applicant chooses to proceed with a quasi-judicial matter using the emergency procedures provided herein, the applicant acknowledges that these procedures may be subject to legal challenge by an affected party. Such acknowledgment shall appear on the face of the Land Use and Zoning Committee Agenda throughout the term of the Emergency. Council Members may request deferrals of specific applications due to the emergency.
- Pursuant to Council Rule 2.201, Committee Chairs are authorized to schedule separate CMT meetings for any items on their agendas, as often as the Chair, at his or her discretion, desires. Notices for such special meetings shall comply with the language herein regarding notices.
- For matters which have state-mandated public hearings pursuant to Chapter 166, Florida Statutes, and the Jacksonville Ordinance Code, including quasi-judicial matters and those items which fall under the public participation requirements of Section 286.0114, Florida Statutes, the Council must allow for the public to provide their comments by participation in the CMT meeting or by electronic mail, written comment, or other stated method, as applicable. Instructions for the public as to the methods of communication should be provided in the notice. These communications from the

public shall be read into the record (up to the 3 minute time limit) prior the Council taking action on the item provided that the public statement must be sent to a proscribed address within the time permitted (for instance, the first email address created for comments is ccmeeting04142020@coj.net and others email addresses will be created using future Council meeting dates). For statements sent for a regular noticed Council meeting scheduled for 5:00 p.m. or later, the statement must be received by 12:00 noon the day of the Council meeting. For special Council or Council committee meetings set for times prior to 5:00 p.m., the statement must be received by 2:00 p.m. the prior business day. So for example, if individuals want to submit comments to committee meetings, they would use the same email address for Council meetings and submit their comments for Monday committee meetings by 2:00 p.m. the Friday prior to committee meeting occurring on Monday or for Tuesday committee meetings, 2:00 p.m. the Monday prior to the Tuesday committee meetings.

- All evidence, testimony and argument presented to the Council shall be afforded equal consideration, regardless of the method of communication.
- Since other public comment is not statutorily required, the Council will provide a method for public comment during the COVID-19 state of emergency but it will not be live at the Council meeting. However, the ability for alternate means of the public to communicate with elected officials shall be provided.

General Provisions

- As always, pursuant to the American with Disabilities Act, persons with disabilities can receive reasonable accommodations by contacting the Disabled Services Division in advance of the meeting to seek assistance.
- There must be no cost for the public to access the meeting.
- The audio or video recording of the meeting shall be posted to the Council's webpage so that members of the public who could not participate at the time of the actual meeting can later review what occurred.
- Streaming of Council meetings is encouraged but not required.

ORDINANCE 2020-200-E

CERTIFICATE OF AUTHENTICATION

DECLARED AN EMERGENCY MEASURE AND

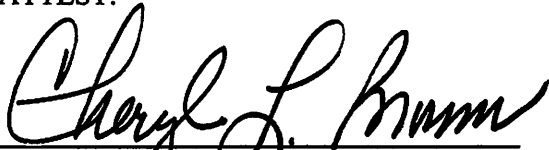
ENACTED BY THE COUNCIL

April 6, 2020



SCOTT WILSON
COUNCIL PRESIDENT

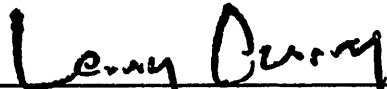
ATTEST:



DR. CHERYL L. BROWN
COUNCIL SECRETARY

APPROVED: _____

APR 07 2020



LENNY CURRY, MAYOR

