

# ***SUSSEX COUNTY BOARD OF SUPERVISORS***



## ***EMERGENCY MEETING***

**Friday, March 27, 2020 at 3:00 pm**

**Sussex County Administration  
Conference Room  
20135 Princeton Road  
Stony Creek, Virginia 23882**

**Sussex County Board of Supervisors Emergency Meeting**  
**Friday, March 27, 2020 – 3 pm**  
**County Administration Conference Room**  
**20135 Princeton Road, Stony Creek VA 23882**

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**AGENDA**

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- Item 1. Call To Order/Determine Quorum
  
- Item 1a. Approval of Board Member(s) Participating by Phone under Board Remote Participation Policy
  
- Item 2. The Invocation
  
- Item 3. The Pledge of Allegiance
  
- Item 4. Approval of Agenda
  
- Item 5. Resolution to Ratify Local Emergency Declaration
  
- Item 6. Board Discussion of Budget Matters Impacted by COVID-19 Emergency:
  - A. Sussex County Budget
  - B. Sussex County Public Schools Budget
  
- Item 7. Board Actions Related to COVID-19 Emergency
  - A. Consideration of emergency appropriations and emergency procurement of jail food services
  - B. Forbearance on certain local taxes and Deadlines
  
- Item 8. Discussion of Future Meetings during the COVID-19 Emergency  
Discussion/Consideration of Continuity of Government Ordinance
  
- Item 9. Adjournment

## DECLARATION OF LOCAL EMERGENCY

Due to the severity of the worldwide spread of the COVID-19 virus and its threat to public health, on March 17, 2020, Sussex County faces a condition of extreme peril which necessitates the proclamation of the existence of an emergency in order to provide mitigation, preparedness, and activities to protect life and property; and

Whereas, Governor Ralph S. Northam declared a state of emergency effective as of March 12, 2020 until June 10, 2020 unless sooner amended or rescinded.

Pursuant to the authority granted by Section 44-146.21(a) of the Code of Virginia, I, Lawrence Hughes, acting as Director of Emergency Services for Sussex County, due to the inability of the Sussex County Board of Supervisors to convene prior to the rapid spread of the COVID-19 virus, declare the existence of a local emergency as of the below stated date and time.

DATE: March 17, 2020

  
\_\_\_\_\_  
Director of Emergency Management

**SUSSEX COUNTY**

**[EMERGENCY]<sup>1</sup> 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 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

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<sup>1</sup> If this Ordinance is adopted with the standard public notice required of counties pursuant to Va, Code 15.2-1427 (publication once a week for two consecutive weeks in newspaper of local circulation) then this is NOT an emergency ordinance and will remain in effect for up to six months as authorized under Va. Code 15.2-1413. If, however, the Board adopts this Ordinance without such public notice, then it is deemed an Emergency Ordinance, and only remains in effect for 60 days pursuant to Va. Code 15.2-1427.

**WHEREAS**, on March 27, 2020, the Board of Supervisors confirmed the declaration of local emergency made by the local director of emergency management on March 17, 2020; and

**WHEREAS**, the Board 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; 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 providing public notice using the best available method given the nature of the emergency and public access, that members of Board 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 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 the performance of essential governmental functions; 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 Sussex County Board of Supervisors:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the Board of Supervisors, the School Board, the Planning Commission, Board of Zoning Appeals, Board of Equalization and all local and regional boards, commissions, committees and authorities created by the Board of Supervisors or to which the Board 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 the Board recognized that public bodies that are separate and distinct legal entities from the County may be required to adopt their own procedures or policies to address this situation and the Board cannot necessarily commit or bind such other public bodies under this Ordinance.
3. 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 and the performance of essential governmental functions during this emergency and disaster:

- a. Any meeting or activities which require the physical presence of members of the Public Entity 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 of at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
- c. Any such electronic meeting shall state on its agenda and at the beginning of such meeting that it 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 conducted pursuant to this Ordinance 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 during 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 FURTHER ORDAINED** that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity, its officers (including Constitutional Officers) and employees of its organization shall be suspended during this emergency and disaster, however, the 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.

**IT IS FURTHER ORDAINED**, that non-emergency public hearings and non-essential 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 FURTHER ORDAINED**, that each incorporated town within the boundaries of Sussex County is encouraged to declare its own state of local emergency and disaster or incorporate by reference the County's local state of emergency and disaster and to adopt an ordinance for the continuity of town government.

**IT IS FURTHER ORDAINED**, that the provisions of this Ordinance shall remain in full force and effect for 6 months, unless it is adopted as an emergency ordinance, in which case it shall remain in effect for 60 days, unless amended, rescinded or readopted by the Board in conformity with the notice provisions set forth in Virginia Code §15.2-1427. Upon rescission by the Board or automatic expiration as described herein, this emergency ordinance shall terminate, and normal practices and procedures of government shall resume.



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

This ordinance shall be effective upon its adoption.

**ADOPTED** by the Sussex County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

\_\_\_\_\_  
Hon. Susan Seward, Chair

ATTEST:

\_\_\_\_\_  
Clerk to the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

