

BEAUFORT-JASPER WATER AND SEWER AUTHORITY

RESOLUTION

BYLAW AMENDMENT TO ARTICLE X: EMERGENCY POWERS TO ALLOW FOR ELECTRONIC MEETINGS DURING STATE OF EMERGENCIES EFFECTIVE MARCH 26, 2020

WHEREAS, on March 13, 2020, Governor Henry McMaster 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, 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 the Beaufort-Jasper Water and Sewer Authority (hereinafter “**BJWSA**”) to continue to operate during States of Emergency, it is equally imperative for local governments including Special Purpose Districts such as **BJWSA** to take steps to minimize the need for large gatherings in order to protect public health and safety and the health and safety of **BJWSA**’s Board Members 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 current State of Emergency and for any State of Emergency declared in the future by either the Governor of the State of South Carolina or the Commander in Chief of the United States, it is advisable to make provisions for the holding of electronic public meetings, while ensuring any electronic meeting fully complies with the open meeting requirements of the Act; and

WHEREAS, South Carolina Code Section 6-3-10, et. seq. provides that political subdivisions of the State such as **BJWSA** may enact emergency procedures related to the conduct of public meetings during such State of Emergencies affecting life, health, safety or the property of the people upon a single reading, provided that such Resolution and accompanying Bylaw Amendment 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 Board Members, and

WHEREAS, it is hereby determined that a public emergency affecting life, health, and safety does currently exist, and will likely exist in the future, and therefore it is appropriate and necessary to amend the Bylaws for The Beaufort-Jasper Water Sewer Authority to allow for the conduct Board Meetings via electronic means during a declared State of Emergency; and

WHEREAS, the Board of Directors for **BJWSA** has reviewed and revised its Bylaws accordingly; and

WHEREAS sufficient Notice of this meeting to amend the Bylaws has been given in accordance with Article IX, Section 2 of the Bylaws, and

WHEREAS, the Amended and Consolidated Bylaws for the Beaufort-Jasper Water and Sewer Authority dated March 26, 2020 has been prepared and is ready for approval.

NOW THEREFORE BE IT RESOLVED by the members of the Beaufort-Jasper Water and Sewer Authority in a duly assembled regular meeting this 26th day of March, 2020 that the Bylaws for the Beaufort-Jasper Water and Sewer Authority dated March 26, 2020, is hereby amended and adopted as follows:

ARTICLE X
EMERGENCY PROCEDURES AND POWERS

Section 1. General Powers in an Emergency Situation:

Whenever, due to an emergency resulting from the effects of a natural disaster, or an emergency due to the death or incapacity by illness or injury whether a State of Emergency has been declared or not, and there is no Member(s) available to call or attend a duly called, Special or Emergency meeting of the Authority who has/have been authorized to manage and direct business of the Authority, then, until the earliest time upon which a meeting of the Members can be convened at which a quorum is represented, including a meeting under Section 2 of this Article, or until a Member is present and capable of action (whichever first occurs), the first of the persons described in the following list who is available and suffering no incapacity shall have the authority to manage and direct the operation of the Authority at a location and continue the customary business thereof pursuant to Title 6 Chapter 3 of the South Carolina Code of Laws, 1976, as amended, which shall include the power to sign checks upon the bank account of the Authority:

- a) Chair
- b) Vice Chair
- c) Secretary/Treasurer
- d) General Manager of the business of the Authority at its registered office.

The person managing and directing the business of the Authority under the authority of this Section is authorized and directed to call and convene a meeting of the Members at the earliest

possible time at a location established pursuant to Title 6 Chapter 3 of the South Carolina Code of Laws, 1976, as amended.

Section 2. Standards for Electronic Meetings when a State of Emergency has been called.

Whenever, due to an emergency resulting from the effects of a natural disaster, or an emergency due to the death or incapacity by illness or injury, and a State of Emergency has been declared by the Governor of the State of South Carolina and/or the Commander in Chief of the United States, the Authority 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 Authority to confirm attendance, and any member of the Authority 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 Authority, as well as any officials or staff required to speak at such meeting, must 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 Authority must be conducted by individual voice vote of the members of the Authority, 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.

(d) Meetings shall be recorded or minutes kept in the same manner as an in-person meeting as required by South Carolina Code of Laws, Section 30-4-90 (as amended).

(e) All members of the Authority, officials, staff, and presenters should identify themselves and be recognized prior to speaking. Members of the Authority shall strictly comply with the rules of the Authority 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 Freedom of Information Act and the Authority 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 that in either instance all members of the Authority 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 Authority.

Section 3. Suspension of Local Provisions. During the period of effectiveness of Article X, Section 2 of the Amended Bylaws, any resolution, policy, or Bylaw of the Authority that conflicts with the provisions hereof is suspended and shall be superseded hereby, to include but not limited to Article II, Section 11(a) of the Bylaws that requires a quorum to be physically present in order to vote at any regular or special meeting of the Authority.

Section 4. Effective Date. The provisions hereof shall be effective as of March 26, 2020 upon a single hearing and two-thirds vote of the Authority.



**BEAUFORT-JASPER WATER AND
SEWER AUTHORITY, SOUTH CAROLINA**

BY: _____

Michael L. Bell
Michael L. Bell, Chairman

ATTEST:

Gregory A. Padgett

Gregory A. Padgett, Secretary/Treasurer