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|  <b>City of Santa Ana<br/>Administrative<br/>Policies and Procedures</b> | <b>City Council Approval</b> |                |
|   | <b>Section:</b>              |                |
| <b>TELECONFERENCING POLICY (with post-Pandemic Allowances per AB 2449)</b>  | <b>Date Approved:</b>        | <b>Number:</b> |

## **PURPOSE**

The purpose of this policy is to outline the circumstances where members of the Santa Ana City Council (and associated bodies such as the Housing Authority, Successor Agency, and any sub-committees of the City Council; hereinafter "Council") will be allowed to attend and participate remotely in Meetings under the teleconferencing provisions set forth in the Ralph M. Brown Act (Government Code Section 54950, et seq.) ("Brown Act"), and to establish general procedures to ensure Brown Act compliance.

## **RECITALS**

WHEREAS, under Section 54953 of the Government Code, a legislative body of a local agency may elect to use teleconferencing for the benefit of the public and a legislative body of a local agency in connection with any meeting or proceeding authorized by law.

WHEREAS, teleconferencing, as authorized by Section 54953, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body.

WHEREAS, if the legislative body of a local agency elects to use teleconferencing, the legislative body of the local agency must comply with the requirements set forth in paragraph (2) of subdivision (b) of Section 54953 ("Teleconference Requirements").

WHEREAS, except as provided in subdivisions (e) and (f) of Section 54953, if the legislative body of a local agency elects to use teleconferencing, it must post agendas at all teleconference locations; each teleconference location must be identified in the notice and agenda of the meeting or proceeding; each teleconference location must be accessible to the public; and during the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction ("Notice Requirements").

WHEREAS, pursuant to subdivision (e) of Section 54953, the legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of

paragraph (2) of subdivision (e) in any of the following circumstances: (A) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; (B) the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (C) the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees (“Proclaimed State of Emergency Circumstances”).

## **POLICY**

1. **DEFINITIONS.** For purposes of this Policy, the following definitions contained in the Ralph M. Brown Act (Gov. Code 54950 et seq.) shall apply:

- a. “Meeting” shall mean “any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the legislative body” as defined by Section 54952.2(a) of the Brown Act, including but not limited to, any meeting of the City Council, related agencies, or standing committees.
- b. “Remote location” means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.
- c. “Remote participation” means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.
- d. “State of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).
- e. “Teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.
- f. “Two-way audiovisual platform” means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

- g. "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.
- h. "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

## **2. PUBLIC PARTICIPATION USING TELECONFERENCING.**

- a. **Public Participation.** Santa Ana will allow members of the public to remotely hear and visually observe the meeting for each meeting. Members of the public will be allowed to remotely address the legislative body using: (i) a two-way audiovisual platform; or (ii) a two-way telephonic service and a live webcasting of the meeting only during such meetings where a member of Council participates using teleconferencing under the Just Cause or Emergency Circumstances provisions or the meeting is held regarding a proclaimed state of emergency.
- b. **Requests For Reasonable Accommodation.** Council shall implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.
- c. **Additional Teleconference Locations.** Nothing in this Policy shall prohibit the Council from providing the public with additional teleconference locations.
- d. **Additional Physical Locations.** Nothing in this Policy shall prohibit the Council from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

## **3. COUNCILMEMBER PARTICIPATION USING TELECONFERENCING.**

- a. **Teleconference Meeting Requirements.** During all meetings where members of the Council participate remotely by Teleconference, the following requirements shall apply: (A) all votes taken during a teleconferenced meeting shall be by roll call; (B) the teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency; (C) the legislative body shall give notice of the meeting and post agendas as otherwise required by the Brown Act; and (D) the legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

b. **Teleconference Meetings During Proclaimed State of Emergency.** If Proclaimed State of Emergency Circumstances set forth in paragraph (1) of subdivision (e) have been established, Council may use Teleconferencing without complying with the Notice Requirements set forth paragraph (3) of subdivision (b) of Section 54950 provided Council does all of the following:

i. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, Santa Ana shall also give notice of the means by which members of the public may access the meeting and offer public comment.

