

**ITEM 4 ATTACHMENT
RESOLUTION NO. 2023-1855**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALABASAS,
CALIFORNIA, ESTABLISHING POLICIES AND PROCEDURES FOR
COMPLIANCE WITH ASSEMBLY BILL 2449 RELATING TO
TELECONFERENCE PARTICIPATION IN LEGISLATIVE MEETINGS.**

WHEREAS, Assembly Bill 2449, effective January 1, 2023, amends the Brown Act, California Government Code Sections 54950 et seq., as it pertains to teleconference meeting participation by legislative body members; and

WHEREAS, AB 2449 will significantly curtail the ability of legislative body members to attend meetings virtually as compared to the relaxed teleconferencing laws that were enacted at the beginning of the COVID-19 and have seen been in effect; and

WHEREAS, addressing these complex new regulations uniformly across all of the City's legislative bodies will require the establishment of policy and procedure.

NOW, THEREFORE, the City Council of the City of Calabasas does hereby find and order that:

SECTION 1. Recitals:

The City Council finds that all the facts, findings, and conclusions set forth above in this Resolution are true and correct.

SECTION 2. Approval of Teleconferencing Policy:

The City Council finds that the Teleconferencing Policy, attached as Exhibit A is approved as official City policy.

SECTION 3. Term:

This Resolution shall sunset and be deemed rescinded on January 1, 2026, if not rescinded prior to that date. Notwithstanding the prior sentence, in the event AB 2449 is extended to apply to meetings after January 1, 2026, this Resolution shall be deemed to extend to conform to the extended date identified in any extension of AB 2449.

SECTION 4. Severability Clause:

Should any section, clause, or provision of this Resolution be declared by the Courts to be invalid, the same shall not affect the validity of the Resolution as a whole, or parts thereof, other than the part so declared to be invalid.

SECTION 5. Certification:

The City Clerk shall certify to the passage and adoption of this Resolution and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this 9th day of August 2023.

David J. Shapiro, Mayor

ATTEST:

APPROVED AS TO FORM:

Maricela Hernandez, City Clerk
Master Municipal Clerk
California Professional Municipal Clerk

Matthew T. Summers
Colantuono, Highsmith & Whatley
City Attorney

City of Calabasas
City Council and Commissioner Teleconferencing Policy (AB 2449)

I. Applicability.

When a legislative body member—such as a City Councilmember or Commissioner-- wishes to attend a legislative meeting by teleconference under the provisions of Assembly Bill 2449, codified at California Government Code Section 54953(f) et seq., the following policies and procedures shall apply. Nothing herein is intended to prevent a member's ability to attend a legislative meeting remotely if such attendance is otherwise authorized by Government Code Section 54953.

II. Definitions.

"Chairperson" shall mean the Mayor or Chair of the legislative body, as applicable. "Vice-Chairperson" shall mean the Mayor Pro Tempore, or Vice-Chair of the legislative body, as applicable.

"City" shall mean City of Calabasas.

"Description" shall mean a brief general description of the circumstances that warrant teleconference meeting attendance under the "Just Cause" exception or "Emergency Circumstances" exception, which need not exceed 20 words and need not to disclose any medical diagnosis, disability, or exempt personal medical information.

"Disclosure" shall mean an announcement by the Member, made during the legislative meeting where the Member will attend by teleconference, disclosing the presence of other individuals over the age of 18 in the room at the Member's teleconference location, and the general nature of the individual's relationship to the Member.

"Legislative body" shall have the same meaning as prescribed by Government Code Section 54952, i.e. a body that is subject to the Ralph M. Brown Act.

"Meeting" and "legislative meeting" shall have the same meaning as prescribed by Government Code Section 54952.2, i.e. a meeting of a legislative body that is required to be noticed under the Ralph M. Brown Act.

"Member" shall mean a member of a legislative body, such as a City Councilmember or Commissioner.

"Notification" shall mean a notification from a legislative body member of the Member's need to attend a meeting by teleconference. Notifications shall not require legislative body approval.

"Request" shall mean a request from a legislative body member that their legislative body actively approve their request to attend a meeting by teleconference.

"Teleconference" attendance at a legislative meeting, for purposes of this policy, shall be presumed to be accomplished by Zoom or the equivalent two-way audio-visual virtual software platform in use by the City at that time. "Teleconference" attendance shall mean attendance solely by virtual platform and shall not include a Member who attends a meeting in person and secondarily views the meeting by virtual platform. Provisions of this policy shall apply only to teleconference attendance under AB 2449 and shall not constrain the Member's ability to attend by teleconference under other sections of the Brown Act.

