

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO AB 361 TO
CONTINUE TO HOLD TELECONFERENCED PUBLIC MEETINGS DURING THE
COVID 19 STATE OF EMERGENCY

WHEREAS, the Brown Act (Government Code section 54950 et seq.) allows for public meetings of a legislative body to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction; and

WHEREAS, in response to the COVID 19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements; and

WHEREAS, the Governor signed AB 361 prior to the expiration of Order N-29-20; and

WHEREAS, AB 361 amends the Brown Act to the legislative body of a local agency to hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body; and

WHEREAS, AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency, however, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings specified in the statute justifying the continued use of teleconferenced public meetings; and

WHEREAS, it shall be the policy of the City that the appointed boards and commissions of the City will hold teleconferenced public meetings in compliance with the provisions of AB 361 during the COVID 19 state of emergency; and

WHEREAS, the COVID 19 state of emergency declared by the Governor remains active; and

WHEREAS, public meetings involve many people in shared indoors spaces for hours, when the number of people present does not always allow for a minimum six foot distance between persons, and close contacts raise the risk of the spread of COVID-19; and

WHEREAS, the California Department of Public Health has mandated that everyone in California wear a mask in indoor public spaces and workplaces through February 15, 2022; and

WHEREAS, the Alameda County Health Officer has issued Order No. 20-05g (originally issued April 3, 2020 and most recently amended on January 10, 2022) imposing a mandate that all individuals diagnosed or likely to have COVID 19 must isolate themselves and follow requirements further specified in the Order; and

WHEREAS, the Alameda County Health Officer has issued Order No. 20-06o (originally issued April 3, 2020 and most recently amended on February 22, 2022) imposing a quarantine requirement on individuals who have had close contact to a person infected with COVID 19 unless specific criteria described in the order are met; and

WHEREAS, the Alameda County Health Officer has issued Order No. 22-01 (effective on February 16, 2022), which rescinded Order No. 21-06 (effective on December 8, 2021) which mandated face coverings be worn in indoor public spaces; and

WHEREAS, pursuant to Order No. 22-01, unvaccinated or incompletely vaccinated individuals over the age of two years must continue to wear face coverings indoors and workplaces will be subject to regulations on indoor masking issued by Cal/OSHA. The Order further states that it is not intended to prohibit the wearing of masks by vaccinated individuals. Indeed, the Health Officer recommends continued use of masks by all in these settings; and

WHEREAS, the California Department of Public Health continues to require unvaccinated individuals to wear masks in indoor public settings and businesses, including state and local government officers serving the public. Fully vaccinated individuals are recommended to continue indoor masking when the risk may be high; and

WHEREAS, Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward makes the following findings pursuant to AB 361 to continue holding teleconferenced public meetings during the COVID 19 state of emergency:

- The City Council has reconsidered the circumstances of the state of emergency.
- The COVID 19 state of emergency declared by the Governor remains active and continues to directly impact the ability of Councilmembers to meet safely in-person.
- State and local officials continue to recommend or impose measures to promote social distancing.
- The Alameda County Health Officer has issued orders imposing measures to promote social distancing via isolation and quarantine of individuals infected or likely infected with COVID 19 and individuals with close contact to persons infected with COVID 19.
- The Alameda County Health Officer has issued orders requiring unvaccinated or incompletely vaccinated individuals over the age of two years to continue to wear face coverings indoors and recommends continued use of face coverings by vaccinated individuals in these settings.
- The California Department of Public Health continues to require unvaccinated individuals to wear masks in indoor public settings and businesses, including state and local government officers serving the public. Fully vaccinated individuals are recommended to continue indoor masking when the risk may be high.

BE IT FURTHER RESOLVED that in the interest of public health and safety, based on the findings contained herein, the City Council of the City of Hayward and the appointed boards and commissions identified in Exhibit A of this Resolution shall continue to hold teleconferenced public meetings pursuant to AB 361.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward