

EMERGENCY ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO ENSURE THE CONTINUITY OF GOVERNMENT

WHEREAS, on January 31, 2020, the Secretary of Health and Human Resources declared a public health emergency in response to the spread of novel coronavirus, or COVID-19 (the “virus”); and

WHEREAS, on March 12, 2020, the Governor of the Commonwealth of Virginia declared a state of emergency in the Commonwealth of Virginia in response to the spread of the virus; 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 the virus; and

WHEREAS, at 11:30 a.m. on March 13, 2020, the James City County Director of Emergency Management declared a local state of emergency (the “declaration”) in James City County (the “County”) due to the outbreak of the virus in the County and the resulting danger to the public’s health, safety, and welfare due to the transmission and contraction of the virus; and

WHEREAS, on March 17, 2020, the Board of Supervisors of James City County (the “Board”) convened in a special meeting, confirmed the declaration, and further found the emergency to be a “disaster” and amended the declaration accordingly; and

WHEREAS, subsequent to the March 17, 2020 special meeting, there have been additional confirmations of County citizens having contracted the virus and the Virginia state health commissioner has determined that the County is an “outbreak” area in the Commonwealth; and

WHEREAS, the Board has found that emergency measures are necessary to mitigate the ongoing emergency and disaster that is occurring in the County and to protect the health, safety, and welfare of the citizens; and

WHEREAS, the Board desires to ensure the continuity of government pursuant to section 15.2-1413 of the Code of Virginia, 1950, as amended and Section 3.6 of the Charter of James City County.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that the following rules, laws, actions, and regulations are effective immediately and shall remain so until this ordinance is repealed by the Board or until six (6) months from the date of adoption, whichever comes first; further, normal governmental activity shall resume subsequent to repeal or expiration of this ordinance.

BE IT FURTHER ORDAINED that the James City Service Authority – a public body created by resolution of the Board of Supervisors dated June 30, 1969, and whose Board of Directors is the Board of Supervisors, is a critical component of the County’s government and may hold meetings as authorized under Part D of this ordinance to carry on the functions of the Authority, which are essential during this emergency and disaster.

BE IT FURTHER ORDAINED that the Economic Development Authority of James City County, Virginia, which is a public body created by Ordinance No. 55 adopted by the Board of

Supervisors on September 8, 1969 – is a critical component of the County’s government and may hold meetings as authorized under Part D of this ordinance to carry on the functions of the Authority, which are essential during this emergency and disaster.

BE IT FURTHER ORDAINED that this Emergency Ordinance is adopted in accordance with section 15.2-1427(F) of the Code of Virginia, 1950, as amended, and shall take effect immediately upon adoption; further, staff is directed to advertise its readoption at the Board of Supervisors’ next regularly scheduled meeting in conformance with section 15.2-1427 of the Code of Virginia, 1950, as amended.

## **PART A. - GENERAL PROVISIONS**

### **Sec. A-1. Declaration of policy.**

Because of the rapid spread of the novel coronavirus, COVID-19 (the “virus”) in James City County and the designation of the County as an “outbreak area,” the Board of Supervisors of James City County (the “Board”) desires to ensure the continuation of effective, legally constituted leadership, authority, and responsibility in the governance of the County during this disaster, to ensure the continuation of essential government functions and responsibilities, and to facilitate the early resumption of functions temporarily suspended. The Board has found and declared it necessary to: (1) provide for additional officers who can exercise the powers and discharge the duties of the key executive, administrative, and legislative offices of the County in the event that the incumbents thereof are unable to perform the duties and functions of their offices during the disaster; (2) limit, modify, or suspend certain non-essential government functions; (3) temporarily suspend certain policies and regulations; and (4) limit or prohibit certain public interaction at County meetings, in County offices, and with County employees.

### **Sec. A-2. Definitions.**

- (a) Board means the Board of Supervisors of James City County.
- (b) County Administrator means the County Administrator of James City County or his successor, Deputy, or emergency interim successor
- (c) County Charter means the Charter of the County of James City.
- (d) County Code means the Code of the County of James City, as amended.
- (e) Disaster means the effects caused by or related to the spread of the novel coronavirus, COVID-19, including but not limited to the injury or threat of injury to the public health, safety, and welfare and related damage, hardship, suffering, or loss of life.
- (f) Deputy means a person who is presently authorized by the Virginia Code, County Code, or County Charter to exercise all of the powers and discharge all of the duties of an office in the event that the office is vacant or at such times as it lacks administration due to the death, absence, or inability of the incumbent.
- (g) Emergency interim successor means a person designated pursuant to this chapter for temporary succession to the powers and duties, but not the office, of an officer in the event that such officer or a duly authorized deputy is unavailable to exercise the powers and discharge the duties of the office.

