

AN ORDINANCE OF THE CARROLL COUNTY BOARD OF SUPERVISORS
INSTITUTING EMERGENCY PROCEDURES TO ENSURE CONTINUITY OF COUNTY
GOVERNMENT IN RESPONSE TO THE COVID-19 DISASTER.

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 the novel coronavirus or "COVID-19"; and

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

WHEREAS, on March 13, 2020, the President of the United States found and proclaimed that the COVID-19 outbreak in the United States constituted a national emergency and this outbreak continues to be a national emergency; and

WHEREAS, on March 12, 2020, by Executive Order No. 51, Governor Ralph S. Northam declared a state of emergency in the Commonwealth of Virginia due to the spread of the COVID-19 virus, and declared the anticipated effects of COVID-19 to be a disaster within the meaning of Virginia Code Section 44-146.16; and

WHEREAS, on May 26, 2020, by Amended Executive Order No. 51, Governor Northam declared that a state of emergency continued to exist due to the potential spread of COVID-19 and “again direct[ed] state and local governments to continue 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”; and

WHEREAS, such “recovery and mitigation operations and activities” must be adaptable to local situations and circumstances, and account for local emergencies, such as local community spread and emerging local hotspots; and

WHEREAS, these local emergencies may necessitate stricter public health standards than the Governor requires or may require local governing bodies to meet remotely in certain areas of the Commonwealth in order to maintain public health and safety; and

WHEREAS, on July 1, 2020, Governor Northam, by Executive Order No. 67, instituted “Phase Three”, which continues to be in place; and

WHEREAS Executive Order No. 67 continued to recognize the public health emergency in Virginia from the spread of the COVID-19 virus, continued to impose stringent measures to combat the spread of COVID-19, and reaffirmed earlier executive orders involving the health emergency created by the COVID-19 pandemic; and

WHEREAS Executive Order No. 67 requires all places where the public may gather to enforce appropriate social distancing measures between individuals, keeping them at least six feet apart, and requiring all individuals to wear appropriate face coverings over their mouth and nose; and

WHEREAS the Virginia Freedom of Information Act, Virginia Code Section 2.2-3700 *et seq.*, requires the public to have continued access to the meetings of public bodies; and

WHEREAS in certain circumstances such access may only be possible, given the space limitations required to enforce appropriate social distancing, where public bodies include options for virtual participation in public meetings; and

WHEREAS in person access to meetings may not be safe for individuals and members of governing bodies where those individuals have pre-existing conditions, are immunocompromised, or are in a high-risk category for death or serious complications due to COVID-19; and

WHEREAS, on March 16, 2020, the County's Director of Emergency Management issued, pursuant to Virginia Code Section 44-146.14, a Declaration of Emergency in the County due to the spread of COVID-19; and

WHEREAS, the Board confirmed or ratified the local Declaration of Emergency March 24, 2020, and hereby finds and Declares that the local emergency continues to exist. The Board further finds that such ongoing emergency constitutes a "disaster" within the meaning of Virginia Code Section 15.2-1413; and

WHEREAS, the Board understands and acknowledges that the public health threat posed by COVID-19 constitutes a real and substantial danger to persons in the County of Carroll; that the limitations on physical assembly of persons are urgently necessary to protect the public health; and that the Board and other County boards, commissions, and public bodies must conduct themselves accordingly; and

WHEREAS, compliance with the limitations on physical assembly occasioned by the COVID-19 public health crisis may make it difficult or impossible for the Board and other public bodies to safely physically assemble to conduct meetings and hold public hearings in accordance with ordinarily applicable procedures in their current facilities; and

WHEREAS, Virginia Code Section 44-146.21 provides that a local director of emergency management or any member of a governing body in the absence of the director 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 the performance of public work"; and

WHEREAS, Virginia Code Section 15.2-1413 authorizes any locality, by ordinance, to provide for methods to assure continuity in its government in the event of a disaster such as that created by the spread of COVID-19; and

WHEREAS, the Board of Supervisors of Carroll County is aware of the Opinion of the Attorney General issued March 20, 2020 and intends to act consistently therewith in the adoption of this Ordinance; and

WHEREAS, the Board of Supervisors of Carroll County is aware of the Opinion of the Attorney General issued October 5, 2020 and will make every reasonable effort in the present declared state of emergency to comply with all relevant state law requirements for governing bodies, including requirements specified under the Virginia Freedom of Information Act (VFOIA), notwithstanding the County's inherent authority under Virginia Code Section 15.2-1413 *et seq.*, and statutory authority granted in the Governor's adopted amendments to HB29 and HB30.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Carroll, Virginia (the "Board"):