III. Available Exceptions for Teleconference Attendance

The Member shall be responsible for determining which of the two available exceptions under AB 2449 is applicable to the Member's need to attend by teleconference. The Member's determination shall not be investigated by staff as to the veracity of any such request or claim. Such determination shall be subject to review by the legislative body alone. The available exceptions are:

1. "Just Cause"¹
2. "Emergency Circumstances"²

IV. Exceptions Defined

1. Exception #1: "Just Cause" circumstances are defined as any one of the following:
 - a. Caregiving of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a member to participate remotely.
 - b. A contagious illness that prevents the member from attending in person.
 - c. A need related to a physical or mental disability.
 - d. Travel while on business of the legislative body or another state or local agency.
2. Exception #2: "Emergency Circumstances" are defined as a physical or family medical emergency that prevents a member from attending in person.
3. The foregoing definitions are set forth in this policy for convenience; in the event applicable law is changed to amend the nature of qualifying teleconference circumstances, the amended law shall supersede this section.

¹ Government Code § 54953, subd. (f)(2)(A)(i).

² Government Code § 54953, subd. (f)(2)(A)(ii).

V. Limitation on Number of Uses

1. Members may attend meetings by teleconference under AB 2449 no more than the following number of times per calendar year:
 - a. City Council: Four (4) meetings per year
 - b. Planning Commission: Four (4) meetings per year
 - c. Communications and Technology Commission (CTC): Two (2) meetings per year
 - d. Environmental Commission: Two (2) meetings per year
 - e. Historic Preservation Commission: Two (2) meetings per year
 - f. Library Commission: Two (2) meetings per year
 - g. Mayor's Youth Council: Two (2) meetings per year
 - h. Parks, Recreation and Education Commission: Two (2) meetings per year
 - i. Planning Commission: Two (2) meetings per year
 - j. Public Safety Commission: Two (2) meetings per year
 - k. Traffic & Transportation Commission (TTC): Two (2) meetings per year

The above limitations shall factor in all meetings noticed under the Brown Act, whether Regular, Special, Closed, Joint, or otherwise. In the event a Member attends by teleconference multiple, contiguous meetings held on the same date, each meeting shall be counted separately.

2. Notwithstanding any other provision, a Member may utilize the "Just Cause" exception no more than two (2) times per calendar year.
3. Notwithstanding any other provision, a Member may not attend meetings solely by teleconference for a period of more than three consecutive calendar months.
4. In the event a Member attends meetings solely by teleconference for a period of three consecutive calendar months, or attends meetings by teleconference the maximum number of allowable times per year, the Member must either attend in person; attend by other permissible teleconference provisions; or be counted as absent, for the remaining meetings in that calendar year.

VI. Procedure for Just Cause Exemption

A Member wishing to avail themselves of the "Just Cause" exception shall adhere the following:

1. Notification of the member's need to attend by teleconference, along with the required description of the circumstances creating the need, shall be made in writing prior to the meeting, and/or orally at the start of the subject meeting or during any prior meeting.
 - a. If the notification and description are delivered prior to the meeting, the Member shall submit the notification and description:

- i. In writing by email to the City Manager and City Attorney.
 - b. If the notification and description are delivered during a meeting prior to the meeting where the Member wishes to attend by teleconference, the Member shall make the required notification and description during the Member Comments order of business.
 - c. If the notification and description are delivered at the start of the subject meeting, the Member shall be present on the teleconference platform at the time the meeting is convened, and at the prompting of the Chairperson, shall make the required notification and description during the meeting prior to the attendance roll call.
2. The Member shall disclose the presence of any other adults in the room at the teleconference location, and the general nature of their relationship to the member, during the subject meeting. This requirement shall apply regardless of the timing of the notification and description.

