

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2023-01

RESOLUTION AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF  
THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO  
PURSUANT TO ASSEMBLY BILL 361

WHEREAS, the City of Modesto (the "City") is committed to preserving and promoting public access and participation in meetings of the legislative bodies; and

WHEREAS, all meetings of the City are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the City conduct their business; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of the novel coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 19, 2020, the City Council adopted Resolution Number 2020-140, ratifying the proclamation of a local emergency by the Director of Emergency Services due to COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, repealed the provisions of Executive Order N-29-20 that allowed local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 (2021) ("AB 361"), which allows for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition of AB 361 is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, AB 361 further requires that state or local officials have imposed or recommended measures to promote social distancing, or, that the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the City may make certain findings every thirty (30) days to continue teleconferencing under Government Code section 54953(e)(3), including reconsideration of the state of emergency declared by the Governor pursuant to Government Code section 8625, and whether State or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the State of Emergency declared by the Governor pursuant to Government Code section 8625 continues to be in effect; and

WHEREAS, State and local health officials have imposed and recommended social distancing measures for the protection of public health and safety in response to COVID-19; and

WHEREAS, on November 15, 2021, the Health Officer of the County of Stanislaus reiterated her recommendation that increasing distance during meetings and indoor gatherings to six feet or more can help stop the spread” of COVID-19; and

WHEREAS, the Board of Zoning Adjustment shall conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, the Board of Zoning Adjustment of the City of Modesto does hereby resolve as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Current Conditions Authorize Teleconference Public Meetings of the Planning Commission. Based on the California Governor’s continued declaration of a State of Emergency and the Stanislaus County Public Health Officer’s recommendation to continue teleconferencing or social distancing during public meetings, the Board of Zoning Adjustment finds that the conditions exist pursuant to Government Code section 54953(e)(1) to allow the Board of Zoning Adjustment to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

Section 3. Authorize the Board of Zoning Adjustment to Conduct Teleconference Meetings. The Board of Zoning Adjustment is hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment, held on January 26, 2023, by Board Member Goriel, who moved its adoption, which motion was seconded by Board Member Desai and carried by the following vote:

Ayes: Blom, Desai, Goriel, Riddle, Niskanen, Vohra  
Noes: None  
Absent: None  
Recused: None

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Signed copy on file in CEDD \_\_\_\_\_

Jessica Hill, Acting Secretary

5048880.1