

RESOLUTION NO. 2021-31598

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXTEND THE DECLARATION OF A STATE OF EMERGENCY, DATED MARCH 12, 2020, IN THE CITY OF MIAMI BEACH TO ADDRESS THE COVID-19 PANDEMIC, AS EXTENDED THROUGH FEBRUARY 10, 2021, SUCH EXTENSION FOR AN ADDITIONAL PERIOD OF SEVEN (7) DAYS, COMMENCING AT 12:00 A.M. ON FEBRUARY 11, 2021, AND ENDING AT 11:59 P.M. ON FEBRUARY 17, 2021; FURTHER AUTHORIZING THE CITY MANAGER TO CONTINUE TO EXTEND THE DECLARATION OF A STATE OF EMERGENCY FOR FOUR (4) ADDITIONAL 7-DAY INCREMENTS, WHICH WOULD COMMENCE AT 12:00 A.M. ON FEBRUARY 18, 2021, AND END AT 11:59 P.M. ON MARCH 17, 2021; PROVIDED THAT THE SCOPE OF ANY EMERGENCY MEASURES ORDERED BY THE CITY MANAGER SHALL, CONSISTENT WITH ALL PRIOR EMERGENCY MEASURES IMPOSED BY THE CITY MANAGER TO DATE, BE LIMITED TO RESPOND TO IMMEDIATE THREATS POSED BY THE COVID-19 PANDEMIC; PROVIDING THAT NO EMERGENCY ACTION TAKEN BY THE CITY MANAGER SHALL BE BINDING ON THE CITY COMMISSION BEYOND THE PERIOD OF THE COVID-19 STATE OF EMERGENCY, OR OTHERWISE LIMIT THE ABILITY OF THE CITY COMMISSION TO UNDO ANY ACTION OF THE CITY MANAGER, WHETHER CONTRACTUALLY OR LEGISLATIVELY; FURTHER, PROVIDING THAT THE SUBJECT DECLARATION OF EMERGENCY SHALL BE TERMINABLE BY THE CITY COMMISSION IN ACCORDANCE WITH THE PROVISIONS OF THIS RESOLUTION; AND, FINALLY, PROVIDING THAT THE CITY MANAGER SHALL BE REQUIRED TO CALL A CITY COMMISSION MEETING PRIOR TO ORDERING ANY EMERGENCY MEASURE THAT IS MORE RESTRICTIVE THAN THE EMERGENCY MEASURES IN EFFECT AS OF FEBRUARY 11, 2021.

WHEREAS, coronavirus disease 2019 ("COVID-19"), a severe acute respiratory illness caused by the SARS-CoV-2 virus that can spread rapidly from person to person and cause serious illness or death, constitutes a clear and present threat to the lives, health, welfare and safety of the people of the City of Miami Beach; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52, declaring a State of Emergency for the State of Florida related to COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the rapidly spreading coronavirus outbreak a pandemic; and

WHEREAS, on March 12, 2020, Miami-Dade County Mayor Carlos Gimenez declared a State of Emergency for all of Miami-Dade County due to the threats associated with COVID-19; and

WHEREAS, on March 12, 2020, the City Manager for the City of Miami Beach declared a State of Emergency for the City of Miami Beach, as COVID-19 poses a health risk to the City's residents, particularly elderly residents and those who are immunosuppressed or otherwise have high risk of medical conditions, which declaration was amended on March 13, 2020, and the findings of which are hereby incorporated by reference; and

WHEREAS, on March 13, 2020, the Mayor and City Commission of the City of Miami Beach unanimously adopted Resolution No. 2020-31192, authorizing the City Manager to extend the duration of the Declaration of a State of Emergency and implement discretionary emergency measures for an additional period of seven (7) days, commencing on March 12, 2020, and ending on March 19, 2020, to address the COVID-19 pandemic and protect the public health, safety and welfare of the people of the City of Miami Beach, the findings of which are hereby incorporated by reference; and

WHEREAS, on March 13, 2020, President Trump declared a national emergency due to COVID-19; and

WHEREAS, on March 18, 2020, the Mayor and City Commission unanimously adopted Resolution No. 2020-31219, authorizing the City Manager to extend the duration of the Declaration of a State of Emergency and implement discretionary emergency measures for an additional period of seven (7) days, commencing on March 19, 2020, and ending on March 26, 2020, to address the COVID-19 pandemic and protect the public health, safety and welfare of the people of the City of Miami Beach, the findings of which are hereby incorporated by reference; and

