

IN THE GENERAL DISTRICT COURT FOR THE CITY OF COLONIAL HEIGHTS

THIRD REVISED ORDER PURSUANT TO THE EXTENSION OF  
DECLARATION OF JUDICIAL EMERGENCY

Pursuant to the State of Emergency declared by the Governor of Virginia, the Fourth Order Modifying and Extending Declaration of Judicial Emergency entered by the Chief Justice of the Supreme Court of Virginia on May 6, 2020, as amended May 12, 2020, continuing the Judicial State of Emergency until June 7, 2020, pursuant to Virginia Code Section 16.1-69.35(5), and in accordance with the guidance contained in *The Pandemic Continuity of Operations Planning: Reconstitution* provided by the Office of the Executive Secretary, the Judges of the 12<sup>th</sup> Judicial District having determined that, under the prevailing conditions, there continues to exist an emergency health crisis that constitutes a threat to the health and safety of both the general public and the clerk's office personnel, it is hereby **ORDERED**:

1. All **traffic infractions** (subject to the exceptions listed below), toll violations, building code violations and county licensing violations scheduled to be heard from today's date through June 7, 2020 are hereby continued, **except for Class 1 and 2 misdemeanor offenses such as reckless driving, driving under the influence, misdemeanor hit and run, no operator's license, driving while suspended, and other Class 1 and 2 misdemeanor offenses charged under title 46.2 of the Code of Virginia**, and will be rescheduled by the Clerk's office to the Officer's next available date. **Any person charged with a traffic infraction and a Class 1 or 2 misdemeanor will have their traffic infraction heard on the criminal docket along with their misdemeanor charge.**

Notice of the new court date will be sent to defendants at the address listed on the summons or warrant. **If the address on your document is incorrect you should notify the**

**court immediately. The public is advised to either check the Supreme Court website, <http://www.courts.state.va.us> under case status information for Colonial Heights for their specific case information or call their respective Clerk's Office to determine the new date.**

**Failure to notify the court of a change of address, or check your court date, will result in you being tried in your absence. If an offense is prepayable, and you do not contest the charges against you, you are encouraged to prepay your ticket/summons.**

2. Pursuant to 19.2-241 of the Code of Virginia, "all criminal cases shall be disposed of before civil cases, unless the court shall direct otherwise." Due to the current emergency, as set forth above, and due to the safety requirements set forth by the OES, and the Sheriff's Department, all **civil cases, on the general civil dockets** scheduled through June 7, 2020 are hereby continued and they will be rescheduled by the Clerk of the Court on segmented dockets in an effort to limit the number of people in the Courthouse and Courtroom. **Any motions, hearings, or other civil matters may continued to be resolved by video, at the presiding Judge's discretion, on a case-by-case basis scheduled through the Clerk's office. Civil trials and garnishment returns will be heard as scheduled so long as the trials and hearings can be conducted taking in to account the safety guidelines established by the Supreme Court and the ability to maintain social distancing inside and outside the Courtroom** In the alternative, the hearings may be conducted by a conference telephone call. Any agreed Orders may be submitted by fax or email to the court during the pendency of the State of Emergency. Pursuant to Rule 1:13 of the Rules of the Virginia Supreme Court the Court may dispense with the endorsement of counsel on any agreed Order so long as the Order includes a statement that counsel has consulted with opposing counsel and they agree to entry of the Order.

3. **Criminal cases** will be heard as scheduled, starting May 18, 2020. The dockets will be

heard on a segmented basis in order to maintain social distancing and to comply with the safety requirements set forth in the Supreme Court's May 6<sup>th</sup> Order. All persons involved in a criminal case should appear at the time currently scheduled for instructions regarding the calling of their case(s).

