

**AN EMERGENCY ORDINANCE TO EFFECTUATE THE CONTINUITY OF  
GOVERNMENT OF THE TOWN OF MOUNT JACKSON, VIRGINIA, IN  
ACCORDANCE WITH VIRGINIA CODE § 15.2-1413**

**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 23, 2020, the Governor issued Executive Order Fifty-three, which gave direction and guidance on public and private in-person gatherings; and

**WHEREAS**, on March 30, 2020, the Governor issued Executive Order Fifty-five, which further limited for the period March 30, 2020 until June 10, 2020, unless amended or rescinded, such public and private-in-person gatherings; and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 24, 2020, the Board of Supervisors of Shenandoah County, Virginia (“the Board”) confirmed the declaration of a local emergency made by the Chairman of the Board of Supervisors, acting as the local director of emergency management, on March 17, 2020; and

**WHEREAS**, the Town Council of Mount Jackson, Virginia (“Council”) finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by 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 after a disaster; and

**WHEREAS**, Council continues to recognize, confirm, affirm, and find that emergency and disaster conditions and effects existed and continue to exist and the occurrence and/or threat of COVID-19 merited and continues to merit and even necessitates action by Council to provide for methods to help assure continuity in local government as to the Town and its related public bodies and officials; and

**WHEREAS**, Virginia Code § 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that Council members 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 or “any other statute;” and

**WHEREAS**, the Governor and Health Commissioner of the Commonwealth of Virginia have ordered the 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; and

**WHEREAS**, Section 15.2-1416 provides Council with the authority to “fix the day or days to which a regular meeting shall be continued if...mayor, or...vice-

mayor...finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting; and Council now wishes to exercise such power.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Town of Mount Jackson, Virginia, (“Council”) to the fullest extent permitted by law under these extraordinary, even unprecedented circumstances, that:

1. Council **RATIFIES, AFFIRMS, and INCORPORATES BY REFERENCE HEREIN** the Declaration of a Local Emergency and disaster due to COVID-19 made on March 17, 2020 by the Shenandoah County Director of Emergency Management, which was ratified by the Board of Supervisors at a meeting on March 24, 2020. To the fullest extent permissible by law, Council joins the Shenandoah County Board of Supervisors in declaring that a State of Local Emergency exists within the Town.

2. The nature of COVID-19 and its actual and potential catastrophic effects, as may be discerned upon continuing review, make it unsafe to necessarily assemble always a quorum of the Council or its committees, other Town public bodies, and officials in a single location, or to assemble members of the public in a single location, making it impracticable or unsafe as circumstances may exist at the time for Council, its committees, and the Town’s other public bodies and officials to conduct meetings in accordance with normal practices and procedures. In accordance with the provisions of Section 15.2-1413 of the Code of Virginia, notwithstanding any contrary provision of law, general or special, including but not limited to the Town’s Charter or the Town Code, the following emergency procedures are **AUTHORIZED AND ADOPTED** to ensure **CONTINUITY OF GOVERNMENT** during the pendency of the emergency and disaster created or occasioned by COVID-19 or by its actual or potential effects, including but not limited to its effects as to Mount Jackson citizens, other persons, commerce, businesses, and Town-related functions, officers, personnel, employees, and Town FY20 and FY21 fiscal and financial matters, processes, decision-making, and planning at all levels of Town government and for Town public bodies and officials:

**2.1** Any process, procedure, or matter which requires the physical presence of the public in or about a Town-owned or controlled building, facility, or

property, to the extent that the Town Manager has declared or designated, or may in the future declare or designate, by whatever means (whether formal or informal, written, electronic or verbal), to be closed to the public, is hereby **SUSPENDED**;

**2.2** Meetings of Council and other Town public bodies, including but not limited to the Planning Commission, and those for which operations are jointly or cooperatively governed or managed, are **AUTHORIZED** and may be held through 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;

**2.3** Such meetings are **AUTHORIZED** to be and 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 Council or other Town public bodies and members and officials so long as alternative arrangements for public access to such meetings are made as may be appropriate under the circumstances. Such alternative public access may be electronic, including but not limited to audio, telephonic, video or internet-web broadcast or stream, including through a Town social media platform, or through any other similar means;

**2.4** For any matter requiring a public hearing by law, it is **DIRECTED** that public comment will, at least, be solicited and received via written or electronic means, including email or social media, or audio or voice message prior to the vote on such matter. Public comments may also be solicited and, if so solicited, then received via electronic and/or other means, including through the Town's or other Town public body's social media platform, or during the actual public hearing if possible and practicable, as determined in the discretion of the Town Manager or Mayor. All such comments will be provided to or their essence or themes, if any, summarized to the members of the public body and made a part of the record of such meeting;

**2.5** Notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by Council, Planning Commission, or other Town public entity, its officers, or employees, shall be suspended during this emergency and disaster, however, such public entities, officers and employees thereof

are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

**2.6** Notwithstanding any provision of the Town's Charter that requires a regular meeting at least once each month, the Council may, by vote, cancel any regular meeting.