WHEREAS, the rate of infection throughout the world and in the United States has accelerated rapidly, with more than 100,703,829 confirmed cases worldwide as of January 27, 2021; and

WHEREAS, as the result of the rapid and exponential spread of COVID-19, countries throughout the world have imposed strict measures limiting travel, and ordering citizens to stay at home to avoid or minimize the community spread of COVID-19; and

WHEREAS, Dr. Anthony S. Fauci, the Director of the National Institute of Allergy and Infectious Diseases and the United States government's top infectious disease expert, warned early during the pandemic that COVID-19 could kill between 100,000 to 200,000 Americans, despite social distancing measures already taken across the country; and

WHEREAS, as of January 27, 2021, the United States has recorded over 25,565,874 confirmed cases, with more than 428,015 deaths; and

WHEREAS, during March and April of 2020, the accelerating infection rate for COVID-19 led at least 42 states (including Florida), and countless local governments, including Miami-Dade County, to issue orders curtailing mobility and travel, through "Shelter in Place," "Stay at Home," or "Safer at Home" orders, in order to minimize contact through social distancing measures and reduce the risk of COVID-19 infection, with over 316 million Americans subject to such orders as of April 27, 2020, accounting for over 97% of the country's population; and

WHEREAS, on July 12, 2020, the Florida Department of Health (the "FDOH") reported 15,300 additional cases in Florida, shattering both state and national records for daily new cases reported since the start of the pandemic; and

WHEREAS, as of January 27, 2021, the FDOH lists 1,676,171 positive cases of COVID-19 in Florida and 25,833 deaths, with South Florida accounting for approximately 40% of the state's total number of infections – with 168,653 confirmed cases in Broward County, 103,862 confirmed cases in Palm Beach County, and 364,123 confirmed cases in Miami-Dade County; and

WHEREAS, as of January 27, 2021, 4,768 individuals in Miami-Dade County have died due to complications from COVID-19; and

WHEREAS, health experts urge people to practice extreme social distancing in order to "flatten the curve," which refers to the use of protective practices to slow the rate of COVID-19 infection, so that hospitals have sufficient room, supplies, and medical personnel for all of the patients who may need care due to COVID-19; and

WHEREAS, the failure to "flatten the curve" at the early onset of the COVID-19 pandemic in Italy has filled many hospitals in Italy beyond their capacity, forcing emergency rooms to close their doors to new patients, allocate ventilators and ICU beds to patients with highest chances of survival, hire hundreds of new doctors and healthcare personnel, and request emergency supplies of basic medical equipment, like respirator masks, from abroad; and

WHEREAS, COVID-19 continues to impact first responders on a global and national scale – during the first wave of the pandemic in Italy, 8,358 health workers tested positive for coronavirus, according to the Italian National Institute of Health, and over 60 doctors who were infected with the coronavirus died; and

WHEREAS, as Spain overtook China on March 30, 2020, in the number of confirmed coronavirus infections, the pandemic stretched Spanish hospitals to their breaking points – at least six of Spain's 17 regions had reached their limit of ICU beds and three more regions were approaching it, according to Spanish authorities; and

WHEREAS, the COVID-19 outbreak has already overwhelmed some United States hospitals in areas with the highest infection rates, leading the U.S. military to prepare to deploy field hospitals in New York and Seattle, send military hospital ships to Los Angeles and New York City, and task the Army Corps of Engineers to convert hotels and dormitories into treatment facilities for sick patients; and

WHEREAS, the spread of COVID-19 via travel, including business and leisure travel, presents unique challenges to a resort community like Miami Beach, as attracting visitors and tourists is utterly incompatible with social distancing efforts; and

WHEREAS, in spite of warnings from City, County, State, and Federal governmental agencies, including the Centers for Disease Control and Prevention (the "CDC"), thousands of students and other persons congregated in Miami Beach for "Spring Break" and other social activities, and congregated in and around parks, beaches, hotels, restaurants, bars, nightclubs, and other places of public assemblage, without observing the social distancing guidelines recommended by the CDC, thus increasing the risk of transmission; and

