



MOTION: KELLY

SECOND: FRYE

RE: An Ordinance to Address Continuity of City Government During the Pendency of a Pandemic Disaster

ACTION: APPROVED: Ayes:0; Nays: 0

FIRST READ: April 7, 2020 **SECOND READ:** April 7, 2020

April 7, 2020
Special Meeting
Ordinance No. 20-05

IT IS HEREBY ORDAINED by the Fredericksburg City Council:

Article I. Purpose.

On March 12, 2020, Governor Ralph S. Northam issued Executive Order 51 declaring a state of emergency for the Commonwealth of Virginia in response to the novel coronavirus (COVID-19) pandemic. The City Manager, as the City’s Director of Emergency Management, pursuant to City Code §26-36 and Virginia Code §44-146.21, issued a Declaration of Local Emergency on March 16, 2020 in response to the imminent threat of disaster and danger to public health posed by the spread of the disease. This declaration was affirmed by City Council at a special meeting on Friday, March 20, 2020.

On March 23, 2020, Governor Ralph S. Northam issued Executive Order #53, which acknowledged the ongoing threat COVID-19 presents to our communities, prompting the need to significantly limit person-to-person contact to slow the spread of the virus. Consequently, this order limits in-person gatherings to no more than 10 people assembled in a single location. The Governor expanded on this directive by issuing Executive Order #55, a “stay-at-home order,” on March 30, which will remain in effect until June 10, 2020.

City Council, in Resolution 20-21 confirming the Declaration of Local Emergency, acknowledged that COVID-19 is a communicable disease that presents a real and substantial threat to public health. The Council finds that the severity of this threat constitutes a “disaster” as defined by Virginia Code §44.1-146.16.

Virginia Code §15.2-1413 provides that a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster, notwithstanding any contrary provision of law, for a period not to exceed six months after any such disaster. The Attorney General of Virginia confirmed this authority in an opinion issued March 20, 2020. This emergency ordinance, which is enacted pursuant to Virginia Code § 15.2-1413, and which City Council deems necessary to ensure continuity of City government during the disaster caused by the COVID-19 pandemic, promotes public health, safety, and welfare and is consistent with the laws of the Commonwealth of Virginia, the Constitution of Virginia, and the Constitution of the United States of the America.

Article II. Rules and Procedures.

Section 1. Succession to Preside over Meetings. In the event that both the Mayor and Vice-Mayor are unavailable to participate in a meeting of City Council due to any reason, including illness, isolation, or quarantine, the participating members of Council shall elect a presiding officer *pro tem* to execute the duties of presiding at that meeting.

Section 2. Quorum. Notwithstanding any other provision of law, if a number of members of Council are unavailable to participate in a meeting due to reasons associated with COVID-19, including illness, isolation, or quarantine, and the absence of those members leaves fewer members than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act by majority vote.

Section 3. Suspension of City Code Chapter 2, Article II Rules and Procedures. The following sections in Chapter 2 (Administration), Article II (City Council), of the Fredericksburg City Code are hereby suspended.

3-1. Section 2-39, Order of Business at Regular Meetings. Requirements that the format of Council agendas shall be set by resolution and shall include a consent agenda are hereby suspended to allow for modifications of the agenda format as needed by the City Clerk.

3-2. Section 2-44, Procedure for Adoption of Ordinances and Resolutions. Requirements for second readings of ordinances and certain resolutions are hereby suspended to allow the second readings of those ordinances and resolutions to be held on the same day and at the same meeting as their introductions.

3-3. Section 2-52 Members Leaving before Adjournment. Requirement that members entered as present shall not, without leave of the presiding officer leave a meeting until the meeting

is adjourned is hereby suspended to permit unannounced absences due to emergency, or, in the case of an electronic meeting, due to technical difficulty.

Section 4. Suspension of Deadlines. City personnel are encouraged to take action as is practical and appropriate to meet deadlines established under state law or city ordinance; however, notwithstanding any provision of law, regulation, or policy to the contrary, any deadlines requiring action by the City, its officers, including the Commissioner of Revenue and Treasurer, City employees, or any Public Entity as defined in Article III, below, are suspended. Time frames for review or expedited reviews are also suspended. Failure to meet any deadline or time frame will not constitute a default, violation, approval, ratification, or recommendation.

