

AN ORDINANCE

PROVIDING EMERGENCY PROCEDURES FOR PUBLIC MEETINGS OF THE TOWN OF ELGIN DURING THE CONTINUANCE OF THE CORONAVIRUS EPIDEMIC

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina (the "State") issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that the 2019 Novel Coronavirus ("COVID-19") poses an actual or imminent public health emergency for the State;

WHEREAS, also on March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency, which began on March 1, 2020;

WHEREAS, the President's Coronavirus Guidelines for America recommend avoidance of social gatherings in groups of more than ten people;

WHEREAS, on March 23, 2020, the Governor issued Executive Order 2020-13, which authorizes law enforcement officers of the State, or any political subdivision thereof, "to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in their discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health;"

WHEREAS, the President, the Governor, and public health authorities have recommended observance of social distancing, including the maintenance of safe zones of at least six feet between individuals;

WHEREAS, the TOWN of ELGIN (the "Municipality") is required to conduct public meetings in order to discharge its official duties;

WHEREAS, the Municipality has determined that conducting meetings in the ordinary course and in the usual manner would create a public health hazard by involving a gathering of more than three people and in which minimum social distancing could not be reliably observed;

WHEREAS, the South Carolina Freedom of Information Act ("SC FOIA") defines "meeting" as "the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power," S.C. Code § 30-4-20(d) (emphasis added);

WHEREAS, the South Carolina Attorney General has opined that "in the absence of a statute requiring it to meet physically in a certain place, [SC FOIA] authorizes a public body to meet by means of a telephone conference call so long as the public body complies with the other provisions of the South Carolina Freedom of Information Act," *Op. S.C. Att'y Gen.*, 2007 WL 1651329, at 2 (May 18, 2007); *see also Op. S.C. Att'y Gen.*, 2012 WL 3875118 (August 28, 2012);

WHEREAS, the TOWN Council of Elgin ("Council") now desires to authorize and to establish protocols for conducting meetings during the continuance of the COVID-19 crisis by telephone or other electronic means;

NOW, THEREFORE, be it ordained by the TOWN Council of the TOWN of ELGIN as follows:

Section 1. Remote Meetings During the COVID-19 Crisis. The provisions of this Section shall apply to Council and to any and all boards, commissions, committees, or other subsidiary, related, or delegated bodies of the Municipality (collectively, "Boards and Commissions"). For a period beginning on the date of enactment of this Ordinance and continuing until the sixty-first day following such enactment (the "Emergency Term"), the Council and the governing bodies of all of its Boards and Commissions (which governing bodies, including the Council, are referred to herein as the "Governing Body") shall be entitled to conduct all regular and special meetings by telephone or other electronic means, provided that:

- a) Members of the Governing Body attending by electronic means shall be able to hear any and all comments made by the public, staff, and other members of the Governing Body;
- b) All public participants and attendees, staff, and other members of the Governing Body shall be able to hear the comments, motions, and votes of all of the members of the Governing Body attending such meeting by electronic means, as well as those of any officials or staff required to speak at such meeting;
- c) Other than establishing the electronic connections, there shall be no communications among the members of the Governing Body attending electronically, unless such communication is part of the meeting and can be heard by all public participants and attendees; and
- d) The comments, motions, and votes of the members of the Governing Body attending electronically shall be recorded in the minutes of the meeting, and the meeting itself shall be recorded in the same manner as would a physical meeting of the body.

Collectively, these conditions are referred to as the "Participation Requirements."

Section 2. Meeting Protocols. In conducting meetings by telephone or other electronic means, the Governing Body will observe the following protocols:

- a) Immediately after calling the meeting to order, the presiding officer shall poll the members of the Governing Body to confirm attendance.
- b) Any vote of the Governing Body must be conducted by individual voice vote of the members of the Governing Body, who shall verbally indicate their vote on any matter by stating "yay" or "nay." All individual votes shall be recorded by the clerk, secretary, or presiding officers, as appropriate.
- c) All members of the Governing Body, officials, staff, and presenters should identify themselves and be recognized prior to speaking.
- d) Members of the Governing Body shall strictly comply with the ordinary procedural rules, standards of decorum, and good practices applicable to physical meetings of the Governing Body, particularly as such rules and standards apply to being recognized by the presiding officer, in order to preserve order and allow for the effectiveness of electronic meetings.
- e) With respect to any electronic meeting, any public comment periods provided for by local ordinance, resolution, policy, or bylaws are hereby suspended. Members of the public may submit written public comments which shall be distributed to the members of the Governing Body.

Section 3. Physical Presence Not Required to be Counted as Part of a Quorum. The provisions of this section shall apply to Council and to all of its Boards and Commissions. During the Emergency Term, and notwithstanding any other provision of applicable State or local law, a member attending a meeting of Council or any of its Boards and Commissions by electronic means in compliance with the Participation Requirements, whether physically present or not, shall be counted as present in determining the quorum for such meeting.

Section 4. Suspension of Contrary Local Provisions. During the Emergency Term, any ordinance, resolution, policy, or bylaw of the Governing Body that conflicts with the provisions hereof shall be and is hereby suspended and superseded.

Section 5. Immediate and Concurrent Application Due to Emergency. Given the immediate threat to the public health, safety, and welfare presented by physical gatherings during the COVID-19 crisis, this Ordinance has been enacted at an electronic meeting in accordance with the Participation Requirements and the protocols set forth herein. Notwithstanding any contrary provision of State or local law, the procedures approved herein shall be effective immediately and concurrently and shall apply to the enactment of this Ordinance, which shall be deemed to have been validly enacted as set forth herein.

Section 6. Public Access: If it is determined by the Town Council that public access to Town Hall poses a threat to public health, safety, and the welfare, or to the health, safety and welfare of the Town Council or staff, the Town Council may block public access to Town Hall during Council meetings and at other times, provided that council meetings must be broadcast to the public by electronic means if public access to Council Meetings is blocked.



Ansley Champe, Town Clerk



Melissa B. Emmons, Mayor

Date of Adoption: 4/7/2020