

CITY OF SUNRISE

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DECLARATION OF EMERGENCY REGULATIONS 20-10

PUBLIC ACCESS BY COMMUNICATIONS MEDIA TECHNOLOGY FOR CITY  
COMMISSION PROCEEDINGS

WHEREAS, the Coronavirus (COVID-19), a respiratory illness caused by a virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the lives, health, welfare, and safety of the people of Sunrise, Florida; and

WHEREAS, on March 1, 2020, Ron DeSantis, Governor of the State of Florida, issued Executive Order No. 20-51, directing the Florida Department of Health to issue a Public Health Emergency; and

WHEREAS, on March 1, 2020, the State Surgeon General and State Health Officer declared that a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order No. 20-52 declaring a state of emergency for the entire State of Florida due to the public health threat resulting from the spread of COVID-19 which state of emergency was most recently extended by the Governor on November 3, 2020 via Executive Order No. 20-276 for 60 days; and

WHEREAS, Section 4 D of Governor DeSantis' Executive Order 20-52 expressly authorized the City Commission to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in accordance with Section 252.38, Florida Statutes; and.

WHEREAS, Chapter 252, Florida Statutes, among other things, confers upon the City Commission the emergency powers provided for in Chapter 252 in order to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state; and to "make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division." Section 252.46(1), Florida Statutes; and

WHEREAS, on March 10, 2020, Broward County Administrator Bertha Henry declared a state of emergency in Broward County; and



WHEREAS, on March 18, 2020, the City of Sunrise enacted Emergency Ordinance No. 654 and declared a state of emergency pursuant to Section 3.13 of the City's Charter, Florida Statutes Chapters 166, 252 and 870; and

WHEREAS, the most recent extension of Ordinance No. 654, through Ordinance No. 654-20-C, expires on November 14, 2020 and an amendment extending Ordinance No. 654 through January 13, 2021 is scheduled for second reading on November 10, 2020. Ordinance No. 654, as amended, authorizes the City Manager to issue weekly declarations of state of emergency and to issue Declarations of Emergency Regulations; and

WHEREAS, commencing on March 25, 2020, the City Manager has extended the City's Declaration of State of Local Emergency on a weekly basis; and

WHEREAS, Florida law, including Article 1, Section 24 (b) Florida Constitution, and Florida Statutes Sections 286.011 and 166.041, requires that meetings of elected and appointed officials, for the conduct of public business, must be held following procedures (notice, access of meetings, opportunity to be heard, the taking of minutes, etc.) that ensure that the public is able to participate in and be aware of the decision making process (the "Sunshine Law"); and

WHEREAS, Attorney General Opinion 2020-03 provided that a quorum of the governing body could be present by means other than in person and that the meeting could be conducted by teleconferencing or other technological means; and

WHEREAS, on March 20, 2020, Governor DeSantis via Executive Order No. 20-69 suspended any Florida Statute that required a quorum to be present in person or required a local government body to meet at a specific public place and permitted local government bodies to utilize communications media technology (CMT) such as telephonic and video conferencing, as provided in section 120.54(5)(b)2., Florida Statutes. Executive Order 20-69 expired on November 1, 2020; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention ("CDC") recommends implementation of community mitigation strategies to increase containment of the virus; and

WHEREAS, the current outbreak of COVID-19 has made the City acutely aware that provisions must be made to ensure that the business of municipal governance can occur without unnecessarily exposing public officials, City personnel or members of the public to a risk of infection while ensuring public access and open government; and



WHEREAS, as of November 4, 2020, the Florida Department of Health reports a total number of COVID-19 cases of 816,700 cases in Florida, 16,890 Florida resident deaths with 87,152 cases in Broward County and 1,532 deaths in Broward County. <https://experience.arcgis.com/experience/96dd742462124fa0b38ddedb9b25e429>; and

WHEREAS, COVID-19 has created or imminently threatens to create conditions that may severely affect the public health, safety, welfare and security of the citizens, residents and visitors of the City of Sunrise, Florida; and

WHEREAS, holding a public "in person" meeting increases the risk of the spread of COVID-19 for those attending; and

