

**AN EMERGENCY ORDINANCE IMPLEMENTING EMERGENCY PROCEDURES TO ENSURE CONTINUITY OF CITY GOVERNMENT AND, IN PARTICULAR, TO MODIFY PUBLIC MEETING PROCEDURES AND OTHER PUBLIC PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH THE COVID-19 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 March 14, 2020, effective at 5:00 p.m. and extending through June 10, 2020, at 5:00 p.m., or as may be amended by the City Council (the “Emergency Period”), the City Manager, in his capacity as Director of Emergency Management, issued a Declaration of Local Emergency (the “City Declaration”) applicable throughout the entire City of Alexandria, Virginia (the “City”), pursuant to authority granted pursuant to City Code Section 4-3-5, Virginia Code Sections 44-146.21 and 15.2-1413, which City Declaration was unanimously consented to the by the City Council on March 14, 2020, pursuant to City Resolution No.2928, as required by applicable law; and

**WHEREAS**, the City 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

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

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

9           **WHEREAS**, Virginia Code § 2.2-3708.2(A)(3) allows, under certain procedural  
10 requirements including public notice and access, that members of the City Council may convene  
11 solely by electronic means “to address the emergency;” and

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

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

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

21           **WHEREAS**, this emergency ordinance in response to the disaster caused by the COVID-  
22 19 pandemic promotes public health, safety and welfare and is consistent with the law of the  
23 Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United  
24 States of America.

25           **NOW THEREFORE, THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:**

- 26           1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for  
27 public bodies including the City Council, the School Board, the Planning Commission  
28 and all local and regional boards, commissions, committees and authorities created by the

1 City Council or to which the City Council appoints all or a portion of its members  
2 (collectively “Public Entities” and individually “Public Entity”), or for such Public  
3 Entities to conduct meetings in accordance with normal practices and procedures.

- 4 2. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary  
5 provision of law, general or special, the following emergency procedures are adopted to  
6 ensure the continuity of government during this emergency and disaster:

- 7 a. Any meeting or activities which require the physical presence of members of the  
8 Public Entities may be held through real time electronic means (including audio,  
9 telephonic, video or other practical electronic medium) without a quorum physically  
10 present in one location; and  
11 b. Prior to holding any such electronic meeting, the Public Entity shall provide public  
12 notice in compliance with all applicable laws of the electronic meeting identifying  
13 how the public may participate or otherwise offer comment; and  
14 c. Any such electronic meeting of Public Entities shall state on its agenda and at the  
15 beginning of such meeting that it is being held pursuant to and in compliance with  
16 this Ordinance; identify Public Entity members physically and/or electronically  
17 present; identify the persons responsible for receiving public comment; and identify  
18 notice of the opportunities for the public to access and participate in such electronic  
19 meeting; and  
20 d. Any such electronic meeting of the Public Entities shall be open to electronic  
21 participation by the public and closed to in-person participation by the public; and  
22 e. For any matters requiring a public hearing, public comment may be solicited by  
23 electronic means in advance and shall also be solicited through telephonic or other  
24 electronic means during the course of the electronic meeting. All such public  
25 comments will be provided to members of the Public Entity at or before the electronic  
26 meeting and made part of the record for such meeting; and  
27 f. The minutes of all electronic meeting shall conform to the requirements of law,  
28 identify how the meeting was conducted, members participating, and specify what  
29 actions were taken at the meeting. The Public Entities may approve minutes of an

1 electronic meeting at a subsequent electronic meeting and shall later approve all such  
2 minutes at a regular or special meeting after the emergency and disaster has ended.

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

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

13 **IT IS FURTHER ORDAINED**, that the provisions of this Emergency Ordinance shall  
14 remain in full force and effect for the duration of the Emergency Period, unless amended,  
15 rescinded or readopted by the City Council in conformity with the notice provisions set forth in  
16 Virginia Code §15.2-1427 but in no event shall such ordinance be effective for more than six  
17 months. Upon rescission by the City Council or automatic expiration as described herein, this  
18 emergency ordinance shall terminate and normal practices and procedures of government shall  
19 resume.

20 Nothing in this Emergency Ordinance shall prohibit Public Entities from holding in-  
21 person public meetings provided that public health and safety measures as well as social  
22 distancing are taken into consideration.

23 An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

24 JUSTIN WILSON  
25 Mayor

26 Introduction: March 24, 2020  
27 First Reading: March 24, 2020  
28 Publication: N/A  
29 Public Hearing: March 24, 2020  
30 Second Reading: March 24, 2020  
31 Final Passage: March 24, 2020