- (h) Incumbent means the person who is entitled to exercise the powers and discharge the duties, and who is the holder, of an office by virtue of employment or appointment thereto as provided in the Virginia Constitution, Virginia Code, County Charter, and/or the ordinances of the County.
- (i) Manual means the James City County *Personnel Policies and Procedures Manual*, as amended.
- (j) Unavailable means either:
  - a. That a vacancy exists in an office and there is no duly authorized deputy to exercise all the powers and discharge all the duties of the office; or
  - b. That the incumbent (including any duly authorized deputy exercising the powers and discharging the duties of an office because of a vacancy) and his duly authorized deputy, and all of them if more than one, are absent from the County or unable, for physical, mental, or legal reason, to exercise the powers and discharge the duties of the office.
- (k) Virginia Code means the Code of Virginia, 1950, as amended.

## **PART B. - EMERGENCY INTERIM SUCCESSORS**

### **Sec. B-1. Applicability.**

The provisions of this Part shall apply, and authorization to designate emergency interim successors is granted, only to the following (collectively, the “Departments”):

- (a) All department heads and deputy department heads;
- (b) The Clerk of the Board of Supervisors;
- (c) The Director of Emergency Management;
- (d) Fire Marshal;
- (e) Animal Control Officer; and
- (f) The Zoning Administrator.

### **Sec. B-2. Designation.**

The incumbent of each Department shall designate in writing two or more emergency interim successors to the office and specify their rank in order of succession after any duly authorized deputy. The name, address, and rank in order of succession of each duly authorized deputy and each emergency interim successor shall be filed with the Director of Emergency Management within five (5) days of adoption of this ordinance, and all changes in the duly authorized deputies or in the designation or order of succession of emergency interim successor shall be filed with the Director of Emergency Management within two (2) days of such change. Designations of emergency interim successors and changes therein and in the order of succession thereof shall become effective when filed with the Director of Emergency Management.

**Sec. B-3. Qualifications.**

No person shall be designated or serve as an emergency interim successor unless they are qualified to hold the office to which they are designated an emergency interim successor, but no provision of the County Code or of any ordinance prohibiting an officer or employee of the County from holding another office shall be applicable to an emergency interim successor. At the time of their designation, an emergency interim successor shall do such things, if any, as are required to qualify them to exercise the powers and discharge the duties of the office as to which they have been designated an emergency interim successor; provided, that the designation of an emergency interim successor for an office subject to confirmation by the Board shall be considered to have been appointed by adoption of this Ordinance and shall not require further approval of the Board to be effective.

**Sec. B-4. Assumption of powers and duties of office.**

If, in the event that the incumbent of a Department becomes unavailable and any deputy is unavailable, the emergency interim successor to that office who is highest in rank in order of succession and who is not unavailable shall, except for the power to appoint emergency interim successors, exercise the powers and discharge the duties of the office. An emergency interim successor shall exercise the powers and discharge the duties of the office only until such time as the incumbent or deputy or an emergency interim successor higher in rank in order of succession becomes available to exercise the powers and discharge the duties of the office or until, where an actual vacancy exists, a successor is appointed.

**Sec. B-5. Restrictions on persons to be designated.**

No person shall be designated as an emergency interim successor for two offices at the same time. No person who is a duly authorized deputy shall be designated as an emergency interim successor for any office.

**Sec. B-6. Termination of authority.**

Notwithstanding any other provision of this ordinance, the County Administrator may at any time terminate the authority of any one or more, or all, emergency interim successors to exercise the powers and discharge the duties of office as herein provided. The Board of Supervisors may at any time terminate the authority of any emergency interim successor to the County Administrator.

**PART C. - SUSPENSION OF ADOPTED POLICIES**

**Sec. C-1. Suspension of Certain Chapters, Sections of the Manual**

1. The following sections in Chapter 2, Employment, of the Manual are suspended in their entirety:
  - a. Section 2.5, to allow the County to hire employees as needed without delay.
  - b. Section 2.8, to allow the County to promote, transfer, reinstate, and other needed job changes without delay.
  - c. Section 2.13, prior to initiating a reduction in workforce.
  - d. Section 2.14, to eliminate certain requirements prior to reducing Limited Term or Other positions.

2. The following sections in Chapter 4, Compensation Plan, of the Manual are suspended in their entirety:
  - a. Section 4.7, to allow greater flexibility in setting wages for new, reinstated, and rehired employees.
  - b. Section 4.14(G), to suspend pay discrepancy complaint process timelines.
3. The following sections in Chapter 5, Employee Benefits, of the Manual are suspended in their entirety:
  - a. Section 5.4, to allow the County to publish new leave guidance and categories as Federal/State Legislation emerges.
  - b. Sections 5.6(C)(1) and (D) to allow Employee Assistance Counseling benefits to be extended to all staff and temporarily suspends the requirement to assist employees to access at least one fitness center.
  - c. Section 5.10 to allow the County to temporarily suspend new requests for Employer Assisted Home Ownership program.
4. The following section in Chapter 10, Diversity and Equal Opportunity, of the Manual is suspended in its entirety:
  - a. Section 10.10, to allow the County flexibility in timelines for resolving discrimination and harassment claims.
5. The following general changes are hereby made to Chapters 7, Standards of Conduct, and 8, Grievance Procedure, of the Manual:
  - a. Each and every deadline shall be multiplied by a factor of three (3). For example, a five (5) workday deadline shall be automatically changed to a fifteen (15) day deadline.

