

FILED FOR RECORD

STATE OF SOUTH CAROLINA)

EMERGENCY ORDINANCE # 2020-10-371

2020 NOV 12 PM 5:05

AND RESOLUTION # 2020-10-576

COUNTY OF BARNWELL)

(COVID-19, State of Emergency)

RHONDA D. HOELVEEN
CLERK OF COURT

AN EMERGENCY ORDINANCE AND RESOLUTION TO DECLARE A LOCAL STATE OF EMERGENCY IN BARNWELL COUNTY THEREBY CONTINUING THE ACTIVATION OF THE BARNWELL COUNTY EMERGENCY OPERATIONS PLANS AND PROCEDURES, CONTINUING THE PROVISIONS FOR HOLDING OF ELECTRONIC PUBLIC MEETINGS AND OTHER MATTERS RELATED THERETO

WHEREAS, the Governor of South Carolina, by Executive Order 2020-08 has declared that a state of emergency exists by virtue of the threat posed by the 2019 Novel Coronavirus (“COVID-19”); and

WHEREAS, Barnwell County has taken, and must continue to take, all necessary and appropriate actions in proactively preparing for and promptly responding to the COVID-19; and

WHEREAS, as cases of COVID-19 continue to increase causing an imminent threat to the citizens and visitors of Barnwell County, it is necessary for the county to continue to implement emergency planning for anticipated problems and to prepare for emergency actions needed to confront the challenges of this public health emergency; and

WHEREAS, on March 15, 2020, the Centers for Disease Control and Prevention issued guidance recommending the suspension of large events and mass gatherings that consist of 50 people or more in order to slow the spread of COVID-19; and

WHEREAS, while it is imperative for local government to continue to operate during States of Emergency, it is equally imperative for local governments to take steps to minimize the need for large gatherings in order to protect public health and safety and the health and safety of local government officials and staff; and

WHEREAS, the South Carolina Freedom of Information Act, which is codified at Title 30, Chapter 4 of the Code of Laws of South Carolina 1976, as amended, (the “Act”) defines a “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” (emphasis added); and

WHEREAS, due to the State of Emergency related to COVID-19, it is advisable to make provisions for the holding of electronic public meetings, while ensuring any electronic meeting substantially complies with the open meeting requirements of the Act; and

WHEREAS, the Act further permits that emergency meetings of public bodies may be held without having provided twenty-four hours’ notice of such meeting; and

WHEREAS, South Carolina law provides that cities and counties may enact emergency ordinances to meet public emergencies affecting life, health, safety or the property of the people upon a single reading, provided that such ordinance does not levy taxes, grant, renew or extend a franchise or impose or change a service rate, upon the affirmative vote of at least two-thirds of the county council present, and provided that such emergency ordinance shall expire automatically on the sixty-first day following its enactment; and

WHEREAS, Barnwell County Council declared a State of Emergency and implemented a COVID-19 Operations Plan on March 16, 2020, and passed an Emergency Resolution Allowing Electronic Meetings on March 23, 2020; and

WHEREAS, on September 8, 2020, Barnwell County Council passed an Emergency Ordinance and Resolution Continuing the Activation of the COVID-19 Operations Plan and the Emergency Resolution Allowing Electronic Meetings.

NOW, THEREFORE, BE IT ORDAINED, in accordance with South Carolina Code of Laws, Title 4, Article 9, Section 130, and **BE IT RESOLVED**, in accordance with South Carolina Code of Laws, Title 4, Article 9, Section 25, Barnwell County declares, as follows:

1. That a state of emergency exists, that the threat thereof continues to be imminent, and extraordinary emergency measures are deemed necessary to cope with the existing and anticipated situation.
2. That the County Administrator is authorized to take any necessary actions for protection of the health, safety and welfare of Barnwell County citizens and visitors including, but not limited to, the following:
 - a. Utilize all available resources of county and municipal government as reasonably necessary to cope with the COVID-19 emergency;
 - b. Transfer the direction, personnel or functions of county departments and agencies or units thereof for purposes of facilitating or performing emergency services as necessary or desirable;
 - c. Contract, requisition and compensate for goods and services from private sources;
 - d. Encourage all local governments to follow their FEMA Emergency Preparedness Plan and contractual obligations, including, but not limited to, retaining receipts related to the emergency;
 - e. Suspend or limit nonemergency activities and public assemblies; and
 - f. Any and all other actions deemed necessary for the preservation of the health, safety and welfare of citizens, residents, and visitors of Barnwell County, South Carolina.

3. All agencies of Barnwell County shall cooperate to the fullest extent with the County Administrator and the Office of Emergency Management and shall provide such assistance as may be required for response to this emergency.