WHEREAS, as of April 2, 2020, at least four Miami Beach police officers, one of which was assigned to patrol the Ocean Drive area during a peak "Spring Break" period, contracted COVID-19; and

WHEREAS, there is reason to believe that COVID-19 may be spread amongst the population by various means of exposure, including the propensity to spread person-to-person and the propensity to attach to surfaces for prolonged periods of time, thereby spreading from surface to person and causing property loss and damage in certain circumstances; and

WHEREAS, the media has reported that two religious leaders in the Surfside/Bal Harbour area contracted COVID-19; and

WHEREAS, continued gatherings in places of public assemblage, including without limitation restaurants, bars, theaters, auditoriums, religious institutions, and other meeting places, pose a risk to the health, safety and welfare of the people of the City of Miami Beach; and

WHEREAS, since Miami-Dade County's initial declaration of a State of Emergency, Miami-Dade County has issued various Emergency Orders temporarily closing public and private facilities, including the temporary closure of all non-essential retail and commercial establishments within Miami-Dade County (as such term is defined in Miami-Dade County's Emergency Orders), subject to any further restrictions as may be ordered by municipalities within their jurisdictions; and

WHEREAS, in response to the threat posed by COVID-19 to the health, safety and welfare of the City's residents, since March 12, 2020, the City Manager of the City of Miami Beach has imposed a number of temporary emergency measures in order to reduce community spread, relieve pressure on hospitals and healthcare personnel, protect workers, and maintain social order; and

WHEREAS, many countries have enacted travel restrictions in response to the spread of COVID-19, including the United States, which issued a Level 4 "Do Not Travel" global health advisory, advising United States citizens to avoid all international travel due to the global impact of COVID-19; and

WHEREAS, in an effort to further implement social distancing practices to curb the spread of COVID-19, on March 23, 2020, the City Manager issued a "Safer at Home" Emergency Order, requiring all persons living in the City to remain in their homes to the maximum extent possible, except to engage in essential activities as set forth in the Order; and

WHEREAS, other cities in Miami-Dade County, including Miami, Hialeah, Coral Gables, Surfside, North Bay Village, Golden Beach, Aventura, Bay Harbor Islands, and Doral have also issued similar orders for residents; and

WHEREAS, however, domestic air travel remains unrestricted and Florida continues to receive guests and visitors from high risk areas, such as visitors seeking shelter in Florida, potentially further compounding the public health emergency and straining resources for local governments in Florida; and

WHEREAS, on March 23, 2020, Florida Governor Ron DeSantis issued Executive Order No. 20-80, requiring visitors entering the State of Florida through airports from New York, New Jersey, and Connecticut to isolate or quarantine for a period of 14 days following their arrival in Florida, in an effort to stop the spread of COVID-19; and

WHEREAS, subsequently, on March 27, 2020, Governor DeSantis issued Executive Order 20-86, requiring visitors entering the State of Florida from Louisiana to isolate or quarantine for a period of 14 days following their arrival in Florida; and

WHEREAS, on March 27, 2020, Governor DeSantis also issued an executive order suspending operations of all vacation rentals in Florida and prohibiting them from making new reservations or bookings and accepting new guests for check-in for the duration of the order; and

WHEREAS, on March 27, 2020, the United States Congress approved the largest economic relief package in United States history, allocating \$2 trillion to provide immediate assistance to individual Americans, small businesses, and major industries on the brink of economic collapse amid the ongoing pandemic; and

WHEREAS, on March 29, 2020, in recognition that extreme social distancing measures are critical to containment of the pandemic, President Trump extended federal social distancing guidelines through April 30, recommending that all Americans must continue to avoid nonessential travel, going to work, eating at bars and restaurants, or gathering in groups of more than 10 persons; and

WHEREAS, on March 30, 2020, Governor DeSantis issued an executive order directing Miami-Dade County, Broward County, Palm Beach County, and Monroe County (which together account for nearly half of Florida's identified COVID-19 cases), to restrict public access to businesses and facilities deemed non-essential pursuant to the guidelines established by Miami-Dade County pursuant to its March 19, 2020 Emergency Order 07-20, as amended; and

WHEREAS, on March 31, 2020, Governor DeSantis issued a stay-at-home order for Miami-Dade County, Broward County, Palm Beach County, and Monroe County; and

