



EMERGENCY ORDER NO. 2020-06

**ORDER RELATING TO CONDUCT OF PUBLIC MEETINGS
BY COMMUNICATIONS MEDIA TECHNOLOGY**

WHEREAS, the Novel Coronavirus Disease 2019 (COVID-19) epidemic may cause life threatening conditions for the residents of the City of North Port; and

WHEREAS, on March 9, 2020, Florida Governor Ron DeSantis issued Executive Order Number 20-52, declaring that a state of emergency exists in every county in the State of Florida; and

WHEREAS, on March 17, 2020, the City Commission of the City of North Port, Florida adopted Ordinance No. 2020-18, declaring a state of local emergency due to the COVID-19; and

WHEREAS, on March 20, 2020, Florida Governor Ron DeSantis issued Executive Order Number 20-69 suspending 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 providing that local government bodies may utilize communications media technology, such as telephonic and video conferencing, as provided in Florida Statutes Section 120.54(5)(b)2, for so long as a state of emergency exists within the State of Florida; and

WHEREAS, on April 1, 2020, Florida Governor Ron DeSantis issued Executive Order Number 20-91, providing that due to the risks and dangers presented by COVID-19, all persons in Florida shall limit their movements and personal interactions outside of their home only to those necessary to obtain or provide essential services or conduct essential activities; and

WHEREAS, Ordinance No. 2020-18 conferred on the City Manager or designee the power and authority set forth in Florida Statutes Section 252.38(3)(a); and

WHEREAS, Florida Statutes Section 252.38(3)(a)5 provides authority for cities to declare a state of local emergency and to waive the procedures and formalities otherwise required of the City by law pertaining to matters including but not limited to the performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community; and

WHEREAS, pursuant to Florida Statutes Section 252.46, the City Manager has the power to issue emergency orders with the force of the law; and

WHEREAS, the COVID-19 pandemic presents an immediate danger to the public's health, safety, and welfare requiring emergency action; and

WHEREAS, to implement the orders and recommendations of government entities and public health organizations regarding social distancing and the avoidance of public gatherings during the COVID-19 pandemic, to allow for the continuing conduct of public business and citizen participation, and to otherwise facilitate the use of communications media technology when permitted by state law, this order is necessary for emergency management purposes and to ensure the health, safety, and welfare of the community; and

WHEREAS, on March 23, 2020, the City Manager issued Emergency Order No. 2020-03, suspending the public comment procedures in Section 2-55 of the Code of the City of North Port, Florida; suspending in-person public comment and attendance at public meetings; and providing that the City would make reasonable efforts to provide alternative methods for public comment and participation in public meetings; and

WHEREAS, defining meeting procedures for public meetings via communications media technology protects the health, safety, and welfare of the community and of City employees, while allowing the government to conduct meetings open to public participation and in compliance with state law; and

WHEREAS, the procedures in this order are fair under the circumstances; provide at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution; and are the least restrictive measures necessary to continue the emergency operations of the city and to protect the public interest; and

WHEREAS, this order does not conflict with any of the governor's executive orders issued during this emergency.

IN HIS EMERGENCY AUTHORITY, THE CITY MANAGER OF THE CITY OF NORTH PORT, FLORIDA ORDERS:

1. Findings. The recitals outlined above are incorporated by reference as findings of fact.
2. Authorization to Use CMT. Due to the state of local emergency and public health concerns, and in accordance with the City Manager's Emergency Order No. 2020-03, there will be no physical meeting locations where the public can participate in person at a public meeting.
 - a. In accordance with the Governor's Executive Order Number 20-69, the City may utilize communications media technology ("CMT") to establish a quorum and conduct public meetings of the City Commission and City boards (including committees and the Hearing Officer) in accordance with the procedures established in this order.
 - b. CMT includes one or more of the following: the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, or digital video by any method available.
 - c. Nothing in this order may be construed as waiving the City's obligation to comply with all other applicable requirements of the Sunshine Law, Florida Statutes Chapter 286. No meeting subject to the Sunshine Law may be conducted exclusively by means of CMT if the available technology is insufficient to permit interested persons to attend.

- d. If during the course of a meeting conducted by CMT, technical problems develop with the City's communications network that prevent the use of CMT for the conduct of the meeting, then the meeting must be recessed or adjourned the meeting until the problems have been corrected.

2. Notice.

- a. Posting. The notice of any public meeting to be held via CMT must be provided in the same manner as required for a non-CMT meeting. If City Hall is closed to the public, making the bulletin board inaccessible, notice must be posted on the front windows. Additionally, notice must be posted on the City's Online Meeting webpage at www.cityofnorthport.com/onlinemeetings.

