

AN 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 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 disaster as defined by Virginia Code Section 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 ____, 2020, the Mayor issued a Declaration of Emergency, as amended, applicable throughout the entire Town of Rich Creek, Virginia, pursuant to Virginia Code Sections 44-146.21 and 15.2-1413; and

WHEREAS, the Rich Creek Town Council affirmed the existence of a disaster and declared a state of emergency throughout the entire Town that remains active;

WHEREAS, Virginia Code Section 15.2-1413 provides that a locality may, by ordinance, provide a method at variance with general or special laws to assure continuity of government in the event of a disaster for a period not to exceed six months; and

WHEREAS, Virginia Code Section 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 Section 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that members of the 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 are limited only by a properly claimed exemption provided under that Act or "any other statute;" and

WHEREAS, federal and state guidance from the executive branch has recommended suspension of public gatherings of more than ten attendees;

NOW, THEREFORE, BE IT ORDAINED by the Rich Creek, Virginia, Town Council that agenda items scheduled or proposed to be considered for the duration of the local emergency declaration not to exceed six (6) months by the Town Council, Planning Commission or any other Town board or commission shall be deemed continued for the duration of the local emergency declaration not to exceed six (6) months, if the Town Council, Planning Commission or any other Town board or commission does not take action on the agenda item during the referenced timeframe, including those agenda items for which state or local law requires an affirmative action to be taken within a statutorily-mandated time frame and the failure to act can be deemed an approval; and

IT IS FURTHER ORDAINED that notwithstanding the foregoing, the Town Council, Planning Commission: and any other Town board or commission may, at their election, conduct previously scheduled meetings or special meetings and act upon scheduled or purposed agenda items before them for the duration of the emergency declaration thereafter, under normal procedures or by solely electronic means in compliance with public notice, access, and other requirements of Virginia Code Section 2.2-3708.2(A)(3) to the extent practicable; and

IT IS FURTHER ORDAINED that in the event that a public hearing matter is deemed by the applicable governing body to present a critical government function essential to continuity of government for the duration of the emergency declaration, the public hearing may be conducted by an open public comment period called for during an electronic meeting, in which case, action by the governing body shall be continued to a subsequent meeting pending receipt of such comments. Public comments shall be received by written submittal (including but not limited to email and facsimile transmission) delivered to the Town Clerk or her designee during the period stated in the call for public comments which comment period shall be a minimum of six (6) calendar days.

IT IS FURTHER ORDAINED that Town Council reserves the right by subsequently enacted ordinance to rescind or amend this ordinance.

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

ADOPTED by the Town Council of Rich Creek, Virginia on this _____ day of March, 2020.

voting	voting for	against	abstain	absent
Kantsios	_____	_____	_____	_____
Huffman	_____	_____	_____	_____
Helm	_____	_____	_____	_____
Clemmons	_____	_____	_____	_____
Bradley	_____	_____	_____	_____
Gautier	_____	_____	_____	_____

Attest: _____
Pam Kantsios, Clerk