WHEREAS, on April 3, 2020, the CDC announced national guidelines recommending that all persons use non-medical grade masks when engaging in any activities outside the home; and

WHEREAS, on April 3, 2020, the City issued an Emergency Order requiring all employees and customers of grocery stores, pharmacies and restaurant facilities to wear a form of covering over their nose and mouth at all times when inside these establishments, and strongly encouraging the use of such coverings in all other essential retail and commercial businesses; and

WHEREAS, in order to create additional capacity in hospitals, the State of Florida has determined that there is an urgent need to construct, rehabilitate and install treatment facilities to house and treat those residents and visitors of the State who are suffering from COVID-19 and non-COVID-19 illnesses; and

WHEREAS, on Wednesday, April 8, 2020, City of Miami Beach Mayor Dan Gelber, along with Governor DeSantis, Miami-Dade County Mayor Carlos Gimenez and Lt. Gen. Todd T. Semonite, Commanding General of the United States Army Corps of Engineers, announced an initiative to repurpose the Miami Beach Convention Center as a temporary medical facility for COVID-19 patients, which will initially include up to 450 beds, with capacity for additional beds if necessary; and

WHEREAS, on April 29, 2020, Governor DeSantis issued Emergency Order 20-112, which, in pertinent part, permitted certain businesses required to close pursuant to previous executive orders to reopen (subject to certain restrictions), effective May 4, 2020; and

WHEREAS, in recognition of widespread transmission of COVID-19 in South Florida, and the need to continue emergency measures in South Florida, Executive Order 20-112 exempted Miami-Dade, Broward, and Palm Beach counties from the reopening provisions of the Order, providing that “allowances for services and activities from . . . this order will be considered in consultation with local leadership”; and

WHEREAS, pursuant to Sections 26-31 and 26-33 of the City Code and Chapter 252 of the Florida Statutes, the City Manager of the City of Miami Beach is authorized to declare a state of emergency and order and promulgate discretionary emergency measures, with such limitations and conditions as the City Manager may deem appropriate; and

WHEREAS, pursuant to City Code Section 26-35, the duration of such Declaration of a State of Emergency (and any such discretionary emergency measures implemented pursuant thereto) is limited to a period of 72 consecutive hours, unless an extension is authorized by the City Commission by duly enacted resolution in a regular or special session of the City Commission; and

WHEREAS, Section 252.38, Florida Statutes, provides that the duration of each State of Emergency declared locally is limited to a period of seven (7) days; however, Section 252.38 also provides that such local State of Emergency may be extended, as necessary, in 7-day increments; and

WHEREAS, in Resolution No. 2020-31219, the Mayor and City Commission further authorized the City Manager to continue to extend the Declaration of a State of Emergency in the City of Miami Beach, for four (4) additional 7-day increments, which would commence on March 26, 2020, and end on April 23, 2020; and

WHEREAS, on April 2, 2020, and pursuant to Resolution No. 2020-31219, the City Manager extended the Declaration of a State of Emergency for an additional period of seven (7) days, commencing on April 3, 2020, and ending on April 9, 2020; and

WHEREAS, on April 9, 2020, the City Manager extended the Declaration of a State of Emergency for an additional period of seven (7) days, commencing on April 10, 2020, and ending on April 16, 2020; and

WHEREAS, on April 16, 2020, the City Manager extended the Declaration of a State of Emergency for an additional period of seven (7) days, commencing on April 17, 2020, and ending on April 23, 2020; and

WHEREAS, on April 22, 2020, the Mayor and City Commission unanimously adopted Resolution No. 2020-31245, authorizing the City Manager to extend the duration of the Declaration of a State of Emergency and implement discretionary emergency measures for an additional period of seven (7) days, commencing on April 24, 2020, and ending on April 30, 2020, to address the COVID-19 pandemic and protect the public health, safety and welfare of the people of the City of Miami Beach, the findings of which are hereby incorporated by reference; and

WHEREAS, Resolution No. 2020-31245 further authorized the City Manager to extend the Declaration of a State of Emergency in the City of Miami Beach, on April 30, 2020, for an additional 7-day increment, which would commence on May 1, 2020, and end on May 7, 2020; and

