

RESOLUTION 2020-02

**CITY OF DEFUNIACK SPRINGS
STATE OF EMERGENCY – COVID-19**

**ADOPTION OF GOVERNOR’S EXECUTIVE ORDER 20-69 FOR
SUSPENSION OF CHARTER AND ORDINANCE RESTRICTIONS TO
ALLOW HOLDING OF “VIRTUAL” MEETINGS USING
COMMUNICATIONS MEDIA TECHNOLOGY THEREBY ADDRESSING
MEETING PROCEDURES AND REQUIREMENTS
BEGINNING 4:00 P.M. 4/06/2020 UNTIL RESCINDED**

PURSUANT TO THE AUTHORITY vested in me as the City Manager of DeFuniak Spring by the City Council of the City of DeFuniak Springs, in accordance with the City of DeFuniak Springs, Florida, Declaration of State of Emergency, approved March 16, 2020, (“Declaration”), I hereby state:

WHEREAS, on March 1, 2020, Governor Ron DeSantis, issued Executive Order 20-51 directing the Florida Department of Health to issue a Public Health Emergency as a result of COVID-19; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis, issued Executive Order 20-52 declaring a state of emergency for the State of Florida as a result of COVID-19; and

WHEREAS, on March 16, 2020, the City Council of DeFuniak Springs declared a State of Emergency due to the Coronavirus pandemic; and

WHEREAS, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention (“CDC”) issued the “15 Days to Slow the Spread” guidance advising individuals to adopt far-reaching social distancing measures, such as avoiding gatherings of more than 10 people; and

WHEREAS, on March 17, 2020, Governor Ron DeSantis wrote a letter to Attorney General Ashley Moody seeking an advisory opinion regarding concerns raised by local government bodies about their ability to hold meetings through teleconferencing and other technological means in order to protect the public and follow the CDC guidance regarding social distancing; and

WHEREAS, on March 19, 2020, Attorney General Ashley Moody delivered an opinion to Governor Ron DeSantis indicating that certain provisions of Florida law require a physical quorum be present for local government bodies to conduct official business, and that local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present by means other than in person, or that the in person requirement for constituting a quorum is lawfully suspended during the state of emergency; and

WHEREAS, on March 20, 2020, Governor Ron DeSantis issued Executive Order 20-69, which: (1) 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 (2) provided that local government bodies may utilize communications media technology, such as telephonic and video conferencing, as provided in Section 120.54(5)(b)(2), Florida Statutes; but did not waive any other requirement under the Florida Constitution and "Florida's Government in the Sunshine Laws," including Chapter 286, Florida Statutes; and

WHEREAS, Executive Order 20-69 expires at the expiration of Executive Order 20-52, including any extension; and

WHEREAS, while it is clear that the intention of the Executive Order 20-69 was to remove from local government bodies all impediments posed by quorum and physical presence requirements so that they could utilize communications media technology in a

manner consistent with Section 120.54(5)(b)(2), Florida Statutes, the Executive Order's reference to suspending "any Florida Statute" relating to quorum or meeting place requirements may give rise to a hypothetical ambiguity as to whether the Executive Order effectively suspended similar requirements found in special acts, charter or ordinance provisions, administrative regulations, or other sources of law or regulation; and

WHEREAS, in an abundance of caution, it is appropriate to clarify and resolve this hypothetical ambiguity, to provide certainty and safeguard the validity of the actions taken by local government bodies in these circumstances; and

WHEREAS, pursuant to Section 252.46, Florida Statutes, political subdivisions are authorized and empowered 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 Sections 252.31-252.90, Florida Statutes, such orders and rules have full force and effect of law, and all existing laws, ordinances, and rules inconsistent with any order or rule issued under the authority of such statute shall be suspended during the period of time and to the extent that such conflict exists; and

WHEREAS, it is necessary and appropriate to take action to ensure that COVID-19 remains controlled, and that residents and visitors in DeFuniak Springs remain safe and secure; and

WHEREAS, City Code, Article III, Sec. 2-101 states that the regular meeting times and dates of the City Council shall be determined at the first regular meeting after the annual election, which is generally the second and fourth Mondays of the month; and

WHEREAS, the City of DeFuniak Springs wishes to apply uniform CMT meeting procedures, while applying Florida Statutes, Section 120.54(5)(b)(2), and taking into consideration the limited guidance of Rule 28-109, F.A.C.

WHEREAS, the entry of this Order, together with Executive Order 20-69, will allow local government bodies to continue to function and hold public meetings while adhering to the recommended social distancing measures through the use of communications media technology, ("CMT"), while suspending any law, ordinance, rule, charter provision, or other regulation that requires a quorum to be present in person or requires a local government body to meet at a specific public place.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. Executive Order 20-69 is hereby adopted by reference.
2. Any law, ordinance, rule, charter provision, or other regulation that requires a quorum to be present in person at a meeting is suspended.
3. Any law, ordinance, rule, charter provision, or other regulation that requires a local government body to meet at a specific public place is suspended.
4. Any law, ordinance, rule, charter provision, or other regulation relating to the City of DeFuniak Springs that otherwise would impede the use of communications media technology for meetings of local government bodies during this time of emergency are suspended.
5. City of DeFuniak Springs local government bodies may utilize communications media technology, such as telephonic and video conferencing, as provided in Section 120.54(5)(b)(2), Florida Statutes.
6. This Order does not waive any other requirement under the Florida Constitution and "Florida's Government in the Sunshine Laws," including Chapter 286, Florida Statutes.

