

## TOWN COUNCIL

### STAFF REPORT Executive Office



<b>MEETING DATE:</b>	February 9, 2021
<b>PROJECT:</b>	Consideration of an Emergency Ordinance of the Town of Bluffton Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak; and Severability
<b>PROJECT MANAGER:</b>	Scott M. Marshall, MPA, ICMA-CM, Interim Town Manager

#### **RECOMMENDATION:**

Request Town Council's Consideration of the Emergency Ordinance presented at Attachment 1.

#### **BACKGROUND:**

Background on this issue is found in the Staff Report from December 8, 2020, found at Attachment 2.

#### **DISCUSSION:**

The Emergency Ordinance presented for consideration continues the provisions established by Emergency Ordinance 2020 – 30. and substantively accomplishes the following:

1. Section 1 incorporates recitals contained in the Town of Bluffton Emergency Ordinance 2020-03 and also incorporates recitals of the SC Governor's Executive Orders which establish a statewide State of Emergency due to the COVID-19 pandemic.
2. Section 2 rescinds Section 1 of Emergency Ordinance 2020-03, which allows for the conduct of public meetings electronically. Adoption of the Electronic Meeting Ordinance negates the need to place this provision in this and future Emergency Ordinance.
3. Section 3, which was previously approved by Town Council when adopting Emergency Ordinance 2020-21 on October 13, 2020, rescinds and replaces Section 2 of Emergency Ordinance 2020-03, pertaining to the "Authorization of Town Manager." Substantive amendments are as follows:
  - a. Special event permits be conditioned upon full compliance with applicable SC Governor's Executive Orders and associated COVID-19 pandemic related restrictions and/or recommendations regarding social distancing.
  - b. Authority for closing Town owned or operated property is limited to Town Hall offices and other Town of Bluffton offices or buildings normally open to the public. Access to Town owned or operated parks, playgrounds, docks, and other open spaces available to the public will be consistent with rules for each facility/amenity as designated in the Town of Bluffton Code of Ordinances.

A single 2/3 vote of Town Council is required to approve this Emergency Ordinance.

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If approved, this Emergency Ordinance would become effective on February 12, 2021 and would expire on April 14, 2021, unless otherwise modified, amended, extended, or rescinded by subsequent Emergency Ordinance.

**NEXT STEPS:**

Pending Town Council's approval, the ordinance will be filed by the Town Clerk, as appropriate, and the Town will continue to function under emergency condition protocols consistent with this Emergency Ordinance and other applicable Ordinances.

**ATTACHMENTS:**

1. Emergency Ordinance of the Town of Bluffton Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak; and Severability
2. Staff Report from December 8, 2020, sans Attachments
3. Suggested Motion Language

EMERGENCY ORDINANCE No. 2021 - \_\_\_\_\_

TOWN OF BLUFFTON, SOUTH CAROLINA

AN EMERGENCY ORDINANCE OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, CONTINUING THE SUSPENSION OF THE NORMAL OPERATING PROCEDURES OF TOWN OF BLUFFTON TOWN COUNCIL MEETINGS AND OTHER TOWN OF BLUFFTON PUBLIC MEETINGS; AND MODIFYING THE AUTHORITY OF THE TOWN MANAGER TO DEVELOP AND ENACT SUCH PLANS AND POLICIES NEEDED TO ENSURE CONTINUITY IN THE DELIVERY OF GOVERNMENT SERVICES IN LIGHT OF THE COVID-19 OUTBREAK; AND SEVERABILITY

**WHEREAS**, on March 13, 2020, the Honorable Henry McMaster, Governor of South Carolina, issued Executive Order No. 2020-08 related to 2019 Novel Coronavirus (“**COVID-19**”) and declared that a State of Emergency exists in South Carolina; and,

**WHEREAS**, the Governor of the State has continued to declare that a State of Emergency exists throughout South Carolina and has issued the following Executive Orders extending the State of Emergency throughout the State: 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, 2020-63, 2020-65, 2020-67, 2020-70, 2020-72, 2020-75, 2020-77, 2021-03, 2021-07; and