WHEREAS, the technology exists to conduct public meetings whereby the governing body meets in person and requires the public to attend via CMT while preserving the public's access and participation, complying with the provisions of the Sunshine Law. and preserving human life; and

WHEREAS, the City possesses broad home rule powers that authorize it to protect the public health, safety, and welfare, declare emergencies, and protect its citizens; and

WHEREAS, there is no statute, Charter provision, or ordinance that defines "present" as physically within the walls of the City Commission Chambers. Webster's Dictionary includes "in attendance" as a definition or meaning of "present;" and

WHEREAS, the City's Charter does not prohibit attendance of the public at meetings of the City Commission by CMT; and

WHEREAS, the "preemption" of phone attendance, if it exists, must be expressly set forth in the Florida Constitution or general or special law, not vaguely and ambiguously implied and no such preemption exists in state law; and

WHEREAS, to protect the health and safety of the public, it is in the best interests of the City, its residents, businesses, and the public to make provisions for the public to be able to attend meetings by use of CMT during a declared public health emergency, pursuant to the City's Charter, Chapter 252, Florida Statutes, Section 4 D of Governor DeSantis' Executive Order 20-52, the City's home rule authority, including that set forth in Article VIII, Section 2(b), Florida Constitution, and Section 166.021, Florida Statutes, and Ordinance No. 654 as amended; and

WHEREAS, pursuant to Sections 252.38(3) and 252.46, *Florida Statutes*, Section 3.13 of the City's Charter, Florida Statutes Chapters 166, 252 and 870, the Governor's Declaration of State of Emergency existing since March 9, 2020, Broward County's Local Declaration of Emergency existing since March 10, 2020, the City of Sunrise's Declaration



of a State of Local Emergency existing since March 18, 2020, Sunrise Emergency Ordinance No. 654 as amended, including but not limited to Ordinance No. 654-20-C, and the weekly extensions of the local state of emergency, the City has the power to issue emergency orders and regulations with the force of law to address a public emergency affecting life, health, property, safety or the public peace; and

WHEREAS, on November 5, 2020, the City Manager issued Declaration of Emergency Regulations 20-09 for Commission meetings with an in-person quorum and made provisions for public access via Communications Media Technology; and

WHEREAS, the City Commission wants to supersede Declaration of Emergency Regulations 20-09 and replace it with Declaration of Emergency Regulations 20-10 Public Access by Communications Media Technology to City Commission Proceedings, and to authorize the City Manager, in his discretion, to allow the City's advisory boards and committees to meet with the public in person, the public in person or by CMT, or to provide the public access by CMT; and

Pursuant to Sections 252.38(3) and 252.46, *Florida Statutes*; Section 3.13 of the City's Charter; Florida Statutes Chapters 166, 252 and 870; the Governor's Declaration of State of Emergency existing since March 9, 2020; Broward County's Local Declaration of Emergency existing since March 10, 2020; the City of Sunrise's Declaration of a State of Local Emergency existing since March 18, 2020; Sunrise Emergency Ordinance No. 654 as amended, including but not limited to Ordinance No. 654-20-C; and the City Manager's weekly extensions of the local state of emergency, the City has the power to issue emergency orders and regulations with the force of law to address a public emergency affecting life, health, property, safety or the public peace.

**IT IS HEREBY ORDERED:**

**Section 1.** The foregoing Whereas clauses (Legislative Findings) are hereby ratified and incorporated as the legislative intent of this Declaration of Emergency Regulations 20-10 Public Access by Communications Media Technology to City Commission Proceedings. Declaration of Emergency Regulations 20-09 is hereby rescinded and replaced with this Declaration of Emergency Regulations 20-10 in its entirety

**Section 2.** Pursuant to its home rule powers, Chapter 252, Florida Statutes, section 4 D of Governor DeSantis' Executive Order 20-52, and based upon the Legislative Findings set forth in the above-stated recitals, the City Commission of the City of Sunrise hereby finds and declares that a public health emergency exists requiring immediate action by the City Commission. By virtue of the threat to public health and safety and by virtue of the threat to the City's financial health and home rule powers, it is necessary for the City to implement this regulation. The City Commission intends to protect the public health



and safety by making provisions for the public to attend City Commission Meetings by use of communications media technology (CMT) during the COVID-19 pandemic, as determined by the City Manager. The City Manager is hereby authorized, pursuant to the home rule authority of the City Commission, Chapter 252, Florida Statutes, section 4 D of Governor DeSantis' Executive Order 20-52, and based upon the Legislative Findings set forth in the above-stated Whereas clauses, during the COVID-19 pandemic to provide for public attendance only by CMT when the City Commission, advisory board or committee meets with the physical presence of a quorum. The City Manager is further authorized to:

