

1 Introduced by Council Member Ferraro:  
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4 **RESOLUTION 2021-119**

5 A RESOLUTION APPROVING A RESOLUTION OF THE  
6 JACKSONVILLE WATERWAYS COMMISSION DEFINING  
7 "EXTRAORDINARY CIRCUMSTANCES" THAT WOULD ALLOW  
8 A MEMBER OF THE COMMISSION TO ATTEND,  
9 PARTICIPATE AND VOTE REMOTELY UNDER CERTAIN  
10 CONDITIONS; REQUESTING EMERGENCY PASSAGE UPON  
11 INTRODUCTION; NOTIFICATION BY LEGISLATIVE  
12 SERVICES; PROVIDING AN EFFECTIVE DATE.

13  
14 **WHEREAS**, The Jacksonville Waterways Commission ("Commission")  
15 desires to create a rule of procedure regarding attendance by  
16 members of the Commission at Commission meetings via communications  
17 media technology ("CMT"); and

18 **WHEREAS**, there is no Florida statute and no case law on the  
19 subject for guidance so Florida Attorney General Legal Advisory  
20 Opinions were utilized in forming a policy regarding the use of  
21 CMT; and

22 **WHEREAS**, Florida Attorney General Legal Advisory Opinion AGO  
23 2003-41 concludes that "where a rule or statute contemplates that a  
24 meeting will be held in a public place with the members physically  
25 present, the participation of an absent member in the meeting by  
26 telephone conference should be permitted only in extraordinary  
27 circumstances and when a quorum of board members is physically  
28 present at the meeting" and further provides that a board may  
29 determine when such an absence constitutes an extraordinary  
30 circumstance; and

31 **WHEREAS**, a guidance memorandum issued by the Office of General

1 Counsel, dated November 3, 2020 and drafted by Deputy General  
2 Counsel Lawsikia Hodges, concludes that a City board may permit  
3 members to use CMT to attend, participate and vote at public board  
4 meetings after Executive Order 20-69 expires, provided that: (1) a  
5 physical quorum is present at the meeting place that is reasonably  
6 open to the public; (2) extraordinary circumstances adopted by the  
7 board exist that prevent a member from physically attending the  
8 meeting place in person; (3) the board member and public attending  
9 the meeting place in person can hear and understand any board  
10 member that attends the meeting via CMT; and (4) such electronic  
11 participation by the member is not prohibited by the board's  
12 charter, ordinance, bylaws or other applicable governance  
13 documents; and

14 **WHEREAS**, the Commission does not currently have any specific  
15 bylaws or other applicable governance documents; and

16 **WHEREAS**, pursuant to Sec. 95.104(c), *Ordinance Code*, adoption  
17 of rules to implement the provisions of Chapter 95 (Jacksonville  
18 Waterways Commission) requires the approval of the City Council;  
19 and

20 **WHEREAS**, the Commission has requested the approval by the City  
21 Council of the procedural rule outlined in **Exhibit 1**; now  
22 therefore,

23 **BE IT RESOLVED** by the Council of the City of Jacksonville:

24 **Section 1. Jacksonville Waterways Commission Resolution**  
25 **approved.**

26 There is hereby approved a Resolution of the Jacksonville  
27 Waterways Commission ("Commission"), a copy of which is attached  
28 hereto as **Exhibit 1**, for the purpose of allowing Commission members  
29 to attend, participate and vote on matters that come before the  
30 Commission via communications media technology ("CMT"), so long as

1 certain conditions exist. The conditions required to allow the use  
2 of CMT for local government bodies are as follows:

- 3 1. A quorum of the membership must be physically present in  
4 the public meeting place;
- 5 2. The meeting has been properly noticed;
- 6 3. Members of the public are able to attend in-person or via  
7 CMT; and
- 8 4. Members participating and voting via CMT are doing so  
9 because they have requested in writing to do so, and have  
10 stated that they are unable to physically attend the  
11 meeting place due to an "extraordinary circumstance as  
12 defined by the Commission." The Commission has  
13 determined, in its good judgement that an "extraordinary  
14 circumstance" includes, but is not limited to:
  - 15 a. the COVID-19 pandemic,
  - 16 b. other health related issues,
  - 17 c. military duty or deployment,
  - 18 d. extraordinary family circumstance, or
  - 19 e. mandatory business obligation.

20 **Section 2. Requesting emergency passage upon introduction**  
21 **pursuant to Council Rule 4.901.** Emergency passage upon  
22 introduction of this legislation is requested. The nature of this  
23 emergency is that the Commission would like to have this procedural  
24 rule approved so that they may use CMT, if an extraordinary  
25 circumstance exists for a member, at their next Commission or  
26 Committee of the Commission meeting.

27 **Section 3. Notification by Legislative Services.** As part  
28 of the notification of any Hybrid Virtual Meeting notice for the  
29 Commission or any of its Committees or Subcommittees, the  
30 Legislative Services Division is directed to provide a copy of this  
31 Resolution with the notice in lieu of the memorandum of "Council

1 Process Post Expiration of EO 20-69" and the memorandum to the  
2 Council President regarding "Quorum and Voting." It is not  
3 necessary to include Exhibit 1 with the Resolution as the  
4 procedural steps outlined in the Commission Resolution are  
5 reiterated in this Council Resolution. However, a copy of the  
6 Commission Resolution shall be maintained by the Division as a  
7 procedural rule of the Commission.

8 **Section 4. Effective Date.** This Resolution shall become  
9 effective upon signature by the Mayor or upon becoming effective  
10 without the Mayor's signature.

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12 Form Approved:

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14           /s/ Susan C. Grandin          

15 Office of General Counsel

16 Legislation Prepared By: Susan C. Grandin

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