VII. Procedure for Emergency Circumstances Exemption

A Member wishing to avail themselves of the "Emergency Circumstances" exception shall adhere to the following:

1. A request that the legislative body approve the Member's request to attend by teleconference, along with the required description of the circumstances creating the need, shall be made in writing prior to the meeting, and/or orally at the start of the subject meeting.
 - a. If the notification and description are delivered prior to the meeting, the Member shall submit the notification and description:
 - i. In writing by email to the City Manager and City Attorney.
 - b. If the request and description are made at the start of the subject meeting, the Member shall be present on the teleconference platform at the time the meeting is convened, and at the prompting of the Chairperson, shall make the required request and description during the meeting prior to the attendance roll call.
2. The legislative body must approve or deny the request during the meeting prior to the attendance roll call.
3. The Member shall disclose the presence of any other adults in the room at the teleconference location, and the general nature of their relationship to the member, during the subject meeting. This requirement shall apply regardless of the timing of the request and description.

Notwithstanding any other provision, teleconferencing Member(s) shall participate through both audio and visual technology. Members may mute their microphone while not speaking, but Members shall be visible through the visual technology at all times during the meeting. In the event a member is not visible, the member shall be noted as absent during that period.

VIII. Recordkeeping

1. The Member shall be responsible for assuring that any description, notification, request, and/or disclosure related to teleconference attendance are made in a manner that may be placed into the meeting record.
2. To the extent that the Member's notification, description and/or request is delivered prior to the meeting, staff shall archive the written communication as agenda correspondence along with the meeting record.
3. To the extent that the Member's notification, description, request, and/or disclosure is delivered during a legislative meeting, staff shall record the same in the minute record, along with record of the legislative body's action to approve or deny any "Emergency Circumstances" requests.
4. The legislative body's Minute Clerk shall keep data regarding each Member's use of teleconference attendance provisions under AB 2449, and apprise the Chairperson if any Member has reached their annual limit.

IX. Meeting Procedures

1. Business to be conducted by the legislative body relating to compliance with these regulations shall be conducted after the Call to Order, but prior to the attendance roll call, of the meeting where a Member will or may attend by teleconference. The Chairperson shall be responsible for the conduct of this portion of the meeting, with assistance from staff if needed. All related business shall be conducted in a manner that is evident to other meeting attendees and may be recorded in the meeting record. Such business to be conducted prior to attendance roll call shall include, and be conducted in substantially this form:
 - a. If any Member is not present in person the Chairperson shall inquire with staff whether the Member is present on the teleconference platform.
 - b. If the Member is present on the teleconference platform:
 - i. If the Member has made their notification or request in writing prior to the meeting: The Chairperson shall note for the record that the Member has submitted a notification and description of the need to attend the meeting by teleconference under the "Just Cause" exception; or made a request and

2. In the event a Member's inability or refusal to attend a meeting by teleconference in compliance with this policy, or related laws, results in the Member being recorded as absent from the meeting, existing policies and laws regulating legislative body member absences shall apply.

XI. Other Compliance Measures

In addition to the above provisions relating the conduct of legislative body members, whenever at least one Member attends a meeting by teleconference under AB 2449, staff shall be responsible for other applicable compliance measures, including but not necessarily limited to the following:

1. Staff shall assure that each posted agenda provides, and describes, means by which all members of the public may observe or attend the meeting and offer public comment, including a means to attend via teleconference platform.
2. Staff shall assure that members of the public are allowed to make public comment in real time during all allotted public comment periods, and shall give sufficient time for interested parties to indicate their interest in speaking, and unmute their devices, in order to allow them to comment via the teleconference platform.
3. Meeting proceedings shall be suspended in the event of a disruption that prevents the transmittal of meeting video and audio to members of the public via the teleconference platform; or in the event of a disruption within the City's control that prevents members of the public from making public comments via the teleconference platform. The legislative body shall take no further action on agenda items until public access to the meeting via teleconference platform is restored. If access cannot be restored within a reasonable amount of time, the Chairperson, or staff in the absence of the Chairperson, shall announce that the meeting is adjourned to a future date and the adjournment shall be noticed in accordance with the Brown Act.
4. Staff shall give notice of, and implement, a procedure for swiftly resolving requests for reasonable accommodations for individuals with disabilities.
5. All votes taken at a meeting where any Member attends by teleconference under the provisions of AB 2449 shall be taken by roll call vote.

XII. Conflict Between Law and Policy

In the event this policy conflicts with applicable state law, as exists or may be amended in the future, state law shall control, and the validity of the remaining sections of this policy shall be unaffected

XIII. Term

This Policy shall sunset and be deemed rescinded on January 1, 2026, if not rescinded prior to that date. Notwithstanding the prior sentence, in the event AB 2449 is extended to apply to meetings after January 1, 2026, this Policy shall be deemed to extend to conform to the extended date identified in any extension of AB 2449.