

**RESOLUTION NO. 2108-2022**

**A RESOLUTION OF THE CITY OF JACKSONVILLE BEACH,  
FLORIDA, ADOPTING THE REMOTE PARTICIPATION POLICY;  
PROVIDING FOR ADOPTION OF RECITALS, REPEAL OF  
PRIOR INCONSISTENT RESOLUTIONS AND COUNCIL  
DECISIONS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Jacksonville Beach (“City Council”) desires to create rules of procedure for its members to participate and vote in meetings of the City Council from a remote location; and

**WHEREAS**, there is no Florida statute prohibiting a member of a public body from participating and voting in an open meeting from a remote location, and through the use of communication media technology (“CMT”); and

**WHEREAS**, pursuant to Sec. 2(b), Art. III, of the Florida Constitution and the Florida Municipal Home Rule Powers Act, Sec. 166.021 *et seq.*, F.S., a Florida municipality is authorized to exercise any power and take any action, it deems desirable or necessary for the efficient performance and rendering of municipal services and governmental functions, if such is not prohibited or preempted by the state law; and

**WHEREAS**, because there is no case law directly on subject, Florida Attorneys General have been called upon to issue advisory opinions related to the subject in order to provide guidance; and, specifically, in Attorney General Opinion #2003-41 the Attorney General opined that where a rule or statute contemplates that a meeting will be held in a public place with the members physically present, the participation of an absent member in the meeting by telephone conference should be permitted under extraordinary circumstances and as long as a quorum of board members is physically present at the public meeting place; and

**WHEREAS**, AGO #2003-41 also provided that it is in the discretion of a board to determine what circumstance constitutes an extraordinary circumstance; and

**WHEREAS**, upon analysis of the law and such legal opinions finding that such is permitted under Florida law, the City Council also concludes that its members have the right to use CMT to attend, participate, and vote in at public board meetings from a remote location (without regard to whether an executive order has been issued or state emergency declared) provided the following minimum conditions are met: (1) a quorum of its members is physically present at the time and place of the open meeting; (2) that the meeting place is reasonably open to the public; (3) that the remotely-located member’s absence is based on one or more of the conditions approved herein by the City Council; (4) that adequate CMT is available to the “remotely-located” member to ensure that the remotely-located member’s voice can be heard by the members of the public and City Council who are physically present in the public meeting place; and (5) such CMT participation by the remotely-located member is not otherwise prohibited by state law; and

**WHEREAS,** the City of Jacksonville Beach does not currently have any Charter or Code provisions governing or otherwise related to this subject; and

**WHEREAS,** the City Council has determined that establishing conditions for which automatic approval is granted for a City Council member's participation by CMT is in the best interest of the orderly and efficient transaction of City business, as well as the health, safety, and welfare of the City residents, City Council, City staff, and the members of the public attending Council meetings.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Jacksonville Beach, Florida as follows:

**SECTION 1.** The foregoing recitals are deemed true and material parts of this resolution and are fully incorporated herein by reference.

**SECTION 2.** A member of the City Council of Jacksonville Beach may be granted permission to attend, participate, and vote on any matter coming before the City Council in such meeting, by and through Communications Media Technology ("CMT"), if the following conditions exist:

1. A quorum of the membership is physically present in the open public meeting place;
2. The meeting has been properly noticed;
3. The City Council member participating and from a remote location through CMT has provided advance notice to the City Manager of their need to participate remotely;
4. Members of the public are able to physically attend the open meeting or through CMT.

**SECTION 3.** Any City Council member seeking such approval shall also, prior to the meeting, notify the Mayor that he or she is unable to attend the meeting due to the occurrence of an emergency or unforeseeable circumstance. In support of the council member's request for approval, the council member shall provide a written description of the nature of such emergency or unforeseeable circumstance with a level of specificity sufficient to support the Mayor's approval. For the purposes of this policy, an emergency or unforeseeable circumstance shall be constituted by the occurrence of one or more of the following conditions:

1. Health-related matter.
2. Mandatory military duty or deployment.
3. Family or personal matter.
4. Council member is physically located in such a place so as to make that member's timely attendance at the meeting place impossible or highly improbable.

The Mayor shall be authorized to grant or deny approval for a member's remote participation based upon the sufficiency of information provided to show one or more of the conditions existing as specified by this section, and as determined in the Mayor's sole discretion.

In the event a council member desires to attend, participate, and vote from a remote location and the reason for the council member seeking permission to do so is not one of the conditions specified by this section, permission may be granted upon written application for "good cause shown." A majority vote of the council members present shall determine whether the council member's reasons for needing to participate remotely constitutes "good cause shown" and whether the council member's request should be approved or denied. A request submitted pursuant to the "good cause shown" provision of this section shall be given priority on the public meeting agenda, and shall be taken up as [one of] the first item of business following the roll call and invocation.

Should the Mayor seek permission to remotely attend, participate, and vote in a meeting, for whatever reason, including a condition set forth in this section, the Mayor shall be required to make this request to City Council, which shall grant or deny such request by majority vote of the council members present. A request submitted pursuant to this provision shall be given priority on the public meeting agenda, and shall be taken up as [one of] the first items of business following the roll call and invocation. The Mayor Pro Tem, if physically present in the public meeting place, shall preside over and conduct any meeting in which the Mayor is approved to attend, participate, and vote remotely.

**SECTION 4.** In all cases in which remote participation has been or may be approved, it shall be the responsibility of the City Clerk to make suitable arrangements to ensure that the remotely-located council member's voice can be heard by those physically in attendance at the public meeting, and that the member has or has access to the documents comprising the agenda packet for that meeting. The City Clerk shall also cause to be recorded in the minutes of the public meeting, the identification of the location from which the remotely-located council member is participating, as well as the nature of the emergency or unforeseeable condition causing the council member's inability to be physically present in the public meeting place.

Should any request to participate from a remote location be denied, it shall be the responsibility of the Mayor to state the reason(s) for the denial with specificity during the public meeting and have the same recorded in the minutes.

**SECTION 5.** No council member shall be granted approval to attend, participate, and vote remotely more than four times within a calendar year, except upon "good cause shown." Notwithstanding the foregoing, a member shall not be granted approval to attend, participate, and vote remotely in more than two consecutive meetings.

**SECTION 6.** All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

**SECTION 7.** This Resolution shall take effect immediately upon its passage and adoption.

AUTHENTICATED this 2<sup>nd</sup> day of May, 2022.

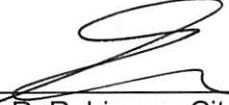


Christine H. Hoffman, Mayor



Sheri Gosselin, City Clerk

Approved as to form and legal sufficiency:



Sandra R. Robinson, City Attorney