

ORDINANCE NO. 2020-015

EMERGENCY ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA PROVIDING FOR SUPPLEMENTAL OR ADDITIONAL ENFORCEMENT OF ALL EMERGENCY OR EXECUTIVE ORDERS AND RULES PROMULGATED PURSUANT TO FLORIDA STATUTES §252.46 THROUGH CODE ENFORCEMENT IN ACCORDANCE WITH CHAPTER 22 OF THE HIALEAH CODE OF ORDINANCES; ADOPTING AND INCORPORATING BY REFERENCE ALL EXECUTIVE AND EMERGENCY ORDERS, AS AMENDED, ISSUED IN RESPONSE TO COVID-19 BY THE STATE OF FLORIDA, MIAMI DADE COUNTY, AND THE CITY OF HIALEAH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING PENALTIES FOR VIOLATION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the World Health Organization, and the President of the United States have declared the outbreak of the Novel Coronavirus 2019 (“COVID-19”), an acute respiratory illness that spreads among humans through respiratory transmission and presents symptoms similar to those of influenza, to be a pandemic and an international and national emergency; and

WHEREAS, Miami-Dade County Mayor Carlos Gimenez declared on March 12, 2020 a State of Local Emergency for all Miami-Dade County, following a declaration of State of Emergency for the State of Florida made by Governor Ron DeSantis on March 9, 2020 under Executive Order 20-52 and extended through July 9, 2020 pursuant to Executive Order 20-114; and

WHEREAS, Section 252.38, Florida Statutes, gives authority to political subdivisions to declare a state of local emergency for a limited duration, thereby waiving the procedures and formalities otherwise required of the political subdivision by law; and

WHEREAS, pursuant to the authority granted under Chapter 252 of the Florida Statutes, Mayor Carlos Hernandez declared that a State of Local Emergency exists and continues to exist within the City as a result of COVID-19; and

WHEREAS, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention (“CDC”) issued the “15 Days to Slow the Spread” guidance, advising individuals to adopt far reaching social distancing measures, and recommending restrictions to certain business establishments, which are conducive to mass gatherings and congregation, such guidelines were extended, and on March 31, 2020 renamed as “30 Days to Slow the Spread”; and

WHEREAS, in response to the President’s and CDC’s social distancing guidelines, and in an attempt to flatten the curb and slow the spread of the virus in the community, the Governor, County Mayor and City Mayor issued executive and emergency orders restricting the public’s ability to congregate, ordered the closure of non-essential businesses, public spaces, imposed curfews and required the use of masks; and

WHEREAS, on April 1, 2020, Governor Ron DeSantis issued Executive Order Number 20-91, imposing a statewide “Stay-at-Home” order to all persons except when engaged in essential services or essential activities; and

WHEREAS, on April 16, 2020, the President of the United States unveiled guidelines to Open Up America Again on a phased approach based upon specific criteria to evaluate the continuing risks posed by COVID-19 to aspects of social life which have been shut down; and

WHEREAS, the State and County are, as is the entire country, grappling with the decision to reopen society and restart economic activity by lifting stay at home orders and closure orders; and

WHEREAS, the President’s guidelines suggest that if within a 14-day period the number of new infections and positive tests of COVID19 and influenza-like or COVID19-like cases are on a downward trajectory, hospitals are treating all patients without crisis care and frontline health-care workers are able to get tested, then certain aspects of social life and the economy can be reopened on a phased approach subject to the availability of robust testing, observance of social distancing and healthcare system capacity; and

WHEREAS, executive officers, legislative bodies, and other public officials at all levels of government are engaging in similar analysis to best meet the needs of their respective constituent communities; and

WHEREAS, On April 29, 2020, Governor Ron DeSantis issued Executive Order 20-112 reestablishing as of May 4, 2020 certain commercial activity under specific occupancy restrictions and operating under social distancing guidelines and has to date exempted Miami-Dade and Broward Counties from application of these provisions of the Order as the epicenters of the COVID-19 outbreak in the State;

WHEREAS, On April 27, 2020, Mayor Carlos Gimenez opened parks, marinas and golf courses as of April 29, 2020 also under limited circumstances designed to maintain social distancing between patrons;

WHEREAS, On May 9, 2020, Governor Ron DeSantis issued Executive Order 20-114 extending the State declaration of emergency for an additional 60 days;

WHEREAS, the public health emergency created by COVID-19 continues to exist in the City; and

WHEREAS, the City has imposed a curfew, closed all parks and public spaces, limited use of walk-up window service and required mandatory use of masks by all persons while in public; and

WHEREAS, pursuant to its home rule powers and in particular Section 252.38(3) of the Florida Statutes, the City has the power, authority and responsibility to provide for the health and safety of persons and property during a declared emergency; and