ii. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

iii. In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored.

iv. Actions taken on any agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1 of the Government Code.

v. Santa Ana shall not require public comments to be submitted in advance of the meeting and shall provide an opportunity for the public to address the legislative body and offer comment in real time.

vi. If Council provides a timed public comment period for each agenda item it shall not close the public comment period for the agenda item, or the opportunity to register to provide public comment until that timed public comment period has elapsed.

vii. If Council does not provide a timed public comment period, but takes public comment separately on each agenda item, Council shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register , or otherwise be recognized for the purpose of providing public comment.

viii. If Council provides a timed general public comment period that does not correspond to a specific agenda item, it shall not close the public comment

period or the opportunity to register, until the timed general public comment period has elapsed.

ix. If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), Council shall, not later than 30 days after teleconferencing for the first time of the Proclaimed State Of Emergency Circumstances, and every 30 days thereafter, make the following findings by majority vote: The legislative body has reconsidered the circumstances of the state of emergency and any of the following circumstances exist: (i) The state of emergency continues to directly impact the ability of the members to meet safely in person; or (ii) State or local officials continue to impose or recommend measures to promote social distancing.

c. **Councilmember Participation Using Teleconferencing During Just Cause and Emergency Circumstances.** Members of Council may participate in a meeting remotely if one of the following circumstances applies:

i. **Just Cause.** Members of Council may participate in a meeting remotely if the member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause. “Just cause” means any of the following: (A) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;<sup>1</sup> (B) a contagious illness that prevents a member from attending in person; (C) a need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g); or (D) travel while on official business of the legislative body or another state or local agency.

1. The notice provided shall include a general description of the circumstances relating to their need to appear remotely at the given meeting.

2. A member may not use just cause for more than two meetings per calendar year.

ii. **Emergency Circumstances.** Upon written request, members of Council may participate in a meeting remotely due to emergency circumstances if the legislative body approves the request. “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.

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<sup>1</sup> “Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Section 12945.2.

1. The request shall include a general description of the circumstances relating to the member's need to appear remotely at the given meeting. The general description of an item generally need not exceed 20 words and is not required the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code).

2. Members shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible.

3. Members shall make a separate request for each meeting in which they seek to participate remotely.

4. Council may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, Council may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

iii. During the meeting where a members participates remotely due to Just Cause or an Emergency, at least a quorum of the members of Council participate in person from a single physical location clearly identified on the agenda, which location is open to the public and situated within the boundaries of the territory over which Santa Ana exercises jurisdiction.

iv. During the meeting where a members participates remotely due to Just Cause or an Emergency, the member participating remotely shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals; and the member shall participate through both audio and visual technology during the meeting.

v. The provisions shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent (20%) of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

vi. During the meeting where a members participates remotely due to Just Cause or an Emergency, the legislative body shall have available at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body: (i)

a two-way audiovisual platform; or (ii) a two-way telephonic service and a live webcasting of the meeting.

vii. During the meeting where a members participates remotely due to Just Cause or an Emergency, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

viii. During the meeting where a member(s) participates remotely due to Just Cause or an Emergency, the agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

ix. During the meeting where a members participates remotely due to Just Cause or an Emergency, in the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

x. During the meeting where a member(s) participates remotely due to Just Cause or an Emergency, the legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

xi. During the meeting where a members participates remotely due to Just Cause or an Emergency, notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

**d. Councilmember Participation in Compliance with Teleconferencing Notice Requirements.** Members of Council may participate in a meeting remotely in compliance with the Notice Requirements under Section 54953(b)(3).

4. This Policy shall remain in effect only until January 1, 2026, and as of that date is repealed.

APPROVED AS TO FORM:

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Sonia R. Carvalho,  
City Attorney

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