

Middlesex County Board of Supervisors



At an electronic meeting of the Middlesex County Board of Supervisors held on November 4, 2020: On a motion duly made by Supervisor Mansfield, and seconded by Supervisor Williams, the following Ordinance was adopted by the following vote:

Wayne H. Jessie, Sr.	Aye
John B. Koontz, Jr.	Aye
Peter W. Mansfield	Aye
Reginald A. Williams, Sr.	Aye
Lud H. Kimbrough, III	Aye

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MIDDLESEX COUNTY, VIRGINIA CONFIRMING AND RATIFYING THE DECLARATION OF A LOCAL EMERGENCY ISSUED BY THE DIRECTOR OF EMERGENCY MANAGEMENT ON MARCH 16, 2020, MADE NECESSARY BY COVID-19 AND IMPLEMENTING EMERGENCY PROCEDURES TO ENSURE CONTINUITY OF COUNTY GOVERNMENT.

WHEREAS, on January 31, 2020, the United States Health and Human Services Secretary declared a public health emergency for the entire United States to aid the healthcare community in responding to COVID-19; and,

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

WHEREAS, on March 12, 2020, the Governor of the Commonwealth of Virginia issued Executive Order Fifty-One declaring a state of emergency in the Commonwealth of Virginia in response to the spread of COVID-19, and declared the anticipated effects of COVID-19 to be a disaster as described in Section 44-146.21 of the Code of Virginia, 1950, as amended; 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 15, 2020, the Governor of the Commonwealth of Virginia announced a ban on all gatherings of one hundred or more people statewide; and

WHEREAS, on March 16, 2020, the President of the United States urged people to avoid gathering in groups of more than 10 people; and

WHEREAS, Section 44-146.21 of the Code of Virginia, 1950, as amended, prescribes necessary actions associated with a local emergency; and

WHEREAS, Section 44-146.21 of the Code of Virginia, 1950, as amended, prescribes two methods for declaring an emergency: the first is accomplished by the local Director of Emergency Management with the consent of the governing body; the second is accomplished by the Director of Emergency Management without the initial consent of the governing body, but such declaration must be confirmed by the governing body at its next regularly scheduled meeting or at a special meeting within 45 days of the declaration, whichever occurs first; and

WHEREAS, it was necessary and proper for the Middlesex County Director of Emergency Management to, on March 16, 2020, declare a local emergency and disaster in Middlesex County, Virginia, arising from the Coronavirus Disease 2019 (COVID-19), without first obtaining the consent of the Board of Supervisors of the County of Middlesex, Virginia (“County”), and confirmation by the Board of Supervisors is now required by law; and,

WHEREAS, the Board of Supervisors is satisfied that the public health threat posed by COVID-19 constitutes a real and substantial threat to health and safety of persons and property in the County of Middlesex, Virginia and that it necessitated a declaration of local emergency; and

WHEREAS, the Board of Supervisors finds that emergency measures are necessary to mitigate the ongoing emergency and disaster that is occurring in the Commonwealth of Virginia and to protect the health, safety, and welfare of the citizens; and

WHEREAS, state law requires that localities, their governing bodies and governing-body appointed boards, commissions, and committees, comply with applicable open meeting and public hearing requirements, including those contained in the Virginia Freedom of Information Act, Va. Code Section 2.2-3700 et seq.; and

WHEREAS, compliance with generally applicable open meeting and public hearing requirements during the state and local declared emergency is not practicable or reasonable, and would pose an undue risk to the health and safety of the members of County boards, commissions, and committees and the public at large; and

WHEREAS, in order to assure continuity in County government, in light of the risk posed to public health and safety by virtue of the COVID-19 pandemic and the state and local declared emergency, it is deemed necessary and appropriate to modify, for a limited period of time, the practices and procedures generally attendant to open meetings and public hearings; and

WHEREAS, Section 15.2-1413 of the Code of Virginia, 1950, as amended, provides, “Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy

attack or other disaster. Such ordinance shall be limited in its effect to a period not exceeding six months after any such attack or disaster and shall provide for a method for the resumption of normal governmental authority by the end of the six-month period.”; and

