

EMERGENCY PROCLAMATION NO. 2020- 3

A PROCLAMATION PROMULGATING EMERGENCY RULES FOR LOCAL GOVERNMENT PUBLIC MEETINGS CONDUCTED THROUGH COMMUNICATIONS MEDIA TECHNOLOGY

WHEREAS, ST. JOHNS COUNTY EMERGENCY PROCLAMATION NO. 2020-1 declared a state of local emergency due to the threat of the Coronavirus Disease 2019 (COVID-19) to spread among humans, which may pose an immediate threat to public health and safety and cause a threat to the entire State of Florida, including St. Johns County; and

WHEREAS, COVID-19 has caused extensive concerns to the private citizens and public sectors in St. Johns County; and

WHEREAS, St. Johns County is exerting efforts to address emergency conditions and assist affected citizens and properties; and

WHEREAS, part of those efforts is to safely and expeditiously conduct the business of the County through public meetings while protecting the health, safety, and welfare of public officials, members of the public, the public sector, and private citizens; and

WHEREAS, local governments raised concerns about their ability to hold meetings through teleconferencing and other technological means in order to protect the public and follow Centers for Disease Control and Prevention guidance regarding social distancing and avoiding gatherings of more than 10 people; 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; and

WHEREAS, the procedures provided in Chapter 28-109, Florida Administrative Code, implementing Section 120.54(5)(b)2, F.S., are reasonable rules already in use by State agencies and are attached and incorporated to this Proclamation as Exhibit A; and

WHEREAS, the procedures adopted in this Proclamation are necessary to safely conduct the business of the County and provides notice, fair procedure, public participation and a sufficient opportunity to be heard in compliance with Chapter 286 Florida Statutes and the Florida Constitution;

NOW THEREFORE, in accordance with the emergency power vested in the County pursuant to Chapter 252, Florida Statutes, Section 120.54(4), Florida Statutes, Section 120.54(5)(b)2, Florida Statutes, Executive Order Number 20-69, and St. Johns County Ordinance No. 2019-40, it is hereby declared that:

1. The Board hereby adopts Chapter 28-109, Florida Administrative Code, Conducting Proceedings by Communications Media Technology, for minimum procedures to be followed when the Board or any one of its appointed boards and committees, desires to conduct a proceeding by means of communications media technology (CMT) or to provide public access to a proceeding by the use of CMT.

2. Each board or committee may set deadlines for each public hearing for submission of documentary evidence that may be considered by that board or committee. Each board or committee may refuse to accept and refuse to consider any documentary evidence submitted after the deadline.

3. Each board or committee may supplement the minimum procedures provided in this Proclamation, with additional procedures that promote and preserve decorum and civility and that enables the fair and expeditious conduct of the business of the County, but shall provide the procedural due process and right of public participation as required by law.

4. This Proclamation shall expire at the expiration of Executive Order 20-69, including any extension.

5. This Proclamation shall be effective upon filing with the Clerk in accordance with section 252.46, Florida Statutes.

DONE and ORDERED this 24th day of March, 2020.

BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA

By: _____

Deb S. Smith

Printed Name

ATTEST: Brandon Patty, Clerk

By: _____

Pam Halterman
Deputy Clerk



EXHIBIT A to Proclamation

**CHAPTER 28-109
CONDUCTING PROCEEDINGS BY COMMUNICATIONS MEDIA TECHNOLOGY**

28-109.001	Purpose
28-109.002	Definitions as Used in this Rule Chapter
28-109.003	Application and Construction
28-109.004	Government in the Sunshine
28-109.005	Notice
28-109.006	Evidence, Testimony, and Argument

28-109.001 Purpose.

This chapter provides the procedures to be followed when an agency desires to conduct a proceeding by means of communications media technology (CMT) or to provide public access to a proceeding by the use of CMT.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07.

28-109.002 Definitions as Used in this Rule Chapter.

(1) “Access point” means a designated place where a person interested in attending a communications media technology proceeding may go for the purpose of attending the proceeding.

(2) “Attend” means having access to the communications media technology network being used to conduct a proceeding, or being used to take evidence, testimony, or argument relative to issues being considered at a proceeding.

(3) “Communications media technology” (CMT) means the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97.

28-109.003 Application and Construction.

(1) The agency may conduct a proceeding by using CMT and may provide CMT access to a proceeding for purposes of taking evidence, testimony, or argument.

(2) A proceeding is not a CMT proceeding merely because it is broadcast over a communications network.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97.

28-109.004 Government in the Sunshine.

(1) Nothing in this chapter shall be construed to permit the agency to conduct any proceeding otherwise subject to the provisions of Section 286.011, F.S., exclusively by means of CMT without making provision for the attendance of any member of the public who desires to attend.

(2) No proceeding otherwise subject to Section 286.011, F.S., shall be conducted exclusively by means of CMT if the available technology is insufficient to permit all interested persons to attend. If during the course of a CMT proceeding technical problems develop with the communications network that prevent interested persons from attending, the agency shall terminate the proceeding until the problems have been corrected.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07.

28-109.005 Notice.

When the agency chooses to conduct a CMT proceeding, it shall provide notice in the same manner as required for a non-CMT proceeding, and shall plainly state that such proceeding is to be conducted utilizing CMT and identify the specific type of CMT to be used. The notice shall describe how interested persons may attend and shall include:

- (1) The address or addresses of all access points, specifically designating those which are in locations normally open to the public.
- (2) The address of each access point where an interested person may go for the purpose of attending the proceeding.
- (3) An address, e-mail address, and telephone number where an interested person may write or call for additional information.
- (4) An address, e-mail address, and designated person to whom a person may submit written or other physical evidence which he or she intends to offer into evidence during the CMT proceedings.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 6-26-13.

28-109.006 Evidence, Testimony, and Argument.

(1) Any evidence, testimony, and argument which is offered utilizing CMT shall be afforded equal consideration as if it were offered in person, and shall be subject to the same objections.

(2) In situations where sworn testimony is required by the agency, persons offering such testimony shall be responsible for making appropriate arrangements for offering sworn testimony.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07.