**WHEREAS**, on March 16, 2020, in accordance with Section 2-202(a) of the Code of Ordinances for the Town of Bluffton, South Carolina (the “**Town Code**”), the Honorable Lisa Sulka, Mayor of the Town of Bluffton, issued a proclamation declaring a state of emergency throughout the Town to protect the public health, safety, and welfare of the residents, guests, and visitors to the Town of Bluffton from the dangers caused by the increasing number of confirmed cases of COVID-19; and,

**WHEREAS**, on March 17, 2020, the Town Council for the Town of Bluffton, South Carolina, (the “**Town Council**”) adopted Emergency Ordinance 2020-03, which established certain standards for the conducting of electronic meetings for Town bodies and which authorized the Town Manager to take certain actions to ensure that Town business continued to operate during the state of emergency; and,

**WHEREAS**, on May 12, 2020, Town Council adopted Emergency Ordinance 2020-05, which extended key provisions of Emergency Ordinance 2020-03; and,

**WHEREAS**, on July 14, 2020, Town Council adopted Emergency Ordinance 2020-13, which extended key provisions of Emergency Ordinance 2020-03; and,

**WHEREAS**, on September 8, 2020, Town Council adopted Emergency Ordinance 2020-20, which extended key provisions of Emergency Ordinance 2020-03; and,

**WHEREAS**, on October 13, 2020, Town Council adopted Emergency Ordinance 2020-21, which extended key provisions of Emergency Ordinance 2020-03; and

**WHEREAS**, on December 8, 2020, Town Council adopted Emergency Ordinance 2020-30, which extended key provisions of Emergency Ordinance 2020-03; and

**WHEREAS**, while it is imperative for local government to continue to take steps to minimize the significant public health threats and other impacts associated with the COVID-19 pandemic to protect, the

## ATTACHMENT 1

Town Council must also regularly review such measures to ensure that any deviations from standard procedure are narrowly crafted to address continuing and new threats caused by COVID-19; and,

**WHEREAS**, in light of the foregoing, and in an effort to provide for and protect the health and welfare of the people of Bluffton, the Town Council has determined that it is necessary and appropriate to extend certain temporary, targeted and narrowly tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19; and,

**WHEREAS**, in light of the uncertain duration of the COVID-19 pandemic and for other reasons, the Town Council has also determined that it is necessary and appropriate to modify, rescind, and replace certain emergency measures adopted by Emergency Ordinance 2020-03, as amended and extended, as part of its process of regularly reviewing such measures; and,

**WHEREAS**, it is well recognized that COVID-19 presents a public health concern that requires extraordinary protective measures and vigilance; 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; and,

**WHEREAS**, it is hereby determined that a public emergency affecting life, health, and safety does exist within the Town of Bluffton, and therefore, it is appropriate and necessary to adopt this Emergency Ordinance.

**NOW THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA**, in accordance with the foregoing, as follows:

**Section 1. Incorporation of Recitals.** The above recitals, the recitals contained within Town of Bluffton Emergency Ordinance 2020-03, and the recitals contained within the Governor of South Carolina's Executive Orders 2020-50, 2020-62, 2020-63, 2020-65, 2020-67, 2020-70, 2020-72, 2020-75, 2020-77, 2021-03 and 2021-07 are hereby incorporated herein and made an integral part hereof.

**Section 2. Rescission of Section 1 of the Town of Bluffton Emergency Ordinance 2020-03, Entitled "Standards of Electronic Meetings."** The provisions of Section 1 of the Town of Bluffton Emergency Ordinance 2020-03, which authorizes all public bodies of the Town to conduct public meetings exclusively in electronic form and setting the standards governing the same, are rescinded.