The Commonwealth's Attorney and defense counsel are ORDERED to communicate prior to the scheduled hearing to resolve any discovery concerns or other needs that are required to go proceed with the case on the scheduled date. If a continuance is needed an Order shall be submitted to the Court by fax or in-person before the Court date. **The Order must be signed as agreed by both parties and may be signed or submitted electronically.** Any continuance should include the co-defendant cases if necessary. Absent extraordinary circumstances, requests for continuances on the Court date will be denied if it is apparent that the matter should have been continued in advance. **Guilty pleas and trials must be conducted in-person with the defendant present in court.**

4. **Preliminary Protective Order** requests will be considered by the Court based on the facts contained in the affidavit filed by the petitioner and/or criminal charges pending against the defendant alleging an act of violence, force, or threat. Such requests can be filled out on the Supreme Court website listed above under "General District General Forms." They are also available on the desk outside the Clerk's Office. These requests, and associated affidavits, shall be filled out by the Petitioner prior to entering the Clerk's Office. **The petition and affidavit should be immediately provided to the duty Judge and the Petitioner should be instructed to wait for a determination by the Court.** Hearings on the request for a **Protective Order** will be scheduled for the date and time of the pending criminal charge or at 10:45 a.m. on a date set within the time required by the Code of Virginia.

5. All arraignments, bond hearings, and other criminal hearings requested *prior to trial* **for incarcerated defendants** shall be conducted with the defendant appearing from the correctional facility by video conference. In the event such video conference is not available the Sheriff shall notify the Court so that accommodations may be made. Counsel for the defendant and the Commonwealth may submit agreed Orders, by fax or email, for bond or bond modifications for the Court's consideration. **Any agreed Orders need to be signed, with an original or faxed signature, by both parties.** If an agreed Order is denied, the parties can request a hearing before the Court. The Court recommends evidence be presented by proffer or stipulation.

6. All **bonded/out-of-custody arraignments** are still continued through June 7, 2020. **Notice of the new court date will be sent to defendants at the address listed on the summons or warrant. If the address on your document is incorrect you should notify the court immediately.** The public is advised to either check the Supreme Court website, <http://www.courts.state.va.us> under case status information for Colonial Heights for their specific case information or call their respective Clerk's Office to determine the new date. Due to the prevailing conditions, this information may not be available for several days. **Bonded/out-of-custody arraignments will resume June 8, 2020 at 10:30 a.m. unless there is an extension of the Judicial Emergency**

7. All weekend or delayed confinement obligations currently are still suspended and defendants are not to report to the Sheriff's Office in person. Those defendants with such confinement obligation should contact the Sheriff's Office by phone to determine when they should report.

8. Any litigant, or their attorney, in any matters pending before the Court may

request a hearing either in-person or by phone. Such requests may be made by phone, fax, or email through the Clerk's Office.

9. In accordance with paragraph 3 of the Supreme Court of Virginia's Fourth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency, the court encourages all parties to use video conferencing, telephone, teleconferencing , email , or other means that do not involve in-person contact. These methods are preferred over in-person court proceedings.

10. The court may, in its discretion, dismiss by Agreed Order, any criminal or traffic matter that was taken under advisement or continued by the Court on specific terms and conditions as long as the original return date has been continued as a result of the Emergency Declaration by the Supreme Court, and all conditions set forth by the Court have been strictly complied with, including payment of restitution, and providing a fingerprint card, if required.

11. All persons, including attorneys, witnesses, parties, and those observing court, are encouraged to wear face coverings. Each individual Judge will determine whether the wearing of such face covering is required before entering the courtroom. If the Judge requires those attending Court to wear a face covering and the individual does not have such face covering that individual, in the presiding Judge's discretion, may not be allowed to enter the courtroom.


12. In order to maintain safety and social distancing, attorneys will NOT be allowed to enter the Courtroom lockups.

13. All persons who wish to file documents with the Court are still encouraged to use the drop boxes outside the Courthouse entry.

14. Any lawyer or self-represented litigant experiencing fever or symptoms of illness, or who has **within fourteen days returned from international travel, or who has been recently quarantined, MUST report this fact to the court before entering the building. Violation is punishable by contempt of court.**

This Order shall remain in effect pending further Order of the Court.

ENTER: 5/15/20



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Keith N. Hurley, Chief Judge  
12<sup>th</sup> Judicial District