#### **Sec. C-2. Suspension of Expedited Review Procedures**

All expedited review procedures provided by any County rule, regulation, and the County Code are hereby suspended.

#### **Sec. C-3. Suspension of Inconsistent Policies**

The following are suspended to the extent they are inconsistent with this ordinance and its authorizations:

- (a) Policies adopted by the Board or its subordinate committees, commission, or boards;
- (b) James City County Administrative Regulations.

#### **Sec. C-4. Tolling of all Time Limits in the Event of an Order or Declaration that Requires the Complete or Partial Closure of County Offices.**

Upon a declaration that residents of the County are ordered to stay at home or are otherwise prevented from coming to any County office, all deadlines, wherever found, including but not limited to the Virginia Code, the County Code, County Ordinances, the Manual, or otherwise, shall be tolled during

such time.

## **PART D. - LIMITATION ON PERSON-TO-PERSON CONTACT**

### **Sec. D-1 Public Buildings, Facilities, and Real Property**

The County Administrator is empowered and directed to restrict public from entering or congregating around County-owned buildings, facilities, and real property in the least restrictive manner as reasonably necessary to ensure the health, safety, and welfare of the public and County staff.

### **Sec. D-2. Public Meetings**

Any regularly scheduled, special, or emergency meeting of the Board of Supervisors or any subordinate board, committee, or commission, may be held by solely electronic or telephonic means without a quorum of members physically present so long as the following criteria are satisfied:

- (a) All meetings shall have a live audio or video broadcast accessible through the County website, a public access channel, or a dial-in audio number.
- (b) The agenda for any meeting held under this ordinance shall:
  - (1) affirmatively state that the meeting shall be held remotely pursuant to this ordinance;
  - (2) identify a person responsible for receiving public comment (the “Deputy Clerk”); and
  - (3) contain a notice of the opportunities for public access and participation.
- (c) Previously-scheduled Regular Meetings:
  - (1) Agendas and the associated materials shall be posted on the County website at least seven (7) days in advance of the meeting.
  - (2) Public Comment: Citizens may provide written comments (including e-mail) to the Deputy Clerk. If available, citizens may provide audio comments to a dedicated voicemail as may be indicated on the agenda. Normal rules of order shall apply to all comments and any comments found to be out of order or obscene shall not be included in the record of the meeting.
  - (3) Public Hearings: Any non-emergency public hearing items may be postponed until a date certain unless inconsistent with other statutory requirements. If an item requires statutory notice and hearing, including under Virginia Code § 15.2-2204, the following procedures shall apply:
    - i. The notice shall specify the time and place of hearing and the means by which persons affected may appear and present their views.
    - ii. The hearing shall occur not less than five days nor more than 21 days after the second advertisement appears in such newspaper.
    - iii. Applicant shall be given the opportunity to provide an electronic presentation to the public body of up to fifteen (15) minutes.

- iv. Interaction between the applicant and public body will occur via an interactive video or audio chat.
- v. Following the applicant's presentation, if any, to the public body, affected citizens shall be allowed to provide written comments, or audio comments of up to five (5) minutes.

(d) Special Meetings:

- (1) Notice of special meetings and the agendas and associated materials shall be posted on the County website within a reasonable time of being made available to the public body by the Deputy Clerk.
- (2) Public Comment: Citizens may provide written comments (including email) to the Deputy Clerk related to any agenda item. Citizens may provide audio comments to a dedicated voicemail as indicated on the agenda. Normal rules of order shall apply to all comments and any comments found to be unrelated to agenda items, out of order, or obscene shall not be included in the record of the meeting.

(e) Emergency Meetings:

- (1) Agendas and the associated materials shall be posted on the County website within a reasonable time of being made available to the public body by the Deputy Clerk.
- (2) Opportunities for public access and participation during any emergency meeting shall be given using the best available method under the circumstances.
- (3) The nature of the emergency shall be reflected in the minutes of the meeting.
- (4) All actions taken at an emergency meeting shall be ratified at a later regular or special meeting.
- (f) The fact that the meeting was held by electronic communication means, the type of electronic communication means by which the meeting was held, and the opportunities for public access and participation shall be reflected in the minutes of the meeting.

Any item on an agenda for a regularly scheduled, special, or emergency meeting held hereunder may be continued until a later time or date for the purposes of reviewing and considering input provided by the public.

James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
HIPPLE	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of March, 2020.

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