**Section 3. Rescission and Replacement of Section 2 of the Town of Bluffton Emergency Ordinance 2020-03, Entitled "Authorization of Town Manager."** Section 2 of Town of Bluffton Emergency Ordinance 2020-03, which ratified the authority of the Town Manager to take certain actions during the State of Emergency in accordance with Section 2-116 of the Town Code, is hereby amended, modified, superseded, rescinded, restated and replaced in its entirety as follows:

To the fullest extent permitted by law, the Town Manager is hereby authorized to develop and enact all such plans and policies intended to ensure the continuity in the delivery of government services in light of the COVID-19 outbreak and to take necessary action to protect the health, safety, and welfare of Town residents, visitors, and employees and staff. These policies, plans, and actions may include but are not limited to the following:

- a. Cancelling and revoking any special event permits issued prior to the date hereof, limiting the issuance of any special event permits during the term of this State of Emergency, and

## ATTACHMENT 1

requiring that any and all special event permits be conditioned upon full compliance with the Governor of the State of South Carolina's Executive Order 2020-63 or any future Executive Order issued by the Governor, with such compliance being determined as of the date of such special event; and,

b. Utilizing all available resources of the Town as reasonably necessary to cope with the COVID-19 pandemic; and,

c. Consistent with existing Town policies, including the Town of Bluffton Employee Handbook, requiring any and all Town staff to work remotely and reimbursing staff for personal expenses incurred or necessary for such remote work; and,

d. Closing all or portions of Town Hall and other Town offices or buildings to the public. Access to parks, playgrounds, docks and other open spaces will remain consistent with codified rules for each facility/amenity.

**Section 4. Effective Date; Expiration.** The provisions hereof shall be adopted upon a single hearing and two-thirds vote of the Governing Body, shall be effective on February 12, 2021 and shall expire on the 61<sup>st</sup> day following the effective date hereof, unless otherwise modified, amended, extended, or rescinded by subsequent Emergency Ordinance.

**Section 5. Reaffirmation of Prior Emergency Ordinances.** All other Emergency Ordinances adopted by the Town Council shall remain in effect and are hereby ratified, confirmed, and reaffirmed, except to the extent that such Emergency Ordinances are, in whole or in part, in conflict with the terms hereof.

**Section 6. Severability.** If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**DONE, RATIFIED AND ENACTED AS AN EMERGENCY ORDINANCE BY THE TOWN COUNCIL FOR THE TOWN OF BLUFFTON, SOUTH CAROLINA**, 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, on this 9<sup>th</sup> day of February, 2021

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Lisa Sulka, Mayor  
Town of Bluffton, South Carolina

ATTEST:

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Kimberly Chapman, Town Clerk  
Town of Bluffton, South Carolina

## TOWN COUNCIL

### STAFF REPORT Executive Office



<b>MEETING DATE:</b>	December 8, 2020
<b>PROJECT:</b>	Consideration of an Emergency Ordinance of the Town of Bluffton Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak; and Severability
<b>PROJECT MANAGER:</b>	Scott M. Marshall, MPA, ICMA-CM, Deputy Town Manager

#### **RECOMMENDATION:**

Request Town Council's Consideration of the Emergency Ordinance presented at Attachment 1.

#### **BACKGROUND:**

On March 16, 2020, Mayor Lisa Sulka declared that a State of Emergency existed in the Town of Bluffton because of the COVID-19 pandemic. On March 17, 2020 Town Council unanimously passed Emergency Ordinance 2020-03, a copy of which is found at Attachment 2. This Ordinance expired on May 17, 2020 and accomplished the following:

1. Section 1 provides standards for electronic meetings.
2. Section 2 provides authorization to the Town Manager, pursuant to the Town of Bluffton Code of Ordinances, Section 2-116, to develop and enact all such plans and policies intended to ensure the continuity of delivery of government services In light of the COVID-19 outbreak and to take necessary action to protect the health, safety, and welfare of town residents, visitors, and employees and staff.
3. Section 3 suspends certain municipal deadlines.
4. Section 4, in accordance with Governor McMasters Executive Order 2020-10, extends certain municipal tax deadlines.

Sections 3 and 4 of Emergency Ordinance 2020-3 were extended and modified on April 14, 2020 by Emergency Ordinance 2020-4, extending deadlines for certain municipal taxes and business license fees.

Sections 1 and 2 of Emergency Ordinance 2020-03 were effectively extended with the adoption of the following Emergency Ordinances:

- Emergency Ordinance 2020-05 on May 12, 2020; and
- Emergency Ordinance 2020-13 on July 14, 2020 ; and
- Emergency Ordinance 2020-20 on September 8, 2020; and

## ATTACHMENT 2

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- Emergency Ordinance 2020-21 on October 13, 2020. This Emergency Ordinance rescinded and replaced Section 2 to modify authority granted to the Town Manager.

