

**TOWN OF HERNDON, VIRGINIA
PUBLIC HEARING AGENDA
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
APRIL 28, 2020
7:00 P.M.**

The meeting is being held electronically due to Order of the Governor EO-53 and pursuant to Ordinance 20-O-23, adopted March 24, 2020 by the Herndon Town Council, and the Code of Virginia §2.2-3708.2 (A)(3). Public comments will be received through the town clerk at town.clerk@herndon-va.gov.

CALL TO ORDER

1. Roll Call & Determination of Quorum

APPROVAL OF MINUTES

April 14, 2020	Town Council Public Hearing Draft Minutes
April 21, 2020	Town Council Work Session Draft Minutes

COMMENTS

2. Comments from the Town Manager
3. Comments from the Town Council

GENERAL

4. Ordinance 20-O-26, to amend Ordinance 20-O-23 adopted on March 24, 2020, to suspend certain deadlines and extend the validity of certain development approvals to assure Continuity of Governmental Operations during Pandemic Disaster (COVID-19)

Future Town Council Meetings

May 5, 2020	Town Council Work Session	7:00 p.m.
May 12, 2020	Town Council Public Hearing	7:00 p.m.
May 19, 2020	Town Council Work Session	7:00 p.m.
May 26, 2020	Town Council Public Hearing	7:00 p.m.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

APRIL 28, 2020

ORDINANCE- to amend Ordinance 20-O-23 adopted on March 24, 2020, to suspend certain deadlines and extend the validity of certain development approvals to assure Continuity of Governmental Operations during Pandemic Disaster (COVID-19)

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

WHEREAS, On March 24, 2020, Town Council adopted Ordinance 20-O-23 addressing Continuity of Governmental Operations during Pandemic Disaster (COVID-19); and

WHEREAS, It has become necessary to make amendments to this Ordinance in order to suspend certain deadlines and extend the validity of certain development approvals to further assure continuity of governmental operations during Pandemic Disaster (COVID-19); and

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia that to the extent possible, town staff will endeavor to take action as is practical and appropriate to meet deadlines or time frames established under state law or town ordinances, however, notwithstanding any provision of law, regulation, or policy to the contrary, any deadlines requiring action by the town, any public body, or town employees are suspended. Time frames for review or expedited reviews are also suspended. Failure to meet any deadline or time frame will not constitute a default, violation, approval, ratification, or recommendation. Any policies or procedures inconsistent with this ordinance are hereby suspended; and

IT IS FURTHER ORDAINED that any staff approved plan, plat, permit, modification, waiver or determination that would have otherwise expired during the disaster and before the expiration or repeal of this ordinance, will remain valid until 60 days following the lifting of the state of emergency declared by the Town; and

IT IS FURTHER ORDAINED that this Ordinance to Amend Ordinance 20-O-23 shall be effective upon its adoption.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

MARCH 24, 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 Herndon, 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 24, 2020, the Town's Emergency Management Coordinator issued a Declaration of Emergency and Disaster, applicable throughout the entire Town of Herndon, Virginia pursuant to the Town's Emergency Management Plan and Virginia Code Sections 44-146.21; and

WHEREAS, also on March 24, 2020 the Town Council affirmed the existence of a disaster and declared a state of emergency and disaster throughout the entire Town that remains active; 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 Manager 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 Herndon, Virginia that the Town Manager 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, heretofore conferred upon the Town Council, by the Town's Internal Administrative Policies, Resolution 18-G-29, be enabled to approve any transaction pursuant to Chapter 30, Section 30-311 of the Town Code, 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 Section 54-61 of the Town code relative to administrative leave, and be empowered to sign all negotiable instruments necessary for the function and continuity of Town operations

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Herndon, 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

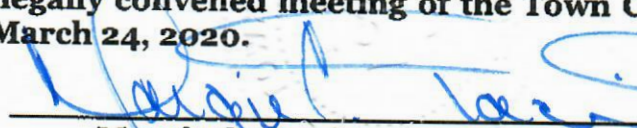
or local law requires an affirmative action to be taken within a statutorily-mandated time frame and the failure to act can be deemed an approval; and

IT IS 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

IT IS 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.

IT IS 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.

This is certified to be a true and accurate copy of Ordinance 20-O-23 adopted at a legally convened meeting of the Town Council of the Town of Herndon on March 24, 2020.


Margie C. Tacci, Deputy Town Clerk

Attached for reference is the Town's Internal Administrative Policies, Resolution 18-G-29, May 22, 2018.