

RESOLUTION NO. 2020-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA ADOPTING, EMERGENCY MEETING PROCEDURES PURSUANT TO EXECUTIVE ORDER 20-69 FOR THE DECLARED STATE OF EMERGENCY IN RESPONSE TO COVID-19.

WHEREAS, the City Charter provides for regular meetings, as well as special or emergency meetings of the City Commission; and

WHEREAS, Resolution 2019-21 was adopted by the City Commission on August 12, 2019 providing for rules, procedures and policies related to the conduct of the City Commission meetings; and

WHEREAS, Resolution 2019-21 provided for emergency meetings to comply with the requirements of federal, state, and local law; and

WHEREAS, Sec. 4.10 of the City Charter provides that the city manager shall take all reasonably necessary administrative action to preserve life, property, and the public welfare pursuant to a declared federal, state, or local state of emergency; and

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency as a result of COVID-19; and, on March 9, 2020, Governor DeSantis issued Executive Order 20-52 (EO 20-52), declaring a State of Emergency as a result of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the spread of COVID-19 to be a global pandemic; and, on March 13, 2020, President Trump declared a national emergency concerning COVID-19; and

WHEREAS, in response to concerns raised by local government bodies, Governor DeSantis issued Executive Order Number 20-69 (EO 20-69), which suspended any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place; and

WHEREAS, EO 20-69 allows a local government to utilize communications media technology (CMT) as provided in Section 120.54(5)(b)2, Florida Statutes.

WHEREAS, the City Commission finds that adoption of the following rules and procedures will further the public health, safety and welfare, as well as, the good governance of the City.

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA:

Section 1. The Communications Media Technology (CMT) Quasi-Judicial, Legislative, and Administrative Hearing Procedures are hereby adopted and incorporated herein as Exhibit "A".

Section 2. The Acknowledgement of Waiver of Rights form is hereby adopted and incorporated herein as Exhibit "B".

Section 3. Noticing of emergency meetings shall comply with the requirements of City Charter Section 5.04, City Ordinance 2019-21, and EO 20-69 for emergency meetings utilizing communications media technology.

Section 4. The Order of Business will be determined by the City Manager for those matters related to the public health, safety and welfare under the existing State of Emergency.

Section 5. The City Manager may amend or modify these procedures as may be necessary under a then existing state of emergency pursuant to the plenary authority granted by Resolution 2020-10 adopted March 9, 2020.

Section 6. All other Rules of Decorum shall apply to the extent they do not conflict or are not applicable.

ADOPTED in Emergency Session of the City Commission of the City of St. Augustine, Florida, this ____ day of _____, 2020.

ATTEST

Tracy W. Upchurch, Mayor-Commissioner

Darlene Galambos, City Clerk
(SEAL)

EXHIBIT "A"

COMMUNICATIONS MEDIA TECHNOLOGY (CMT) QUASI-JUDICIAL, LEGISLATIVE, AND ADMINISTRATIVE HEARING PROCEDURES

1. Communications Media Technology (CMT) shall mean any alternative forms of audio, video, electronic, or digital communication transmitted or hosted via telecommunications or computer web-based platform services.
2. Implementation of these CMT procedures shall only be utilized during the pendency of a declared State of Emergency by the Governor's office. The Executive Order of the Governor must allow for suspension of any Florida Statute requiring a quorum to be physically present.
3. These CMT Procedures will be available for meetings of the Planning and Zoning Board (PZB), the Historic Architectural Review Board (HARB), the Code Enforcement and Adjustment and Appeal Board (CEAAB), the City Commission, and the City's Retirement Pension Boards.
4. All Applicants have the option of deferring their case to be heard at a future date under established non-emergency hearing procedures.
5. Any Applicant choosing to have their case heard under these CMT procedures must complete the Acknowledgment and Waiver form provided. This form shall be completed by the Applicant or Applicant's Agent/Legal Counsel AND the property owner, if different. The form must be sworn to, or affirmed, and notarized.
6. Noticing provisions are not suspended. Noticing will be as required by the City Code and Florida Statutes. Noticing will include information on how the public or Applicants may participate by CMT.
7. Agenda packets shall be available online.
8. The public meeting room will be open for attendance consistent with public health, and life safety requirements, as those are promulgated, including any mandated capacity and distancing requirements. Attendance will be prioritized as follows:
 - a. Board/Commission Members
 - b. City Attorney/Assistant City Attorney
 - c. City Manager/Staff Presenters
 - d. City Clerk/Recording Secretary
 - e. Applicant and/or Applicant's Agent/Legal Counsel
 - f. Witnesses for Applicant
 - g. Public Participants
9. Board/Commission Members may attend physically or by CMT means reasonably available under the emergency circumstance.
10. Applicants and/or Applicants' Agent and witnesses may attend physically or by CMT. All testimony will be sworn, except for Applicant's legal counsel, consistent with Florida Bar rules.
11. Presentation materials must be provided to the City Clerk's office no later than five (5) business days prior to the meeting to allow for their display during the Applicant's case.
12. Public comment and participation will be conducted, and public commenters may be sworn, or may make unsworn comment consistent with Florida law. Members of the public physically present in chambers may make public comment consistent with adopted administrative rules.