- b. Content. The notice must:

- (1) Plainly state that the meeting is to be conducted utilizing CMT and identify the specific type of CMT to be used;
- (2) Describe how interested persons may attend and participate in the meeting (*i.e.*, telephone number, link to connect to video conference session, or other method); and
- (3) Include the address, email address, and telephone number of a designated individual to whom an interested person may contact for additional information or assistance, and to whom materials for the City Commission's or board's consideration may be submitted.

3. Form of Communications Media Technology. The City Manager or designee, will designate one or more approved platforms (*i.e.*, Zoom, WebEx, GoToMeeting, Skype, or other platform) for the conduct of meetings by CMT.

4. Quorum; Voting. The Mayor, board chair, or City Clerk or designee must verify at the beginning of the meeting that a quorum is present through CMT. To ensure accuracy, authenticity, and the presence of a quorum, all voting must be conducted verbally by roll call. If a commissioner or board member leaves the meeting, the Mayor, board chair, or City Clerk or designee should announce their absence for the record.

5. Minutes; Recording. Minutes of all meetings conducted by CMT must be kept in the same manner as required for a non-CMT meeting. Where practicable, all meetings conducted by CMT should be recorded or otherwise captured by digital means.

6. Public Comment.

- a. All public meetings conducted via CMT must include at least one designated public comment periods when interested members of the public will be permitted to address the City Commission or board. Additionally, any person may comment on any item on the agenda prior to a vote being held. If a public comment is, in the mayor or board chair's

opinion, not germane to the agenda item, the mayor or board chair may rule the commenter out of order.

- b. Persons interested in making public comment may do so by:
 - (1) Submitting a written comment via the online public comment form on the City's Online Public Comment webpage at www.cityofnorthport.com/publiccomment. The form will become active at 9:00 a.m. the day before the meeting and deactivated at the end of public comment during the meeting. The commenter must complete the fields marked as "required" and the comment cannot exceed 3000 characters.
 - (2) Leaving a voicemail message via telephone at 941-429-1032. Voicemail messages will be accepted the day before the meeting from 8:00 a.m. until 7:00 p.m. The commenter must leave all information identified as "required" in the City's outgoing message and must not exceed two minutes, fifteen seconds.
 - (3) The City will make reasonable efforts to develop additional methods for public comment and participation in public meetings. The City will provide notice for any additional methods on the City's Online Meeting webpage at www.cityofnorthport.com/onlinemeetings.
- c. The City Commission or board will afford all relevant comments the same consideration as if they were offered in person.

7. Quasi-Judicial Matters. Quasi-judicial items to be considered by the City Commission or board at a public meeting conducted via CMT must be conducted in accordance with Chapter 2, Article III of the Code of the City of North Port, Florida and Chapter 1, Article III of the Unified Land Development Code, as applicable, except as provided in this order.

- a. Notices. In addition to the notice requirements provided in Section 2.b, above, the notice for any quasi-judicial items must include the email address and physical address of a designated individual to whom a party may submit documents, evidence, or materials which they intend to submit for the City Commission or board's consideration, and a statement that any documents, documentary evidence, presentations, and materials must be received at least ten (10) days in advance of the date of the meeting.
- b. Sworn Testimony. Where sworn testimony is required, the City Clerk or designee will administer the oath to all individuals being recognized to testify. Each person giving testimony must verbally affirm at the beginning of their testimony that they have been sworn.
- c. Submission of Documents. If a party wishes to submit documents, documentary evidence, presentations, and/or materials for consideration by the City Commission or board in a quasi-judicial proceeding, the City must receive the information at least five (5) calendar days prior to the date of the meeting.

- d. Weight of Evidence. The City Commission or board will afford all evidence, testimony, and argument full consideration and determine its evidentiary significance as if the evidence and testimony were offered in person. All evidence is subject to the same objections as if offered in person.
 - e. Presentations. Parties to a quasi-judicial proceeding will be afforded the opportunity to participate live in the proceeding via CMT.
 - f. Notice Procedures for Aggrieved or Adversely Affected Persons. Aggrieved or adversely affected persons desiring to become a party in the quasi-judicial proceeding must provide written notice to the City Clerk at least seven (7) calendar days before the quasi-judicial hearing. The notice must comply with Section 2-81 of the Code of the City of North Port, Florida.
 - g. Rules and Procedures of Certain Boards. No board or hearing officer may adopt any rule of procedure that conflicts with this order.
8. To the extent this order conflicts with any provision of the Code of the City of North Port, Florida or the Unified Land Development Code, this order controls.

This order is effective immediately. Unless otherwise terminated, this order expires upon the earlier of 90 days or simultaneously with the expiration of the state of local emergency.

ORDERED ON AND FILED WITH THE CLERK OF THE CITY OF NORTH PORT, FLORIDA ON APRIL 8, 2020 AT
3:00 A.M./P.M. BY



Peter D. Lear, CPA, CGMA
City Manager