7. Executive Order 20-91 is hereby adopted by reference. This Order requires limiting movements and personal interactions outside of their home.
8. Due to the Covid-19 Emergency the following uniform rules of procedures shall be adopted:
 - a) Meetings shall be held using CMT as determined appropriate by the City Manager. Physical presence of City Council Members is not required or advised, so Councilmembers should join the meeting using electronic means.
 - c) The following shall be posted on all City meeting notices:

“Due to the Novel Coronavirus Disease 2019 (COVID-19) and Federal, State, County, and the City’s Declarations of State of Emergency, and City of DeFuniak Springs Emergency Order, the City of DeFuniak Springs will be calling meetings only when necessary, and conducting public meetings using Communications Media Technology (CMT) until the Emergency Order is lifted. Those wishing to attend meetings are encouraged to join the meeting only through electronic means.

Persons wishing to remotely attend meetings may do so as follows:

Public Comment: The public may submit comments directly to the City Clerk, Maryanne Schrader, at cityclerk@defuniaksprings.net.

The remote City Council meeting will comply with Section 286.011, and Section 120.54, Florida Statutes and (“F.S.”).

“Meetings agendas and minutes may be viewed online at: <https://www.defuniaksprings.net/1274/2020-Council-Agenda-Center>. After the meeting, the audio recording will be available online the day following the meeting”.

“General public comment unrelated to an item on the agenda will be handled as follows: Send email no later than one hour before the start of the meeting to: cityclerk@defuniaksprings.net. If received timely, the Mayor or City Staff will read the public comment at the Meeting”.

“Comments about items on the agenda will be solicited and heard during the meeting by telephone or Communications Media Technology. Please call in to (850) 892-8500 Option 8. If you are directed to the Voice Mail system, please allow us 24 hours to respond to your question.

“For Requests to be on the agenda – please download the form at <https://www.defuniaksprings.net/DocumentCenter/View/13942/DFS-Agenda-Form>. The form should be submitted no later than noon on the Wednesday before a regularly scheduled meeting to the City Manager at citymanager@defuniaksprings.net or the City Clerk at cityclerk@defuniaksprings.net or by contacting your councilmember who will present it to Council.

“For additional information, residents may contact the City Clerk by email: cityclerk@defuniaksprings.net or call (850) 892-8500 ext. 103.

“Consistent with Section 286.0105 Florida Statutes, if a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record

includes the testimony and evidence upon which the appeal is to be based”.

Persons planning to attend the meeting who need special assistance must notify the Office of the City Clerk at 850 892-8500 ext. 103 no later than 48 hours preceding the meeting.”

APPROVED this 6th day of April 2020.


Robert "Bob" Campbell, Mayor

Attest:


Maryanne Schrader, City Clerk



STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 20-69

(Emergency Management – COVID-19 – Local Government Public Meetings)

WHEREAS, on March 1, 2020, I issued Executive Order 20-51 directing the Florida Department of Health to issue a Public Health Emergency as a result of COVID-19; and

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

WHEREAS, on March 9, 2020, I issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention (“CDC”) issued the “15 Days to Slow the Spread” guidance advising individuals to adopt far-reaching social distancing measures, such as working from home and avoiding gatherings of more than 10 people; and

WHEREAS, on March 17, 2020, I wrote a letter to Attorney General Ashley Moody seeking an advisory opinion regarding concerns raised by local government bodies about their ability to hold meetings through teleconferencing and other technological means in order to protect the public and follow the CDC guidance regarding social distancing; and

WHEREAS, on March 19, 2020, Attorney General Ashley Moody delivered an opinion to me indicating that certain provisions of Florida law require a physical quorum be present for local government bodies to conduct official business, and that local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present by means other than in person, or that the in person requirement for constituting a quorum is lawfully suspended during the state of emergency; and

WHEREAS, it is necessary and appropriate to take action to ensure that COVID-19 remains controlled, and that residents and visitors in Florida remain safe and secure;

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section (1)(a) of the Florida Constitution, Chapter 252, Florida Statutes, and all other applicable laws, promulgate the following Executive Order to take immediate effect:

Section 1. I hereby suspend 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.

Section 2. Local government bodies may utilize communications media technology, such as telephonic and video conferencing, as provided in section 120.54(5)(b)2., Florida Statutes.

Section 3. This Executive Order does not waive any other requirement under the Florida Constitution and "Florida's Government in the Sunshine Laws," including Chapter 286, Florida Statutes.

Section 4. This Executive Order shall expire at the expiration of Executive Order 20-52, including any extension.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 20th day of March, 2020


RON DESANTIS, GOVERNOR

ATTEST:


SECRETARY OF STATE

2020 MAR 20 AM 9:38

FILED