WHEREAS, on April 30, 2020, the City Manager extended the Declaration of a State of Emergency for an additional period of seven (7) days, commencing on May 1, 2020, and ending on May 7, 2020; and

WHEREAS, on May 1, 2020, the Mayor and City Commission adopted Resolution No. 2020-31246, and authorized the City Manager to extend the Declaration of a State of Emergency in the City of Miami Beach, for an additional 7-day increment, which would commence on May 8, 2020, and end on May 14, 2020, to address the COVID-19 pandemic and protect the public health, safety and welfare of the people of the City of Miami Beach, the findings of which are hereby incorporated by reference; and

WHEREAS, on May 7, 2020, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on May 8, 2020 and ending on May 14, 2020; and

WHEREAS, on May 13, 2020, the Mayor and City Commission adopted Resolution No. 2020-31273, authorizing the City Manager to extend the Declaration of a State of Emergency for an additional seven (7) days, commencing on May 15, 2020 and ending on May 21, 2020, and further authorizing the City Manager to extend the Declaration of a State of Emergency by one (1) additional day, commencing at 12:00 a.m. on May 22, 2020, and ending at 11:59 p.m. on May 22, 2020; and

WHEREAS, on May 14, 2020, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on May 15, 2020 and ending on May 21, 2020; and

WHEREAS, on May 15, 2020, Miami-Dade County Mayor Carlos Gimenez issued Emergency Order 23-20, effective May 18, 2020, permitting certain retail and commercial establishments and other establishments or facilities in Miami-Dade County to reopen, subject to strict compliance with social distancing guidelines issued by the County (“EO 23-20”); and

WHEREAS, the provisions of EO 23-20 serve as minimum standards, and municipalities may impose more stringent standards within their jurisdictions; and

WHEREAS, on May 16, 2020, and pursuant to the City’s Declaration of a State of Emergency, the City Manager issued the City’s Phase 1 Reopening Order, permitting certain retail and commercial establishments to reopen subject to strict compliance with social distancing guidelines in EO 23-20, and the additional requirements set forth in the City’s Order; and

WHEREAS, on May 21, 2020, the City Manager extended the Declaration of a State of Emergency for one (1) additional day, commencing at 12:00 a.m. on May 22, 2020 and ending at 11:59 p.m. on May 22, 2020; and

WHEREAS, on May 22, 2020, the City Commission adopted Resolution No. 2020-31280, authorizing the City Manager to extend the duration of the Declaration for an additional period of seven (7) days, commencing on May 23, 2020, and ending on May 29, 2020; and

WHEREAS, on May 22, 2020, pursuant to Resolution No. 2020-31280, the City Manager extended the Declaration of a State of Emergency for additional seven (7) days, commencing at 12:00 a.m. on May 23, 2020, and ending at 11:59 p.m. on May 29, 2020; and

WHEREAS, on May 28, 2020, the Mayor and City Commission adopted Resolution No. 2020-31282, authorizing the City Manager to extend the Declaration of a State of Emergency for additional seven (7) days, commencing on May 30, 2020 and ending on June 5, 2020; and

WHEREAS, on May 29, 2020, pursuant to Resolution No. 2020-31282, the City Manager extended the Declaration of a State of Emergency for additional seven (7) days, commencing on May 30, 2020 and ending on June 5, 2020; and

WHEREAS, on May 29, 2020, and pursuant to the City’s Declaration of a State of Emergency, the City Manager issued the City’s Phase 2 Reopening Order, permitting commercial lodging establishments, swimming pools, and beaches to reopen effective June 1, 2020, subject to strict compliance with social distancing guidelines in EO 23-20, and the additional requirements set forth in the City’s Order; and

WHEREAS, on June 5, 2020, the Mayor and City Commission adopted Resolution No. 2020-31284, authorizing the City Manager to extend the Declaration of a State of Emergency for additional seven (7) days, commencing on June 6, 2020 and ending on June 12, 2020; and

WHEREAS, on June 5, 2020, pursuant to Resolution No. 2020-31284, the City Manager extended the Declaration of a State of Emergency for additional seven (7) days, commencing on June 6, 2020 and ending on June 12, 2020; and