WHEREAS, pursuant to Florida Statutes § 252.46(2), the statutory authority for emergency rulemaking powers, orders and rules adopted due to a declared emergency shall have the full force and effect of law after adoption and upon filing with the Office of the City Clerk; and

WHEREAS, pursuant to Section 252.47 of the Florida Statutes, the law enforcement authorities of the City shall enforce the orders and rules issued pursuant to Chapter 252; and

WHEREAS, pursuant to Section 252.50 of the Florida Statutes, any person violating any rule or order made pursuant to Sections 252.31-252.90 of the Florida Statutes, is guilty of a misdemeanor of the second degree; and

WHEREAS, with overcrowded jails and inmates housed in close quarters, social distancing in jails and the prison system is impossible to maintain raising the risk of spread among inmates; and

WHEREAS, the Miami-Dade County State Attorney Office and other authorities, have recognized that need to reduce the number of people held in our local jails by prioritizing cases involving violent offenders and/or offenders that truly threaten public safety, to reduce the chances that COVID-19 could spread among the officers, staff, inmates and ultimately, the community; and

WHEREAS, compliance with the guidelines issued by the President, and the mandates issued by the State, County and the City through Executive and Emergency Orders is paramount to flatten the curve, slow the spread of the disease and avoid loss of life; and

WHEREAS, additional extraordinary and immediate actions must be taken to slow the spread and reduce the impact of the disease in this community; and

WHEREAS, in order to avoid overburdening the criminal justice system and adding to the prison population the City wishes to utilize the administrative code compliance procedures as supplemental enforcement to enforce the State, County and Local Executive and Emergency Orders and finds that this supplemental enforcement is in the best interest of the public's health and welfare and a necessary response to the public health emergency created by COVID-19; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Recitals and Finding of Emergency. The foregoing facts and recitations contained in the preamble to this emergency ordinance are hereby adopted and incorporated by reference as if fully set forth herein. For the reasons set out in the above recitals, the City finds and declares that a public health emergency exists in the City and that the

enforcement procedures adopted by this ordinance are needed immediately to help address the dangers present in our community.

Section 2: Legislative Intent. The provisions and penalties of this Emergency Ordinance are not intended to and shall not be construed as changing, modifying, amending, repealing, superseding or conflicting with any provisions or sections of Florida Statutes providing for the enforcement of any order or rule promulgated pursuant to the authority vested in the State or its political subdivisions for emergency management purposes.

Section 3: Adoption of Executive and Emergency Orders. The City of Hialeah, Florida hereby adopts and incorporates by reference, in their entirety as if fully set forth in this Ordinance, all State Executive and County Emergency Orders issued in response to COVID-19, as amended from time to time. The City of Hialeah hereby ratifies, adopts and incorporates by reference, in their entirety as if fully set forth in this Ordinance, all emergency orders issued in response to COVID-19, as amended from time to time, by the Mayor.

Section 4: Enforcement. Any violation of any State, County or City order or rule promulgated pursuant to the authority provided in Florida Statutes Chapter 252 and vested in the State, its agencies, or any of the State's political subdivisions for emergency management purposes shall be enforceable through a civil violation notice and subject to a civil penalty in accordance with Chapter 22 of the Code of Ordinances of the City of Hialeah, Florida.

Section 5: Repeal of Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

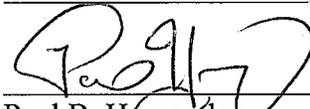
Section 6: Severability Clause. If any phrase, clause, sentence, paragraph or section of this emergency ordinance shall be declared invalid or unconstitutional by the judgment or

decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this emergency ordinance.

Section 7: Penalties. Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 8: Effective Date. This emergency ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto. Pursuant to Section 3.04(f)(4) of the City of Hialeah Charter, this emergency ordinance shall automatically be repealed as of the 61st day following its effective date, unless extended or reenacted, or repealed at any time by adoption of a repealing ordinance.

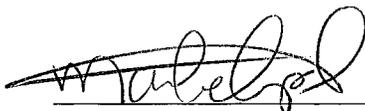
PASSED AND ADOPTED this 12 day of May, 2020.



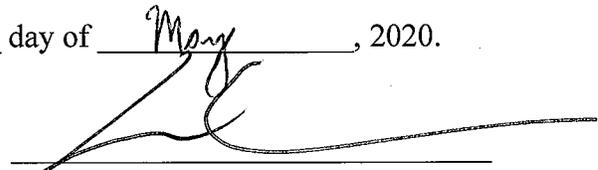
Paul B. Hernandez
Council President

Attest:

Approved on this 19 day of May, 2020.



Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to form:

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Cue-:- Fuente, Garcia-Roves, Perez, Hernandez, Tundidor and Zogby, votingg "Yes" and Council Vice President De la Rosa absent.

Lorena E. Bravo, City Attorney

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