

TOWN OF TIMBERVILLE

EMERGENCY ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH PANDEMIC DISASTER.

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive "any state requirement or regulation" as appropriate; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on May 26, 2020, the governing body of the Town of Timberville, Virginia ("COUNCIL") confirmed the declaration of local emergency made by the Town Executive on May 26, 2020; and

WHEREAS, the COUNCIL finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a "disaster" as defined by Virginia Code §44-146.16 being a "communicable disease of public health threat;" and

WHEREAS, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six months; and

WHEREAS, Virginia Code § 44-146.21(C) further provides that a local director of emergency management or any member of a governing body in his absence may upon the declaration of a local emergency "proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to performance of public work;" and

WHEREAS, Virginia Code § 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that members of COUNCIL may convene solely by electronic means "to address the emergency;" and

WHEREAS, the open public meeting requirements of the Virginia Freedom of Information Act ("FOIA") are limited only by a properly claimed exemption provided under that Act or "any other statute;" and

WHEREAS, the Governor and Health Commissioner of the Commonwealth of Virginia and the President of the United States have recommended suspension of public gatherings of more than ten attendees; and

WHEREAS, The Attorney General of Virginia issued an opinion dated March 20, 2020 stating that localities have the authority during disasters to adopt ordinances to ensure the continuity of government; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the COUNCIL of the Town of Timberville, Virginia: That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the COUNCIL, the Planning Commission, Board of Zoning Appeals, and all local and regional boards, commissions, committees and authorities created by the COUNCIL or to which the COUNCIL appoints all or a portion of its members (collectively "Public Entities" and individually "Public Entity"), or for such Public Entities to conduct meetings in accordance with normal practices and procedures. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of government during this emergency and disaster:

a. Any meeting or activities which require the physical presence of members of the Public Entities may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location; and

b. Prior to holding any such electronic meeting, the Public Entity shall provide public notice of at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and

c. Any such electronic meeting of Public Entities shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this

Ordinance; identify Public Entity members physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and

d. Any such electronic meeting of the Public Entities shall be open to electronic participation by the public and closed to in-person participation by the public; and

e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through telephonic or other electronic means during the course of the electronic meeting. All such public comments will be provided to members of the Public Entity at or before the electronic meeting and made part of the record for such meeting; and

f. The minutes of all electronic meeting shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The Public Entities may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.

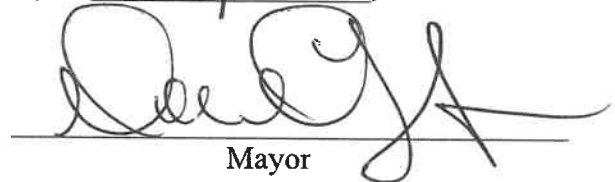
IT IS FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity, its officers (including Constitutional Officers) and employees of its organization shall be suspended during this emergency and disaster, however, the Public Entities, officers and employees thereof are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

IT IS FURTHER ORDAINED, that non-emergency public hearings and action items of Public Entities may be postponed to a date certain provided that public notice is given so that the public are aware of how and when to present their views.

Nothing in this Emergency Ordinance shall prohibit Public Entities from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration. An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

This Ordinance shall be effective from the 26th day of May, 2020.

ADOPTED AND APPROVED this 26th day of May, 2020.



Mayor

ATTEST:

Melinda J. Clear
Clerk of the Council
Record of Council Votes on Enactment

Paul Turner
Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

ATTEST:

Melinda J. Cleaver

Clerk of the Council
Record of Council Votes on Enactment

[Signature]

Council Member
Vote Cast: Yes No
Abstained from Vote

[Signature]
Council Member
Vote Cast: Yes No
Abstained from Vote

[Signature]
Council Member
Vote Cast: Yes No
Abstained from Vote

[Signature]
Council Member
Vote Cast: Yes No
Abstained from Vote

[Signature]
Council Member
Vote Cast: Yes No
Abstained from Vote

[Signature]
Council Member
Vote Cast: Yes No
Abstained from Vote

ATTEST:

Melinda J. Cleave

Clerk of the Council

Record of Council Votes on Enactment



Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

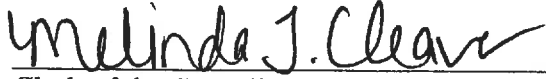
Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

ATTEST:



Clerk of the Council

Record of Council Votes on Enactment



Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

Council Member

Vote Cast: Yes No
Abstained from Vote

ATTEST:

Melinda J. Cleave

Clerk of the Council
Record of Council Votes on Enactment

Sharon Jones

Council Member

Vote Cast: *Yes* No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

ATTEST:

Melinda J. Clear

Clerk of the Council
Record of Council Votes on Enactment

Jeanita J. Price

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote

Council Member
Vote Cast: Yes No
Abstained from Vote