

**EMERGENCY ORDINANCE TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH PANDEMIC DISASTER**

**ARLINGTON COUNTY, VIRGINIA**

**WHEREAS**, the Governor of Virginia, by Executive Order No. 51, declared a state of emergency in Virginia on March 12, 2020, in response to the spread of novel coronavirus, or COVID-19, a communicable disease of public health threat as so declared by the State Health Commissioner on February 7, 2020 (“COVID-19”), stating that the anticipated effects of COVID-19 constituted a disaster as described in § 44-146.16 of the Code of Virginia, 1950, as amended, and directed state and local governments to “render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible”; and

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

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

**WHEREAS**, on March 13, 2020, the County Manager of Arlington County, acting in his capacity as the County’s Director of Emergency Management, declared a local emergency and activated the County’s Emergency Operations Plan to enable the County to respond to the public health threat posed by COVID-19 by all means at its disposal, which local emergency declaration was consented to by the County Board of Arlington County on March 13, 2020; and

**WHEREAS**, effective March 16, 2020, the Governor of Virginia and the State Health Commissioner jointly issued an order declaring a public health emergency resulting from the spread of COVID-19 affecting the health and safety of Virginians, and restricting the number of patrons allowed in permitted restaurants, fitness centers, and theatres to 10 patrons or less in order to inhibit spread of COVID-19, which joint order was amended by Order of Public Health Emergency One, dated March 20, 2020, and which clarified the businesses subject to the joint order and the penalties for violations of it; and

**WHEREAS**, effective March 23, 2020, the Governor of Virginia, by Executive Order No. 53, in furtherance of Executive Order No. 51, and to mitigate the impacts of COVID-19 and its spread, ordered further restrictions on in-person instruction at public and private schools and public access to recreational and entertainment businesses, among other restrictions, and ordered adherence to social distancing recommendations and telework practices as much as possible; and

**WHEREAS**, the Board finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by § 44-146.16 of the Code of Virginia, 1950, as amended, being a “communicable disease of public health threat;” and

**WHEREAS**, § 15.2-1413 of the Code of Virginia, 1950, as amended, 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**, the County Board finds that emergency measures are necessary to protect the public health and address the impacts of COVID-19, including the enactment of special measures and the suspension of existing legal requirements and processes during the pendency of the emergency; and

**WHEREAS**, the County Board further finds that it may be necessary to forego the procedures required by state and local law in ordinary circumstances to take the actions essential to ensure the continued operations of the County government, including the requirements contained in the Virginia Freedom of Information Act, §§ 2.2-3700 *et seq.* of the Code of Virginia, 1950, as amended, for the physical assembly of the County Board and public attendance at duly noticed meetings of the County Board and of other public bodies performing governmental functions in the County, as well as meetings of regional bodies of which the County is a member, with legal responsibilities for the conduct of business essential to addressing the emergency and the continuity of governmental operations in the County and region;

**NOW, THEREFORE, BE IT ORDAINED**, that the County Board of Arlington County, Virginia, to address the disaster posed by the public health emergency resulting from COVID-19 and to ensure actions essential to the continued operation of County government, hereby adopts this ordinance providing as follows:

1. Meetings to address the emergency caused by COVID-19.
  - a. In meetings the purpose of which are to address the effects of COVID-19 and the public health emergency created by it, the County Board will comply with the public meeting requirements of the Virginia Freedom of Information Act, §§ 2.2-3700 *et seq.* of the Code of Virginia, 1950, as amended, (“FOIA”) to the extent reasonably possible. However, the communicable nature of COVID-19 and the threat it poses to the public health generally and specifically to the members of the County Board, staff, those having business before the County Board, and the public makes it impracticable and unsafe for the foregoing to physically gather at the meeting location. Accordingly, the County Board will utilize electronic means for such meetings so that the County Board may meet virtually as permitted by § 2.2-3708.3(A)(3) of FOIA. Such meetings shall be duly noticed in compliance with FOIA, and the public will be offered the opportunity to attend the meeting virtually, and to participate in the meeting virtually to the extent the meeting requires public hearing and the opportunity for comment by the public,

and without the public being offered the opportunity to physically attend the meeting.

- b. To the extent that public bodies that perform governmental functions in the County must meet to consider matters necessary to address the effects of COVID-19 and the public health emergency created by it, the County Board authorizes those public bodies to utilize electronic means for such meetings so that the public body may meet virtually, provided a quorum is in attendance, and as permitted by § 2.2-3708.3(A)(3) of FOIA. Such meetings shall be duly noticed in compliance with FOIA, and the public will be offered the opportunity to attend the meeting virtually, and to participate in the meeting virtually to the extent the meeting requires public hearing and the opportunity for comment by the public, and without the public being offered the opportunity to physically attend the meeting.

2. Meetings to ensure the continuity of government operations.

- a. In meetings the purpose of which are to consider matters and take actions essential to ensure the continued operations of the County government, including but not limited to, the adoption of the Fiscal Year 2021 County government budget, the setting of tax rates and fees necessary to fund County government funding obligations and operations, including those for public schools, and appropriations of funds for ongoing County government and public school operations, the County Board will utilize electronic means for such meetings so that the County Board may meet virtually, provided a quorum is in attendance. Such meetings shall be duly noticed in compliance with FOIA, and the public will be offered the opportunity to attend the meeting virtually, and to participate in the meeting virtually to the extent the meeting requires public hearing and the opportunity for comment by the public, and without the public being offered the opportunity to physically attend the meeting.
- b. To the extent that public bodies that perform government functions in the County must meet to consider matters and take actions essential to ensure the continued operations of the government in the County, the County Board authorizes those public bodies to utilize electronic means for such meetings so that the public body may meet virtually, provided a quorum is in attendance. Such meetings shall be duly noticed in compliance with FOIA, and the public will be offered the opportunity to attend the meeting virtually, and to participate in the meeting virtually to the extent the meeting requires public hearing and the opportunity for comment by the public, and without the public being offered the opportunity to physically attend the meeting.

3. Meetings of regional bodies of which the County is a member.
  - a. The County Board is a member of several regional bodies that are subject to FOIA with legal responsibilities for matters necessary to address the emergency posed by COVID-19 and matters essential to the continuity of government operations in the County and the region, including the Northern Virginia Transportation Authority, the Northern Virginia Transportation Commission, the Virginia Railway Express Operations Board, and the Northern Virginia Regional Commission, among others.
  - b. The County Board authorizes each such regional body to utilize electronic means for meetings for such matters, provided a quorum is in attendance. Such meetings should be duly noticed in compliance with FOIA, and the public should be offered the opportunity to attend the meeting virtually, and to participate in the meeting virtually to the extent the meeting requires public hearing and the opportunity for comment by the public, and without the public being offered the opportunity to physically attend the meeting.
  - c. The County Board authorizes its representative(s) on such regional bodies to participate in meetings conducted through electronic means to ensure that matters necessary to address the emergency posed by COVID-19 and matters essential to the continuity of government operations in the County and the region can be considered and acted upon.
4. Nothing in this ordinance shall prohibit the County Board or other public and regional bodies from convening in-person public meetings provided that public health and safety measures, including appropriate physical distancing, are utilized.
5. This ordinance shall be effective upon adoption and shall be in effect for sixty (60) days unless readopted after due notice in accordance with the notice provisions set forth in § 15.2-1427 of the Code of Virginia, 1950, as amended, and thereafter shall be in effect for six (6) months from its date of adoption unless sooner repealed by the County Board.

Adopted the 24<sup>th</sup> day of March, 2020.