

**ORDINANCE CONFIRMING, READOPTING, AND CONTINUING THE
EMERGENCY ORDINANCE ADOPTED ON APRIL 6, 2020 AND 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
TITLE 15 CHAPTER 7 SECTION 1(b)**

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

WHEREAS, on March 24, 2020 the Harrisonburg City Council (the Council) confirmed the declaration of local emergency made by the local director of emergency management on March 14, 2020 and

WHEREAS, the 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; 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 public notice and access, that members of the 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 (“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

WHEREAS, the State Declaration of Emergency has remained in effect and Governor Northam has continued to issue Executive Orders implementing the response to the pandemic; and

WHEREAS, the concerns underlying the Local Declaration of Emergency, including maintaining social distancing and taking other measures to limit the spread of COVID-19, remain applicable; and

WHEREAS, based on the current status of the spread of COVID-19, it is not advisable to modify or cancel the Local Declaration of Emergency at this time; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID19 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 City Council of the City of Harrisonburg, Virginia:

1. That the Local Declaration of Emergency is confirmed and continued and shall remain in force and effect.

2. That the Emergency Ordinance adopted on April 6, 2020 is confirmed, readopted, and continued in its entirety.
3. That unless confirmed, readopted, and continued, this Ordinance shall expire after six months, except that this Ordinance shall expire immediately upon the revocation of the Local Declaration of Emergency.
4. An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

ADOPTED AND APPROVED this 23rd day of February, 2021.

MAYOR

ATTESTEE:

CITY CLERK

APPROVED AS TO FORM:

G. Chris Brown, City Attorney