1. That the COVID-19 pandemic may make it unsafe to assemble in one location a quorum for public entities including the Board, the School Board, the Planning Commission, the Economic Development Authority and all local and regional boards, commissions, committees, and authorities created by the Board or to which the Board appoints all or a portion of its members ("Public Entities") and further may make it unsafe to conduct meetings of the foregoing entities in accordance with normal practices and procedures, and therefore, in accordance with Virginia Code Section 15.2-1413, the following emergency procedures are hereby instituted to ensure continuity of government during the pendency of the COVID-19 disaster:
 - a. Any process, procedure, matter, or transaction which typically allows for the physical presence of the public in a County or School building that has been declared or in the future is declared to be closed to the public during the pendency of the Emergency Declaration is hereby suspended unless conducted in accordance with this ordinance or other provision of law.
 - b. The County Administrator is authorized to take actions objectively reasonable and necessary in the public health interest to alter schedules, arrange for alternative procedures consistent with this ordinance, provide programming, pay bills, engage contractors, hire employees, set and manage a succession plan effective in the event of unavailability of staff, adjust administrative processes and procedures to address the disaster, all in keeping with the U.S. Centers for Disease Control and Virginia Department of Health guidance/directives, and consistent with State and Local Declarations of Emergency.
 - c. Any meetings required and agenda items scheduled or proposed to be considered by the Board and other County boards, commissions, authorities, and other Public Entities, for the duration of the local emergency, but not to exceed six (6) months from the date of adoption of this ordinance, are deemed postponed and continued and extensions therefor are hereby ordered unless the Public Entity takes action on the item during that time following the alternative procedures described herein. This postponement of deadlines and actions shall include without limitation those items for which applicable law requires an affirmative action to be taken within a particular time with failure to act deemed approval. The provisions of this section shall also apply to matters postponed as a result of the COVID-19 pandemic prior to adoption of this Ordinance.

- d. In the reasonable judgement of and at the discretion of the Board or other Public Entity, especially where community spread exists, emerging local hotspots exist, or members of that Board or Public Entity are at high risk for serious or fatal complications from a COVID-19 infection due to pre-existing conditions, diabetes, obesity, advanced age, or other similar condition, meetings of the Board or other Public Entity may be held through electronic communication without a quorum of members physically present in a single location, provided that the public is given notice of such electronic meeting contemporaneously with the notice given to members of the Public Entity, and alternative measures are made to ensure public access by electronic or other remote means. At such a meeting held through electronic communication, the Public Entity may consider any item of business which said entity deems essential to the continuity of government or is appropriate for the continuity of the work of the Public Entity.
- e. Meetings of the Board or other Public Entity may be held with any number of the members of the Public Entity physically assembled or participating electronically, without members of the public being physically assembled in the same physical location as the members of the Public Entity if, in the judgment of said entity, such assembly would unacceptably endanger the health and safety of more susceptible participants, would not allow symptomatic individuals to participate, and would not permit best practices to prevent the spread of COVID-19, including appropriate social distancing measures, provided that the public is given notice that physical attendance by members of the public will be limited to permit protective measures to prevent spread of COVID-19, and further provided that alternative measures are made to ensure additional public access by electronic or other remote means. At such a meeting held with the help of electronic communication, the Public Entity may consider any item of business which said entity deems essential to the continuity of government or is appropriate for the continuity of the work of the Public Entity.
- f. For meetings held electronically, pursuant to Virginia Code Section 2.2-3708.2(A)(1) and (A)(2), any matters which may properly come before the entity may be considered.
- g. Meetings under subsections (d) and (f) may be held with limited attendance of members of the public being physically present in a single location or in the same physical location as any of the Public Entity members, 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, telephonic, or video broadcast.
- h. For any matter considered by the Board or other Public Entity during the pendency of the local emergency which typically requires open doors, public attendance, or public participation by law, such requirements are hereby altered and may be met by electronic, telephonic, and/or written means by the Public Entity, which may meet electronically or in person or in some combination thereof as circumstances may permit or require.
- i. For any matter considered also requiring public comment or hearing, such will be allowed, solicited, or received by the Public Entity by electronic, telephonic, and/or

written means prior to the vote on such matter. All such comments will be heard by or provided to the members of the Public Entity and made a part of the record of such meeting.

- j. Notices of meetings will be provided by email directly to those who have elected in writing in the previous calendar year to receive such notices under the Virginia Freedom of Information Act, and if practicable, will also be provided on the County website and by other means selected by the County Administrator. To the extent practicable, notices will also be provided as otherwise provided by general law.
 - k. The minutes of all meetings undertaken under alternative meeting procedures in Section 1 of this Ordinance 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 a meeting conducted under alternative meeting procedures at a subsequent meeting conducted under alternative meeting procedures and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.
2. The emergency Ordinances previously adopted March 24, 2020, May 11, 2020, and May 26, 2020 are hereby superseded by this Ordinance. Any and all meetings or actions taken by the Board or any Public Entity using the alternative procedures previously adopted by the Board by emergency Ordinances dated March 24, 2020, May 11, 2020, and May 26, 2020 are hereby ratified and confirmed. The Board specifically finds that the continuous nature of the emergency described herein means that the state of emergency has not concluded. Therefore, due to the nature of the emergency, the Board confirms and declares the emergency to be ongoing and reaffirms the necessity for this emergency Ordinance.
 3. That the provisions in Section 1 of this Ordinance shall be in effect until repealed by this Board or for a period not exceeding six months from the date of adoption of this Ordinance, whichever comes first. This Ordinance may be amended as provided herein or by general law. Upon repeal or expiration of this Ordinance, the matters referenced herein shall resume operation in accordance with normal practices and procedures.
 4. This Ordinance shall be effective upon adoption.

This Ordinance was duly adopted this _____ of _____, 2020

Member	Vote
Robbie McCraw	_____
Rex Hill	_____
Thomas Littrell	_____
Joe Neil Webb	_____
Tracy Moore	_____

Phillip McCraw

Clerk