

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2021-14

RESOLUTION AUTHORIZING REMOTE TELECONFERENCE MEETINGS
PURSUANT TO ASSEMBLY BILL 361

WHEREAS, all meetings of the City of Modesto's legislative bodies 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's legislative bodies 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, as a result of Executive Order N-29-20, staff set up virtual meetings for all City Council meetings and meetings of all legislative bodies within the City; and

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

WHEREAS, on September 16, 2021, the Governor signed AB 361 (2021) which allows for local legislative bodies to continue to conduct meetings via teleconferencing under specified conditions. AB 361 (2021) took effect immediately; and

WHEREAS, the Governor has declared a State of Emergency pursuant to Government Code section 8625 as has the City of Modesto, which continues to be in effect; 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, because of the ongoing state of emergency and local officials recommendation of social distancing, the Board of Zoning Adjustment desires to hold meetings via teleconferencing pursuant to Government Code section 54953(e); and

WHEREAS, the Board of Zoning Adjustment shall ensure that it's meetings comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

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

1. The above recitals are true and correct, and incorporated into this Resolution.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Brown Act, the Board of Zoning Adjustment makes the following findings:
 - a) The state of emergency, as declared by the Governor pursuant to Government Code section 8625, is currently in effect; and
 - b) Local officials currently recommend measures to promote social distancing during meetings and indoor gatherings.
3. Board of Zoning Adjustment may meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public.

The foregoing resolution was introduced at the special meeting of the Board of Zoning Adjustment held on December 16, 2021, by Board Member Niskanen, who moved its adoption, which motion was seconded by Board Member Rodriguez and carried by the following vote:

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

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

Original, signed copy on file in CEDD
Steve Mitchell, Secretary