

TOWN OF MIDDLEBURG, VIRGINIA

ORDINANCE

MARCH 26, 2020

Ordinance- to Implement Emergency Procedures and Effectuate Temporary Changes to Address Continuity of Governmental Operations during Pandemic Disaster (COVID-19).

BE IT ORDAINED by the Town Council for the Town of Middleburg, Virginia that:

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 16, 2020, the Town's Emergency Management Coordinator issued a Declaration of Local Emergency, applicable throughout the entire Town of Middleburg, Virginia pursuant to Virginia Code Section 44-146.21; and

WHEREAS, on March 26, 2020 the Town Council affirmed the existence of a disaster and declared a local emergency and disaster throughout the entire Town that remains active, and the Town Council amended the declaration to state 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, on March 16, 17, and 25, 2020 Loudoun County declared a local emergency, which covers the Town of Middleburg under the County's emergency management function; and

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 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; and

WHEREAS, due to the Declaration of Emergency and Disaster and the limitations on interpersonal contacts and public gatherings it is necessary to delegate to the Town Administrator certain responsibilities and powers in order to preserve the continuity of operations.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Middleburg, Virginia that the Town Administrator or his designee shall, in addition to all powers otherwise granted by the federal, state and local law, for the duration of the local emergency declaration not to exceed six (6) months, be empowered with all responsibilities and powers as needed to ensure continuity of government functions, be empowered to re-direct or suspend town services to preserve the public health and safety, be enabled to take actions to preserve the health and safety of employees including any action taken under Chapter IV of the Employee Handbook relative to sick leave or administrative leave, be empowered to designate successors for any function as necessary should the incumbent become unavailable to perform such function, and be empowered to sign all negotiable instruments necessary for the function and continuity of Town operations; and

BE IT FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by the Town Council of Middleburg or its officers and employees of its organization shall be suspended during this emergency and disaster, however, the Council, 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; and

BE IT FURTHER ORDAINED by the Town Council of the Town of Middleburg, Virginia 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 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

BE IT FURTHER ORDAINED that notwithstanding the foregoing, 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

BE IT 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) delivered to the Town Clerk or designee during the period stated in the call for public comments which comment period shall be a minimum of six calendar days.

BE IT FURTHER ORDAINED that Town Council reserves the right by subsequently enacted ordinance to rescind or amend this ordinance. An emergency and disaster is deemed to exist and this ordinance shall be effective upon its adoption.

Adopted March 26, 2020.


Vote: Aye: Councilmembers Kirk, Bernard, Daly, Jacobs, Leonard-Morgan, Miller and Pearson
Nay: N/A
Abstain: N/A
Absent: N/A

~~APPROVED:~~



Trowbridge M. Littleton, MAYOR

ATTEST:



Rhonda S. North, MMC, Town Clerk