WHEREAS, this 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 pursuant to Section 15.2-1413 of the Code of Virginia, 1950, as amended, the following emergency procedures are adopted and enacted by the Middlesex County Board of Supervisors this 4th day of November 2020:

1. That it hereby confirms and ratifies the Declaration of Local Emergency made on March 16, 2020 by the Director of Emergency Management.
2. That it understands and confirms that the Declaration of Local Emergency empowers the Director of Emergency Management with special authority and duties, said authority and duties being defined by the laws, rules, regulations and plans of the United States of America, the Commonwealth of Virginia and the County of Middlesex.
3. That the infectious nature of COVID-19 makes it unsafe to assemble in one location members of the public and/or a quorum for public bodies including the Board of Supervisors, the School Board, the Planning Commission, the Board of Zoning Appeals, the Board of Equalization, the Local Electoral Board, and all other local and regional boards, commissions, agencies, committees, and authorities created by the Board of Supervisors or to which the Board of Supervisors appoints all or a portion of its members, and committees appointed by such entities, and the aforesaid government-related entities and their committees (collectively “Public Entities” and individually “Public Entity”), making it difficult or impossible for Public Entities to conduct meetings in accordance with normal practices and procedures.

In accordance with Section 15.2-1413 of the Code of Virginia, 1950, as amended, notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure continuity of government during the pendency of the emergency and disaster created by COVID-19:

- a. The County Administrator is empowered and directed to restrict the public from entering or congregating around County-owned buildings, facilities, and real property in the least restrictive manner as reasonably necessary to ensure the health, safety, and welfare of the public and County staff.

- b. Meetings of Public Entities may be held electronically through real-time electronic communication means without a quorum of members physically present in a single location, provided that notice of such meetings is still given in accordance with applicable laws.
 - c. Such meetings may be held without permitting members of the public to be physically present in a central location or in the same physical location as any of the Public Entities so long as alternative arrangements for public access to such meetings are made. Such alternative public access may be electronic, including but not limited to audio, telephone, or video broadcast. The agenda for said meetings shall state that the meeting will be held remotely, identify Public Entity members physically and/or electronically present, identify a person responsible for receiving public comments for said meeting, and contain a notice of the opportunities for the public to access and participate in said meetings.
 - d. For any matter requiring a public hearing, by law, public comments will be solicited and received via written means prior to the vote on such matter. Public comments may also be solicited and, if so solicited, received, via electronic and/or telephonic means if possible and practical. All such comments shall be provided to the members of the body and made a part of the record of such meeting.
 - e. The minutes of all electronic meetings 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 Entity may approve minutes of an electronic meeting at a subsequent meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.
4. That each incorporated town within the boundaries of Middlesex County, Virginia is encouraged, authorized and/or directed to declare its own state of local emergency and disaster or incorporate by reference the County's local state of emergency and disaster and to adopt an ordinance for the continuity of town government.
5. That the provisions of this Ordinance shall remain in full force and effect for six (6) months, unless amended, rescinded or readopted by the Board of Supervisors in conformity with the notice provisions set forth in Virginia Code §15.2-1427. Upon rescission by the Board of Supervisors, or automatic expiration, as described herein, this Ordinance shall terminate, and normal practices and procedures of government shall resume.

6. That nothing in this 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.
7. That an emergency is deemed to exist, and this Ordinance shall be effective upon its adoption.
8. If any provision of this Ordinance is determined to be unlawful, void, or of no effect by a Court of competent jurisdiction, the remaining provisions shall continue in effect.
9. All meetings and public hearings held shall be advertised and noticed in compliance with applicable Virginia Freedom of Information Act requirements, with such advertisement to include the methods offered and available for public access to and participation in the meetings and public hearings in lieu of physical presence.
10. Notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by Middlesex County government and any entity covered by this Ordinance, including Constitutional Officers and Offices and County officers and employees, shall be suspended for the duration of the effective period of the ordinance, understanding that reasonable attempts should be made to meet all such deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation, or otherwise.

A Copy Teste:



Matthew Walker, Clerk