

ORDINANCE NO. 2020-021

EMERGENCY ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA EXTENDING HIALEAH FL., EMERGENCY ORDINANCE NO. 2020-15 (MAY 12, 2020) FOR AN ADDITIONAL 61 DAYS 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, on March 12, 2020 Miami-Dade County Mayor Carlos Gimenez declared 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

WHEREAS, Sections 252.38 and 252.46, Florida Statutes, gives authority to political subdivisions to declare a state of local emergency for a limited duration, to waive the procedures and formalities otherwise required of the political subdivisions by law and to adopt emergency orders having the full force or effect of law; and

WHEREAS, pursuant to the authority granted under Chapter 252 of the Florida Statutes, Mayor Carlos Hernandez declared a State of Local Emergency in the City as a result of COVID-19 which remains in effect to date; and

WHEREAS, since the Declaration of Emergency at the national, state, county and local level, and in response thereto, we have closed our economy under "stay at home orders" and reopened it under numerous social distancing and safety guidelines, we flattened the curve and are now experiencing a resurgence in the positivity rate of all new COVID-19 tests in this State and across other states in the nation; and

WHEREAS, Miami-Dade County continues to lead the State of Florida in the number of positive cases and the City of Hialeah remains the city with the second-highest number of cases in the County; and

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

WHEREAS, the public health authorities have yet to develop an effective treatment or cure for COVID-19, insist that reducing the spread of the virus is the best alternative to reduce its toll on life, and plead that as many Americans as possible continue to stay at home or otherwise exercise social distance to combat this virus; 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 Centers for Disease Control and other public health authorities, and the mandates issued by the State, County and the City through Executive and Emergency Orders remains a priority to 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;

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 continues to exist in the City and that the enforcement procedures adopted by Hialeah Fl., Emergency Ordinance No. 2020-15 (May 12, 2020) are needed immediately to help address the dangers present in our community.

Section 2: Extension of Hialeah, Fla. Emergency Ordinance No. 2020-15. Hialeah, Florida Emergency Ordinance No. 2020-15 is hereby extended for an additional 61 days.

Section 3: 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 4: 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 5: 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 6: Repeal of Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

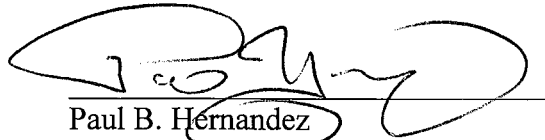
Section 7: Severability Clause. If any phrase, clause, sentence, paragraph or section of this emergency ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this emergency ordinance.

Section 8: 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 9: 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.

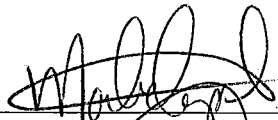
PASSED AND ADOPTED this 14 day of July, 2020.

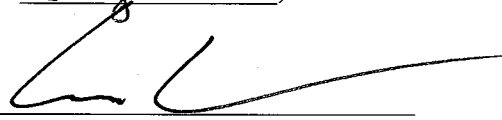


Paul B. Hernandez
Council President

Attest:

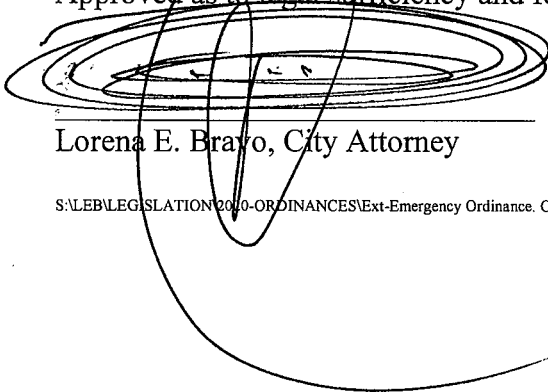
Approved on this 21 day of July, 2020.



Marbelys Fajó, City Clerk

Mayor Carlos Hernandez

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

Ordinance was adopted by a 7-0 vote with Councilmembers, Cue-Fuente, De la Rosa, Hernandez, Garcia-Roves, Perez, Tundidor and Zogby, voting "Yes."