Emergency Ordinance 2020-21, unless otherwise modified, amended, extended, or rescinded by subsequent Emergency Ordinance, will expire December 13, 2020.

As a reminder, under the authority granted under Sections 1 and 2 of Emergency Ordinance 2020-03, the following actions have been taken so far:

1. All public meetings to conduct Town business have been conducted electronically. (Section 1)
2. Under "Authorization of Town Manager:" (Section 2)
  - a. Public access to Town facilities has been restricted.
  - b. Physical staffing of Town facilities has been reduced to the minimum required to conduct Town business.
  - c. Telecommuting policies have been implemented for employees able to work remotely.
  - d. The following decisions regarding access to public facilities were made:
    - 1) Access to all Town of Bluffton docks and boat ramps was closed on April 1, 2020, consistent with Governor McMaster's Executive Orders to close public access to beaches, public piers and parking lots associated with those activities.
    - 2) Consistent with the Governor's subsequent Executive Order to re-open boat ramps, the Oyster Factor Boat Ramp was re-opened on April 17, 2020.
    - 3) Restrictions to Town Public Docks remained in place after the Governor's Executive Order that such restrictions could be lifted on April 21, 2020.
    - 4) Access to parks and playgrounds was closed on April 1 to be consistent with the Governor's Executive Order to close public playgrounds and activities that involve the use of shared sporting apparatus and equipment.
    - 5) Access to Town parks and docks was opened on June 1, 2020 simultaneous with expiration of previous Executive Order issued by the Governor; however, access to playgrounds remains closed until October 3, 2020 when they were reopened by the Town Manager.

### **DISCUSSION:**

The Emergency Ordinance presented for consideration substantively accomplishes the following:

1. Section 1 incorporates recitals contained in the Town of Bluffton Emergency Ordinance 2020-03 and also incorporates recitals of the SC Governor's Executive Orders which establish a statewide State of Emergency due to the COVID-19 pandemic.
  2. Section 2 rescinds Section 1 of Emergency Ordinance 2020-03, which allows for the conduct of public meetings electronically. Adoption of the Electronic Meeting Ordinance negates the need to place this provision in this and future Emergency Ordinance.
  3. Section 3, which was previously approved by Town Council when adopting Emergency Ordinance 2020-21 on October 13, 2020, rescinds and replaces Section 2 of Emergency Ordinance 2020-03, pertaining to the "Authorization of Town Manager." Substantive amendments are as follows:
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## ATTACHMENT 2

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- a. Special event permits be conditioned upon full compliance with applicable SC Governor's Executive Orders and associated COVID-19 pandemic related restrictions and/or recommendations regarding social distancing.
- b. Authority for closing Town owned or operated property is limited to Town Hall offices and other Town of Bluffton offices or buildings normally open to the public. Access to Town owned or operated parks, playgrounds, docks, and other open spaces available to the public will be consistent with rules for each facility/amenity as designated in the Town of Bluffton Code of Ordinances.

A single 2/3 vote of Town Council is required to approve this Emergency Ordinance.

If approved, this Emergency Ordinance would become effective on December 13, 2020 and would expire on February 12, 2021, unless otherwise modified, amended, extended, or rescinded by subsequent Emergency Ordinance.

### **NEXT STEPS:**

Pending Town Council's approval, the ordinance will be filed by the Town Clerk, as appropriate, and the Town will continue to function under emergency condition protocols consistent with this Emergency Ordinance and other applicable Ordinances.

### **ATTACHMENTS:**

1. Emergency Ordinance of the Town of Bluffton Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak; and Severability
  2. Town of Bluffton Emergency Ordinance 2020-3
  3. Town of Bluffton Emergency Ordinance 2020-5
  4. Town of Bluffton Emergency Ordinance 2020-13
  5. Town of Bluffton Emergency Ordinance 2020-20
  6. Town of Bluffton Emergency Ordinance 2020-21
  7. Suggested Motion Language
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### ATTACHMENT 3

#### MOTION LANGUAGE

*“I move to approve an Emergency Ordinance of the Town of Bluffton Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak; and Severability”*