4. **Standards for Electronic Meetings.** The Governing Body is hereby authorized to conduct public meetings exclusively in electronic form, provided the medium for such meeting, whether telephonic, broadcast video, computer-based, or other electronic media, or any combination of these, and the conduct of the electronic meeting, allows for the following standards and practices to be met:

- a. At the beginning of any electronic meeting, the presiding officer shall poll the members of the Governing Body to confirm attendance, and any member of the Governing Body attending by way of electronic media shall be considered present for the purposes of constituting a quorum.
- b. Throughout the duration of the electronic meeting, all members of the Governing Body, as well as any officials or staff required to speak at such meeting, should have the capability to be heard at all times by any other member of the governing body and by the general public.
- c. 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 "aye" or "nay." All individual votes shall be recorded by the clerk, secretary, or presiding officers, as appropriate.
- d. Meetings shall be recorded or minutes kept in the same manner as an in-person meeting as required by the Act.
- e. All members of the governing body, officials, staff, and presenters should identify themselves and be recognized prior to speaking. Members of the Governing Body shall strictly comply with the rules of the Governing Body as they relate to procedural matters in order to preserve order and allow for the effectiveness of electronic meetings.
- f. Electronic executive sessions shall be permitted in accordance with the provisions of the Act and the Governing Body shall properly announce its reason for going into any executive session in conformance with Section 30-4-70 of the Act. Upon the entry into any electronic executive session, meeting minutes need not be kept and the electronic meeting utilized for such executive session may be held by (i) a separate telephonic, broadcast video, computer-based, or other electronic media, or any combination of these wherein the public shall not be permitted to participate, or (ii) on the initial telephonic, broadcast video, computer-based, or other electronic media, or any combination of these, with the implementation of necessary participation or listening restrictions, provided

All agencies of Barrow County shall cooperate to the fullest extent with the County Administrator and the Office of Emergency Management and shall provide such assistance as may be required for response to this emergency.

Standards for Electronic Meetings. The governing body is hereby authorized to conduct public meetings exclusively in electronic form provided the medium for such meeting, whether telephonic, broadcast, computer-based or other electronic media, or any combination of these, and the conduct of the electronic meeting shall be in the following manner:

a. At the beginning of any electronic meeting, the presiding officer shall identify the members of the governing body to which an electronic meeting is being held and any member of the governing body attending in any other manner shall be considered to be in attendance for the purposes of conducting a meeting.

b. Throughout the duration of the electronic meeting, all members of the governing body, as well as any official or staff required to speak at such meeting, shall have the opportunity to be heard at all times by any other member of the governing body and by the general public.

c. 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 "aye" or "nay"; all individual votes shall be recorded by the presiding officer or his/her designee.

d. Meetings shall be recorded in minutes kept in the same manner as in a non-electronic meeting as required by the Act.

e. All members of the governing body, officials, staff, and press shall identify themselves and be recognized prior to speaking. Members of the governing body shall comply with the rules of the governing body as they relate to procedure matters in order to preserve order and allow for the effectiveness of electronic meetings.

f. Electronic executive sessions shall be permitted in accordance with the provisions of the Act and the governing body shall comply with the provisions of the Act for going into any executive session in compliance with section 30-4-1 of the Act. Upon the end of any electronic executive session, meeting minutes shall not be kept and the electronic meeting shall not be recorded or otherwise held by (i) a separate electronic broadcast which can be accessed or otherwise electronic media, or any combination of these, or (ii) any other electronic media, or any combination of these, which is available to participants or (iii) any other electronic media, or any combination of these, which is available to participants or any other person. The full participation of all participants in the meeting shall be required.

that in either instance all members of the Governing Body must have the capability to be heard at all times.

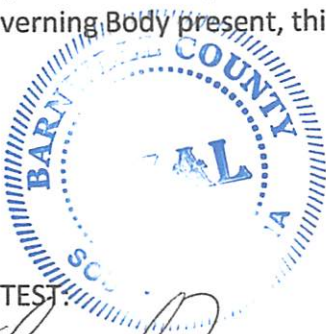
- g. With respect to any electronic meeting, any public comment periods provided for by local ordinance, resolution, policy, or bylaws are hereby suspended. Members of the public may submit written public comments which shall be distributed to the members of the Governing Body.

5. During the period of effectiveness of this Emergency Ordinance, any ordinance, resolution, or policy of Barnwell County that conflicts with the provisions hereof is hereby suspended and shall be superseded hereby.

6. The provisions hereby shall be effective upon a single hearing and two-thirds vote of the governing body.

7. This Emergency Ordinance shall be effective upon adoption and shall remain in force until emergency conditions associated with COVID-19 have subsided and the emergency activities in Barnwell County are no longer necessary to protect the life and property of our citizens, or upon the sixty-first (61st) day following the effective date of this emergency declaration.

PRESENTED AS AN EMERGENCY ORDINANCE and RESOLUTION, and approved at a meeting duly assembled by no less than an affirmative vote of two thirds of the members of the Governing Body present, this the 29th day of October, 2020.



BARNWELL COUNTY COUNCIL

BY:

Ben Kinlaw, Chairman

ATTEST:

Elaine S. Ferguson, Clerk to Council

APPROVED as to Form and Content

James D. Mosteller, III, County Attorney