Section 5. Suspension of Inconsistent Policies. Any other rules, bylaws, or policies adopted by the City Council or any other Public Entity are hereby suspended to the extent they are inconsistent with this ordinance and its authorizations.

Article III. Remote Public Meetings.

Section 1. Purpose and Findings. Council finds that the COVID-19 pandemic makes it unsafe to physically assemble in one location a quorum for public bodies, including the Council, the School Board, the Planning Commission, Board of Zoning Appeals, Architectural Review Board, Economic Development Authority, the Rappahannock Regional Solid Waste Management Board, and all other 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.

Section 2. Remote Meetings Authorized.

2-1. Any regularly scheduled or regular meeting of any Public Entity may be canceled by the chair if there is no essential business that needs to occur or if conditions otherwise make it impractical to meet. Notice of the cancellation must be provided to the Public Entity’s members and the public as soon as practicable.

2-2. 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.

2-3. Prior to holding a remote meeting in accordance with this Article, the Public Entity shall provide public notice at least 3 days in advance of the remote meeting, or, in the case of a special or emergency meeting, in accordance with applicable special notice requirements. Such notice shall include a statement that the meeting is being held through electronic means, and identify how the public may access the meeting and, if applicable, offer comment.

2-4. Any such remote meeting shall be closed to in-person public attendance and open to electronic public access. Public access for City Council meetings shall, when feasible, include live broadcast available on all City public access television channels, the City website, and the City Government Facebook page. Additional methods may be used. Other Public Entities shall require public access consistent with their capabilities.

2-5. Any remote meeting held pursuant to this Article shall state on its agenda and at the beginning of the meeting that it is being held pursuant to and in compliance with this Ordinance; identify the persons responsible for receiving public comment, if applicable; and identify notice of the opportunities for the public to access such electronic meeting.

2-6. Any Public Entity holding a meeting remotely pursuant to this Article, for which a public comment period would be provided if that meeting were held in person, may provide a method for soliciting public comment in advance of or during the 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.

Section 3. Remote Public Hearings Authorized.

3-1. Non-emergency public hearings may be postponed to a future date, when a regular meeting can be held with a quorum of the Public Entity physically present. The Clerk of Council is authorized to reschedule public hearings and provide notice as appropriate.

3-2. Public hearings on essential business that needs to occur, may be held in accordance with the requirements of this section.

3-3. The Public Entity shall open the public hearing comment period, receive any comments that may have been submitted in advance, and continue the matter to its next meeting.

3-4. Public comments may be received in writing up to 1 hour prior to the next meeting, addressed to the Clerk of Council or other official designated by the Public Entity, by U.S. Mail, e-mail, or hand delivery to the drop box located by the front door of City Hall; and by additional methods identified by the Public Entity and included in the meeting notice in accordance with Section 2 of this Article.

3-5. Public Comments shall be compiled by the Clerk of Council, or other official designated by the Public Entity to receive comments, and delivered to each member of the Public Entity for review at or before the meeting at which the matter is scheduled to be concluded. All comments shall be made part of the meeting record.

Section 4. Minutes of Meetings.

4-1. Minutes of all remote meetings held pursuant to this Article shall (1) state that it is being held pursuant to and in compliance with this Ordinance, (2) identify the specific electronic means by which the meeting was conducted and which members participated, and (3) specify the methods by which the public was given the opportunity to access the meeting and provide comment.

4-2. Minutes shall otherwise conform to the requirements of law.

4-3. 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 disaster has ended.

Article IV. Effective date; Expiration.

This ordinance is effective immediately and shall remain in full force and effect, unless amended, readopted, or repealed by City Council, for a period not exceeding 6 months after the end of the COVID-19 disaster.

Votes:

Ayes: Greenlaw, Withers, Devine, Duffy, Frye, Graham, Kelly

Nays: None

Absent from Vote: None

Absent from Meeting: None

Approved as to form:

Kathleen A. Dooley

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 20-05 duly adopted at a meeting of the City Council meeting held April 7, 2020 at which a quorum was present and voted.



Tonya B. Lacey, MMC
Clerk of Council