**3.** The provisions of Section 2 of this ordinance **SHALL BE IN EFFECT**, until repealed by Council, for a period not exceeding six months after the disaster or, as may be permitted by law then in effect for such longer period from the effective date of declaration of local emergency, to and including March 17, 2020. Upon repeal or expiration of the provisions of Section 2 of this ordinance, the matters referenced therein shall resume operation in accordance with the normal practices and procedures, with the Town Manager to give public notice of such on the Town's webpage and social media platforms, and through such other means as the Town Manager may deem appropriate.

**4.** The actions of the Town Manager taken or communicated by whatever means beginning March 17, 2020 and continuing, in the best interest of the Town as determined in the exercise of discretion by the Town Manager, are **RATIFIED AND AFFIRMED**.

**5.** If and to the extent that applicable law is enacted to extend the authority or time permitted for the operation of this or a similar ordinance, this ordinance shall be **AUTOMATICALLY AMENDED EFFECTIVE THEN IMMEDIATELY** to incorporate such changes without further action of Council.

**6.** In the event that the Mayor determines that weather or other conditions are such that it is hazardous for members to attend a regular meeting of the Town Council, he may, by proclamation, postpone such meeting. If a meeting is postponed, it shall be held one week after the date it was originally scheduled. In the event that weather or other conditions continue to make it hazardous for members to attend the rescheduled meeting, he may continue, by proclamation, to postpone such meetings until conditions have improved to the point where it is safe for members to attend the meeting (but not past the next regular meeting date of the Council). In the absence from the Town of the Mayor or the inability of the Mayor to act, the Vice-Mayor may act in his place. The Town

Manager shall notify all members and the press of the postponement as promptly as possible, and may also give notice to the public as he deems appropriate. Any public hearings scheduled for the postponed meeting shall be held at the rescheduled meeting (when finally held), and no additional advertising is necessary. The provisions of this paragraph, not being made under the Council's exercise of its emergency powers, but rather being made under the authority of Section 15.2-1416 of the Code of Virginia, shall be effective until altered or repealed by the Council.

7. Nothing in this ordinance shall prohibit the Council, Planning Commission, or other Town public body from holding in-person public meetings, if the presiding officer of such body determines it is appropriate to do so, provided that public health and safety measures as well as social distancing are taken into consideration; provided, however, that for any Town public body other than the Council, the determination of the presiding officer to hold such meeting in person shall be subject to the review and approval of the Town Manager to the fullest extent permitted by law.

8. The Town Manager is **AUTHORIZED** to take all reasonable and necessary actions, as determined in the Town Manager's exercise of discretion, to implement fully the provisions of this ordinance.

9. The Clerk of Council is **DIRECTED** to have posted a copy of this ordinance at the usual places and on the Town's website.

10. To the extent that any provision of this ordinance is found or determined to be invalid or void, the other provisions of this ordinance shall remain in effect without further action of this Council.

This ordinance shall take effect April 2, 2020.

INTRODUCED AND PASSED at a special meeting of the Mayor and Town Council on April 2, 2019.

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Debbie A. Stover, Town Clerk

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Donald I. "Donnie" Pifer, Mayor



**CERTIFICATE OF VOTES**

The undersigned certifies that the foregoing constitutes a true and correct copy of an Ordinance entitled AN EMERGENCY ORDINANCE TO EFFECTUATE CONTINUITY OF GOVERNMENT OF THE TOWN OF MOUNT JACKSON, VIRGINIA IN ACCORDANCE WITH VIRGINIA CODE § 15.2-1413, adopted by the Town Council of the Town of Mount Jackson, Virginia, by a roll-call vote at a special meeting held on April 2, 2020. The recorded roll-call vote of the Town Council is as follows:

	AYE	NAY	ABSTAIN	ABSENT
Councilmember Fultz				
Councilmember Miller				
Councilmember Andrick				
Councilmember Shepherd				
Councilmember Rudy				
Councilmember Good				

Dated: \_\_\_\_\_

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Town Clerk, Town of Mount Jackson, Virginia