

**FLAGLER COUNTY EMERGENCY ORDER NO. 2020-05**

**AN EMERGENCY ORDER OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AUTHORIZING VIRTUAL GOVERNMENT IN THE SUNSHINE MEETINGS THROUGH THE USE OF COMMUNICATIONS MEDIA TECHNOLOGY**

**WHEREAS**, Flagler County is under Federal, State, and Local States of Emergency for the COVID-19 virus pursuant to Executive Orders of the Governor for the State of Florida (EO Nos. 20-51 and 20-52) and the Flagler County Proclamation dated March 16, 2020 and renewed every seven days thereafter in accordance with law; and

**WHEREAS**, Flagler County’s Proclamation, in accordance with Chapter 252, Florida Statutes, and Section 12-34 of the Flagler County Code of Ordinances authorizes the County to take all necessary action and issue any necessary orders to protect human health and safety; and

**WHEREAS**, the President of the United States in conjunction with the U.S. Department of Health & Human Services through its Centers for Disease Control and Prevention (CDC) has issued community mitigation strategies which recommend aggressive “social distancing”; and

**WHEREAS**, to curtail the spread of the virus, the County has restricted access to the Government Services Building including the Commission’s Chambers and has completely closed other County facilities, through Emergency Order 2020-01; and

**WHEREAS**, to further slow the spread of the virus and to protect the County’s workforce through social distancing, the County has authorized the use of electronic signatures and electronic documents for the transaction of County business through Emergency Order 2020-02; and

**WHEREAS**, Article I, Section 24 of the Florida Constitution guarantees a right of public access to all meetings of any collegial public body of the County, and Section 286.011, Florida Statutes, commonly referred to as Florida’s “Sunshine Law,” requires meetings of the County to be publically noticed in advance, open to the public, and documented by minutes that are promptly recorded; and

**WHEREAS**, the Sunshine Law is a polestar of local governance in Florida with the Florida Supreme Court stating that the Sunshine Law “was enacted in the public interest to protect the public from ‘closed door’ politics...” and as such, should be construed to frustrate all evasive devices; and

**WHEREAS**, recognizing the compelling need to protect life while at the same time maintaining the functioning and continuity of government, the Governor took the extraordinary measure of issuing Executive Order 20-69 (EO 20-69), which suspends the requirement that local

governing bodies have a quorum physically present in a specific public place to conduct public meetings; and

**WHEREAS**, the EO 20-69 specifically authorizes the use of communications media technology, as provided in Section 120.54(5)(b)2., Florida Statutes, to conduct meetings of local governing bodies; and

**WHEREAS**, the use of communications media technology during the declared state of local emergency due to COVID-19 to conduct meetings of the Board of County Commissioners and its advisory boards, councils, and committees will allow governance to continue while protecting the health and safety of elected officials, staff, and the general public; and

**WHEREAS**, neither EO 20-69 nor this Emergency Order suspend the requirements of Florida's public records laws in any way or the Sunshine Law beyond the specific, discrete parameters explicitly set forth in EO 20-69 and this Emergency Order.

**NOW THEREFORE**, it is hereby ordered:

**Section 1. Findings.** The above recitals are true and correct and are incorporated herein.

**Section 2. Applicability and Limitation.** This Emergency Order shall apply to all meetings of the Flagler County Board of County Commissioners and any of its advisory boards, councils, or committees which operate under the Sunshine Law. Public meetings will comply with all requirements of Section 286.011, Florida Statutes, which have not otherwise been suspended or waived pursuant to Executive Order 20-69 and this Emergency Order.

**Section 3. Meetings via Communications Media Technology.**

- (a) **Notice of Electronic Public Meetings.** The County will post notice of its electronic public meetings in a manner consistent with Section 286.011, Florida Statutes. Meeting notices will include instructions for interested members of the public to virtually attend via telephone, video conference, or other video conferencing or webinar technology utilized by the County. If a public meeting provides for the opportunity for public comment in general or on a specific item, the notice shall also include instructions regarding how members of the public may: (i) submit written comments to be read at the public meeting, which may be submitted before and, to the extent technologically practicable, during the meeting prior to the close of any public comment period, and (ii) provide verbal comment during the meeting if technologically practicable.
- (b) **Public Comment.** Written comments to be read into the record will be limited to 450 words, and verbal comments, if any, will be limited to three minutes except in the case

of quasi-judicial hearings, the time limits of which will be governed by the County's rules and ordinances as applied to the nature of the specific hearing.

**(c) Supplemental Procedures of Advisory Boards.** Each advisory board or committee of the County may supplement the minimum procedures provided in this Emergency Order with additional procedures that promote and preserve decorum and civility and that enable the expeditious conduct of the business of the County and provide the procedural due process and right of public participation required by law. Each such board or committee seeking to adopt supplemental procedures will submit them to the County Administrator for ratification by the Board of County Commissioners.

**(d) Disruptions and Adjournment.** If during the conduct of a public meeting utilizing communications media technology pursuant to this Emergency Order, the meeting is interrupted through disruptions or glitches in the technology, the Chair shall recess the meeting until the interruption is resolved. If the interruption cannot be resolved in a reasonable amount of time, the meeting shall be adjourned. The temporary recess or termination of a meeting is to assure compliance with the Sunshine Law.

**Section 4. Public Education.** Due to the extraordinary nature of this Emergency Order and the paramount right of the public to participate in the decision-making process of its local government, the County will make reasonable efforts to publicize the subject matter being considered at its meetings and publicize the requirements of this Emergency Order.

**Section 5. Effective Date and Termination.** This Emergency Order will take effect upon filing with the Clerk of Courts of Flagler County in accordance with Section 252.46(2), Florida Statutes, and shall remain in effect until modified or terminated by subsequent order or until the Executive Order 20-69 expires or is rescinded.

**DONE AND ORDERED**, this 1<sup>st</sup> day of April 2020.

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Jerry Cameron, County Administrator

Concurrence:

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Jonathan Lord, Emergency Management  
Director

Approved As To Form:

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Al Hadeed, County Attorney