- a) determine whether or not the public shall be able to attend any meeting (City Commission meeting workshop, special meeting, or emergency meeting, any advisory board meeting and any Sunshine Committee meeting) in person without CMT, in person with CMT or by CMT only;
- b) authorize advisory boards or committees to promulgate rules of procedure that will ensure compliance with the Sunshine law; and
- c) provide technology and administrative support as necessary to fulfill these objectives.

Meetings with an in person quorum of the board and public access, attendance and participation via CMT may be conducted without the physical presence of the public during the COVID-19 pandemic so long as (1) the meeting is properly noticed, (2) minutes are taken, and (3) if CMT is utilized for the public's attendance, access and participation, the public's method of attendance as CMT only, in person without CMT, or in person with CMT is appropriately noticed.

### **Section 3. Public Access by Communications Media Technology to City Commission Proceedings.**

Pursuant to Ordinance No. 654, as amended, the Home Rule authority of the City, Chapter 252, Florida Statutes, section 4 D of Governor DeSantis' Executive Order 20-52, and based upon the findings set forth in the above-stated Whereas clauses, during a declared public health emergency, the City Commission sets forth the following procedures for the public's attendance, access and participation at City Commission meetings by use of CMT as follows:

- A. Public access requirements for the purpose of participation and public comment can be satisfied by use of CMT.
- B. CMT access may include teleconferencing or other technological means.
- C. If during the course of a meeting providing public access via CMT, technical issues arise that prevent interested persons from attending, the City shall terminate or recess the meeting until the issues have been corrected.

- D. The City shall provide notice of a meeting providing public access via CMT in the same manner as non-CMT meetings and the notice shall plainly state that the City is providing public access via CMT, and identify the type of CMT to be used. The notice shall describe how interested persons may attend via CMT or at a City access point and shall include:
  - 1. The address or addresses of all access points for CMT participation, 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 meeting via CMT;
  - 3. An address, email address, and telephone number where an interested person may write or call for additional information; and
  - 4. An address, email 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 a meeting providing public access via CMT,
- E. The City's posted Agenda for the meeting shall contain the information in Section D above.
- F. In any meeting where public access is provided via CMT, evidence, testimony, and argument shall be afforded equal consideration as if it were offered in person, and shall be subject to the same objections. If sworn testimony is required by the City, persons offering such testimony shall be responsible for making arrangements for offering sworn testimony.
- G. For all meetings providing public access via CMT, unless otherwise provided and noticed by the City, all attendees shall be encouraged to join the meeting via CMT up to 15 minutes prior to the start time of the meeting.
- H. All members of the public will be provided sufficient opportunity to provide input, make comments, and otherwise be heard during the meeting via CMT.
- I. The entire meeting will be recorded and transcribed.

**Section 4.** All requirements of Sunrise's Declarations of Emergency Regulations, Broward County Emergency Orders, and State of Florida Executive Orders shall be strictly adhered to at all times, except as set forth in Section 2 and 3 above.

**Section 5.** This Sunrise Declaration of Emergency Regulations 20-10 Public Access by Communications Media Technology to City Commission Proceedings is effective upon passage and shall expire upon the earlier of (a) the expiration of the existing Sunrise State of Local Emergency or (b) termination by City of Sunrise.

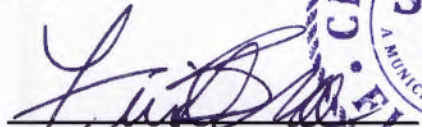
**ORDERED ON AND FILED WITH THE CLERK OF THE CITY OF SUNRISE THIS 10th DAY OF NOVEMBER, 2020.**

City of Sunrise, Florida



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Mayor Michael J. Ryan

ATTEST:



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Felicia M. Bravo, City Clerk

