

ORDINANCE NO. _____

**AN ORDINANCE OF THE FLOYD COUNTY BOARD OF SUPERVISORS INSTITUTING
EMERGENCY PROCEDURES TO ENSURE CONTINUITY OF COUNTY GOVERNMENT
IN RESPONSE TO COVID-19 DISASTER.**

WHEREAS, on January 31, 2020, the United States Health and Human Services Secretary declared a public health emergency for the entire United States to aid the healthcare community in responding to the novel coronavirus or "COVID-19"; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on March 12, 2020, by Executive Order No. 51, Governor Ralph S. Northam declared a state of emergency in the Commonwealth of Virginia due to the spread of the COVID-19 virus, and declared the anticipated effects of COVID-19 to be a disaster within the meaning of Virginia Code Section 44-146.16; and

WHEREAS, on March 13, 2020, the President of the United States found and proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020; and

WHEREAS, on March 16, 2020, the County's Director of Emergency Management issued, pursuant to Virginia Code Section 44-146.14 a Declaration of Emergency in the County due to the spread of COVID-19; and

WHEREAS, the Board confirmed or ratified the local Declaration of Emergency this date, March 24, 2020, and it continues in effect; and

WHEREAS, on March 17, 2020, Governor Northam, jointly with the Virginia State Health Commissioner, declared a continuing public health emergency in Virginia resulting from the spread of COVID-19 virus, and imposed stringent measures to combat the spread of COVID-19, including restricting the number of persons permitted to gather in certain public spaces to 10 persons or less; and

WHEREAS, the Board understands and acknowledges that the public health threat posed by COVID-19 constitutes a real and substantial danger to persons in the County of Floyd; that the limitations on physical assembly of persons are urgently necessary to protect the public health; and that the Board and other County boards, commissions and public bodies must conduct themselves accordingly; and

WHEREAS, compliance with the limitations on physical assembly occasioned by the COVID-19 public health crisis makes it difficult or impossible for the Board and other public bodies to safely physically assemble to conduct meetings and hold public hearings in accordance with ordinarily applicable procedures; and

WHEREAS, Virginia Code Section 44-146.21 provides that a local director of emergency management or any member of a governing body in the absence of the director 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 the performance of public work"; and

WHEREAS, Virginia Code Section 15.2-1413 authorizes any locality, by ordinance, to provide for methods to assure continuity in its government in the event of a disaster such as that created by the spread of COVID-19.

WHEREAS, the Board of Supervisors of Floyd County is aware of the Opinion of the Attorney General issued March 20, 2020, and intends to act consistently therewith in the adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of the County of Floyd, Virginia:

1. That, in accordance with Virginia Code Section 15.2-1413, the following emergency procedures are hereby instituted to ensure continuity of government during the pendency of the COVID-19 disaster:
 - a. Any process, procedure, matter or transaction which typically allows for the physical presence of the public in a County building that has been declared or in the future is declared to be closed to the public during the pendency of the Emergency Declaration is hereby suspended unless conducted in accordance with this ordinance or other provision of law.
 - b. The County Administrator is authorized to take actions objectively reasonable and necessary in the public health interest to alter schedules, arrange for alternative procedures consistent with this ordinance, provide programming, pay bills, engage contractors, hire employees, set and manage a succession plan effective in the event of unavailability of staff, adjust administrative processes and procedures to address the disaster, all in keeping with the U.S. Centers for Disease Control and Virginia Department of Health guidance/directives, and consistent with State and Local Declarations of Emergency.
 - c. Meetings required and agenda items scheduled or proposed to be considered by the Board and other County boards, commissions, authorities and other public bodies, for the duration of the local emergency declaration but not to exceed six (6) months, are deemed continued and extensions therefor are hereby ordered if the body does not take action on the item during that time, including those items for which applicable law requires an affirmative action to be taken within a particular time and failure to act is deemed approval.
 - d. Meetings of the Board and other County boards, authorities, committees, commissions and other public bodies may be held through electronic communication means without a quorum of members physically present in a single location, in accordance with the

provisions of Virginia Code Section 2.2-3708.2(A)(3), including the public notice requirements, and at such a meeting held through electronic communication means may consider any item of business which the public body deems essential to the continuity of government or is appropriate for the continuity of the work of the public body. For meetings held electronically, pursuant to Virginia Code Section 2.2-3708.2(A)(1) and (A)(2), any matters which may properly come before the body may be considered.

- e. Such meetings may be held without permitting members of the public to be physically present in a single location or in the same physical location as any of the public body members, so long as alternative arrangements for public access to such meetings are made. Such alternative public access may be electronic, including but not limited to audio, telephonic, or video broadcast.
 - f. For any matter considered by the Board or other County public body during the pendency of the local emergency which typically require open doors, public attendance or public participation by law, such requirements are hereby altered and may be met by electronic, telephonic, and/or written means by the body, which may meet electronically or in person or in some combination thereof as circumstances may permit.
 - g. For any matter considered also requiring public comment or hearing, such will be allowed, solicited or received by the body by electronic, telephonic, and/or written means prior to the vote on such matter. All such comments will be heard by or provided to the members of the body and made a part of the record of such meeting.
 - h. Notices of meetings will be provided by email directly to those who have elected in writing in the previous calendar year to receive such notices under the Virginia Freedom of Information Act, and if practicable, will also be provided on the County website and by other means selected by the County Administrator. To the extent practicable, notices will also be provided as otherwise provided by general law.
2. That the provisions in Section 1 of this Ordinance shall be in effect until repealed by this Board or for a period not exceeding six months from the declaration of the local emergency, whichever comes first. This Ordinance may be amended as provided herein or by general law. Upon repeal or expiration of this Ordinance, the matters referenced herein shall resume operation in accordance with normal practices and procedures.
3. This ordinance shall be effective upon adoption. If sufficient time was not available for advertisement pursuant to Va. Code Section 15.2-1427 (F), then this ordinance shall be in effect immediately as an emergency ordinance and the County Administrator is directed to advertise for a public hearing to be conducted in accordance with the provisions of this Ordinance, after advertisement under Va. Code Section 15.2-1427 (F).

This Ordinance was duly adopted this 24th day of March, 2020.

Member**Vote**

	Aye	Nay
Joe D. Turman	<u>✓</u>	<u> </u>
Jerry W. Boothe	<u>✓</u>	<u> </u>
Lauren D. Yoder	<u>✓</u>	<u> </u>
Justin Coleman	<u>✓</u>	<u> </u>
Linda DeVito Kuchenbuch	<u>✓</u>	<u> </u>

I, TERRI MORRIS, HEREBY ATTEST THAT THIS IS A TRUE AND ACCURATE COPY OF SAID ORDINANCE.


TERRI MORRIS
County Administrator