

**EMERGENCY ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING 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 25, 2020 the governing body of Rockingham County Board of Supervisors confirmed the declaration of local emergency made by the local director of emergency management on March 14, 2020, specifically finding that the COVID-19 Pandemic constitutes a “disaster” as defined in Virginia Code § 44-146.16, being a “communicable disease of public health threat”; and

**WHEREAS**, Virginia Code § 15.2-1413 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**, Virginia Code § 44-146.21(C) further provides that a local director of emergency management or any member of a governing body in his absence 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 performance of public work;” and

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

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

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

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

**WHEREAS**, this emergency 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** by the Town Council of Mount Crawford, Virginia:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the Town Council, the Planning Commission, the Board of Zoning Appeals, the Economic Development Board and all other local committees and authorities created by the Town Council or to which the Town 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.
2. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of government during this emergency and disaster:
  - a. Any meeting or activity which requires 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; and
  - b. Prior to holding any such electronic meeting, the Public Entity shall provide public notice at least three days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
  - c. Any such electronic meeting of Public Entities shall state on its agenda and at the beginning of such meeting that is being held pursuant to and in compliance with this Ordinance; identify Public Entity members physically and/ or electronically present;

- identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
- d. Any such electronic meeting of the Public Entities shall be open to electronic participation by the public and closed to in-person participation by the public; and
  - e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through telephonic or other electronic means during the course of the electronic 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; and
  - f. 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 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 emergency and disaster has ended.

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

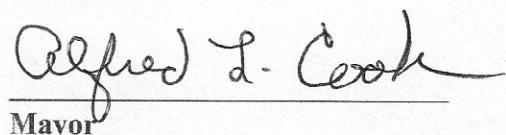
**IT IS FUTHER ORDAINED**, that the provisions of this Emergency Ordinance shall remain in full force and effect for a period of sixty days, unless amended, rescinded or readopted by the Mount Crawford Town Council in conformity with the notice provisions set forth in Virginia Code § 15.2-1427 but in no event shall such ordinance be effective for more than six months. Upon rescission by the Mount Crawford Town Council or automatic expiration as described herein, this emergency ordinance shall terminate and normal practices and procedures of government shall resume.

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

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

**ADOPTED AND EFFECTIVE** this 13<sup>th</sup> day of April, 2020.

**APPROVED**

  
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**Mayor**

ATTESTE:

Libby Orelson  
Clerk

	AYE	NAY	ABSENT
Shane Stevens	X		
Neal Dillard		X	
Dennis Driver	X		
J.C. Smythers	X		
Toni Ray	X		