Members of the public who wish to participate utilizing CMT will be requested to dial in to the announced phone bank number only when prompted for the specific item next on the agenda. The callers will be placed on hold and queued for each agenda item public comment period. In the alternative, members of the public may provide written comment to the City Clerk prior to the hearing, via drop box, U.S. Mail, or email. The City Clerk will read any received written comments into the record. All public comment will be limited to three (3) minutes. The City Clerk will receive and preserve all written comment consistent with Florida Public Records law but will only read into the record the equivalent of three (3) minutes or 400 words.

13. All other Rules of Decorum shall apply to the extent they do not conflict or are not applicable. The meeting moderator will monitor adherence to the Rules of Decorum and may mute any persons determined to be in violation.

14. Applicants and/or Applicants' Agent/Legal Counsel may rebut public comments through the Chairperson.

Filed in the office of the City Clerk, of the City of St. Augustine, this ____ day of April, 2020.

John P. Regan, City Manager

EXHIBIT "B"

ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

I, the undersigned Applicant or Agent, and Property Owner, hereby acknowledge and agree that:

- Applicant and/or Property Owner has the option of deferring their case to be heard at a future date under established non-emergency hearing procedures.
- Applicant and/or Property Owner knowingly and willingly chooses to proceed to hearing under the Communications Media Technology (CMT) Quasi-Judicial, Legislative, and Administrative Hearing Procedures.
- CMT procedures are held only during a declared State of Emergency by the Governor. Such procedures may or may not comply with Florida Statutes or Case Law governing Quasi-Judicial, Legislative or Administrative Hearings.
- Applicant and/or Property Owner knowingly waives the right of cross-examination of witness or commenters choosing to participate in the hearing utilizing CMT.
- Decisions and Orders of any board or commission may be subject to challenge by private parties, government agencies, and affected or aggrieved persons. Further, such Orders or Decisions are subject to be overturned by a court of competent jurisdiction. Applicant and/or Property Owner agree to indemnify and hold harmless the City of St. Augustine, its boards and commission, staff, and appointed and elected officials, for any claims arising out of Applicant and/or Property Owner's decision to proceed to hearing utilizing CMT procedures. Applicant and/or Property Owner agree to pay all attorneys fees and costs incurred by the City in defending Decisions or Orders utilizing CMT procedures related to their hearing.
- Applicant and/or Property Owner fully understand the risks and costs of litigation and have independently assessed these risks and costs and choose to proceed with hearing of the application utilizing CMT procedures.

Applicant and/or Property Owner further acknowledges that he/she has had an opportunity to consult with and be represented by counsel of their choosing and is advised to do so. Applicant and/or Property Owner is fully aware of procedures and rights waived above. Applicant and/or Property Owner freely, without duress or coercion, and based on Applicant and/or Property Owners own judgment wish to proceed with hearing of their application utilizing CMT hearing procedures.

PROPERTY OWNER

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY that on this day, personally appeared before me, by means of physical presence or online notarization, _____, who is personally known to me or who has produced _____ as identification, who is the person described in and who executed the foregoing instrument and who acknowledged before me that he/she executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this _____ day of _____, 2020.

Notary Public, State of Florida

APPLICANT OR APPLICANT'S AGENT

STATE OF FLORIDA
COUNTY OF _____

I HEREBY CERTIFY that on this day, personally appeared before me, by means of [] physical presence or [] online notarization, _____, who is personally known to me or who has produced _____ as identification, who is the person described in and who executed the foregoing instrument and who acknowledged before me that he/she executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this _____ day of _____, 2020.

Notary Public, State of Florida