

ORDINANCE #20-002

**PROVIDING EMERGENCY PROCEDURES FOR PUBLIC MEETINGS
OF THE CITY OF MULLINS DURING THE CONTINUANCE
OF THE CORONAVIRUS EPIDEMIC.**

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina 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 of South Carolina;

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 all recommended observance of social distancing, including the maintenance of safe zones of at least six feet between individuals;

WHEREAS, the City of Mullins is required to meet in public 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 City of Mullins now desires to establish protocols for conducting meetings during the continuance of the COVID-19 crisis by telephone or other electronic means;

WHEREAS, S.C. Code § 5-7-250(d) provides that "[t]o meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances; but such ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate. Every emergency

ordinance shall be enacted by the affirmative vote of at least two-thirds of the members of council present. An emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements. Emergency ordinances shall expire automatically as of the sixty-first day following the date of enactment;" and

WHEREAS, this Ordinance has been approved by at least two-thirds of the Councilmembers present at the meeting in which it was considered;

NOW, THEREFORE, be it ordained by City of Mullins 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 all of its Boards and Commissions shall be entitled to conduct all regular and special meetings by telephone or other electronic means, provided that:

- a) Members attending by electronic means shall be able to hear any and all comments made by the public, staff, and other council members;
- b) All public participants and attendees, staff, and other members shall be able to hear the comments, motions, and votes of the members attending such meeting by electronic means;
- c) Other than establishing the electronic connections, there shall be no communications among the members attending electronically, unless such communication is part of the meeting and can be heard by all public participants or attendees; and
- d) The comments, motions, and votes of the members attending electronically shall be recorded in the minutes of the meeting.

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

Section 2. 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 telephone or 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 3. Extension of Emergency Term. In accordance with the meeting protocols contained in Section 1 and 2 hereof, Council may extend the Emergency Term by resolution for one or more additional terms, each of no more than sixty days, provided that the aggregate term of the Emergency Term, including all such extensions, does not exceed six months.

Final Reading: 5-12-2020

Mayor Bo McMillan

Council Members

ATTEST:

Felicia J. Sawyer, City Clerk

ATTORNEY:

Robert Corley