

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	September 8, 2020
Action Required:	Ordinance Re-Enactment
Staff Contacts:	John Blair, City Attorney
Presenters:	John Blair, City Attorney
Title:	Enactment of New Continuity in Government Ordinance (1 reading requiring 4/5 vote)

Background:

On March 12, 2020, the Charlottesville City Council authorized the Charlottesville City Manager, Dr. Tarron J. Richardson, to issue a Declaration of Emergency due to the potential spread of COVID-19. On that same day, Governor Ralph S. Northam issued Executive Order 51 declaring a state of emergency due to the potential spread of COVID-19. Governor Northam's Executive Order

Subsequently, the Charlottesville City Council enacted an emergency ordinance on March 25, 2020 pursuant to Virginia Code Section 15.2-1413 to ensure the City's continuity in government.

Virginia Code Section 15.2-1413 provides that any continuity in government ordinance enacted shall expire within six months after any such disaster.

Discussion:

The City's Declaration of Emergency and the Governor's Executive Order remain in effect due to the continuing spread of COVID-19.

The ordinance before City Council contains the same text as the version enacted by the Council on March 25, 2020. The ordinance provides that all deadlines for the City Council, the Planning Commission, and the Council's boards and commissions are waived for the duration of the ordinance. The ordinance also permits the City Council, the Planning Commission, and all other city boards and commissions to meet electronically and it allows for the submission of written comments to those bodies in advance of public hearings. Finally, the ordinance authorizes the Charlottesville City Manager to establish the hours of operation of all City parks.

This ordinance will expire upon the earlier occurrence of six months from the ordinance's adoption or the Charlottesville City Council's resolution ending the Declaration of Emergency.

Attachments:

Proposed Ordinance

ORDINANCE
TO MODIFY DEADLINES, MODIFY PUBLIC MEETING
AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS
CONTINUITY OF OPERATIONS ASSOCIATED WITH THE PANDEMIC DISASTER

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order 51 declaring a state of emergency for the Commonwealth of Virginia due to the potential spread of COVID-19; and

WHEREAS, Governor Northam’s March 12, 2020 declaration found that the anticipated effects of COVID-19 constitute a disaster pursuant to Virginia Code Section 44-146.16; and

WHEREAS, City Manager and Director of Emergency Management, Dr. Tarron J. Richardson, declared the potential spread of COVID-19 an emergency on March 12, 2020 pursuant to a Resolution adopted by the Charlottesville City Council; and

WHEREAS, Virginia Code Section 15.2-1413 provides that a locality may, by ordinance, provide a method to assure continuity in government in the event of a disaster “notwithstanding any contrary provision of law, general or special”; and

WHEREAS, the Virginia Freedom of Information Act (Code of Virginia Section 2.2-3700, et seq.) provides that all meetings shall be open to the public unless a public body elects to exercise an exemption provided by the Act “or any other statute”; and

WHEREAS, the Charlottesville City Council enacted an ordinance provided for by Virginia Code Section 15.2-1413 on March 25, 2020 with an expiration date of September 25, 2020; and

WHEREAS, the March 25, 2020 ordinance will expire on September 25, 2020; and

WHEREAS, the Charlottesville City Council wishes to enact another continuity of operations ordinance pursuant to the authority granted by Virginia Code Section 15.2-1413.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that agenda items scheduled or proposed to be considered for the duration of the local emergency declaration by the City Council, Planning Commission, or any other City board, commission, or authority shall be deemed continued for the duration of the local emergency declaration, if the City Council, Planning Commission or other City board, commission, or authority 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 timeframe and the failure to act can be deemed an approval; and

BE IT FURTHER ORDAINED that the City Council, Planning Commission, and any other City board, commission, or authority may, at their election, conduct previously scheduled meetings or special meetings and act upon scheduled or proposed agenda items before them for

the duration of the emergency declaration, under normal means by physically assembling a quorum of the body or by solely electronic means as described in Virginia Code Section 2.2-3708.2(A)(3) and that such electronic meetings will be held in a manner designed to maximize public participation to the fullest possible extent and any provision of VA Code Section 2.2-3708.2 requiring Council approval of electronic participation due to a personal matter or medical condition is hereby waived; and

BE IT FURTHER ORDAINED that in the event that a matter which requires a public hearing prior to action is deemed by the City Council, Planning Commission, board, commission, or authority to present a critical government function essential to continuity of government for the duration of the emergency declaration, then the public hearing may be conducted by an open public comment period called for during an electronic meeting, as well as by submission of written public comments to the City Clerk prior to, during, and for five days following the electronic meeting, after the City has first publicized notice of the electronic meeting and public hearing on the City's website at least five business days before the public hearing.

BE IT FURTHER ORDAINED that the City Manager is hereby delegated the responsibility to open, close, and establish the hours of operation of all City parks.

BE IT FURTHER ORDAINED that the Charlottesville City Council reserves the right to rescind or amend this ordinance.

BE IT FURTHER ORDAINED that this ordinance shall expire either upon the earlier occurrence of: (i) Charlottesville City Council taking action pursuant to Virginia Code Section 44-146.21 to end the emergency declaration; or (ii) Six months from the date of this ordinance's adoption.

BE IT FURTHER ORDAINED that this ordinance shall be effective on September 25, 2020 upon the expiration of the March 25, 2020 continuity in government ordinance.

Pursuant to Charlottesville City Code Section 2-96, this ordinance is enacted on the date of its introduction by a four-fifths vote of the Charlottesville City Council.