WHEREAS, on June 12, 2020, the Mayor and City Commission adopted Resolution No. 2020-31287, authorizing the City Manager to extend the Declaration of a State of Emergency for an additional seven (7) days, commencing at 12:00 a.m. on June 13, 2020 and ending at 11:59 p.m. on June 19, 2020, and further authorizing the City Manager to extend the Declaration of a State of Emergency for an additional period of five (5) days, commencing at 12:00 a.m. on June 20, 2020, and ending at 11:59 p.m. on June 24, 2020; and

WHEREAS, on June 12, 2020, pursuant to Resolution No. 2020-31287, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on June 13, 2020 and ending on June 19, 2020; and

WHEREAS, on June 19, 2020, pursuant to Resolution No. 2020-31287, the City Manager extended the Declaration of a State of Emergency for an additional five (5) days, commencing on June 20, 2020, and ending on June 24, 2020; and

WHEREAS, on June 24, 2020, the Mayor and City Commission adopted Resolution No. 2020-31308, authorizing the City Manager to extend the Declaration of a State of Emergency for an additional seven (7) days, commencing at 12:00 a.m. on June 25, 2020 and ending at 11:59 p.m. on July 1, 2020, and further authorizing the City Manager to extend the Declaration of a State of Emergency for two (2) additional 7-day increments, and one (1) additional 2-day increment, commencing at 12:00 a.m. on July 2, 2020, and ending at 11:59 p.m. on July 17, 2020; and

WHEREAS, on June 24, 2020, and pursuant to Resolution No. 2020-31308, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on June 25, 2020, and ending on July 1, 2020; and

WHEREAS, commencing on June 28, 2020, and in response to a rapid increase in the rate of new cases of COVID-19, Miami-Dade County Mayor Carlos Gimenez issued a number of emergency orders, intended to close certain facilities, limit public gatherings, and curb the spread of COVID-19:

- Amendment No. 4, dated June 28, 2020, to Emergency Order 23-20, prohibiting the sale of alcoholic beverages for on-site consumption between 12:01 a.m. and 6:00 a.m. each day, and ordering the closure of hookah lounges;
- Emergency Order 25-20, dated June 28, 2020, closing all beaches in Miami-Dade County commencing Friday, July 3, 2020, and extending through Monday, July 6, 2020; and prohibiting parades;
- Amendment No. 5, dated June 30, 2020, to Emergency Order 23-20, closing restaurants and other food service establishments for on-premises dining between 12:01 a.m. and 6:00 a.m. each day;
- Amendment No. 1, dated June 30, 2020, to Emergency Order 25-20, imposing restrictions on the operation of hotel pools;
- Amendment No. 1, dated July 2, 2020, to Emergency Order 20-20, requiring all persons throughout Miami-Dade County to wear a mask or other facial covering when in public, subject to certain exceptions;

- Emergency Order 26-20, closing all movie theaters, concert houses, auditoriums, playhouses, bowling alleys, arcades, indoor amusement facilities, and casinos;
- Emergency Order 27-20, imposing a curfew throughout Miami-Dade County, effective from 10:00 p.m. each night through 6:00 a.m. the next morning;
- Amendment No. 1, dated July 3, 2020, to Emergency Order 26-20, ordering the closure of outdoor amusement facilities, adult theaters, special cabarets, and unlicensed massage establishments; and
- Amendment No. 2, dated July 7, 2020, to Emergency Order 26-20, closing banquet halls and ballrooms; requiring masks or facial coverings to be worn inside gyms and fitness centers; limiting restaurants and cafeterias to outdoor service only for on-site consumption between the hours of 6:00 a.m. and 10:00 p.m. each day, and requiring that outdoor on-premises service cease at 10:00 a.m.; and imposing occupancy restrictions on short-term vacation rentals, and prohibiting new rental agreements entered into except on a monthly basis; and

WHEREAS, on July 1, 2020, and pursuant to Resolution No. 2020-31308, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on July 2, 2020, and ending on July 8, 2020; and

WHEREAS, on July 8, 2020, and pursuant to Resolution No. 2020-31308, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on July 9, 2020, and ending on July 15, 2020; and

WHEREAS, on July 15, 2020, the City Manager extended the Declaration of a State of Emergency for an additional two (2) days, commencing on July 16, 2020, and ending on July 17, 2020; and

WHEREAS, on July 17, 2020, the Mayor and City Commission adopted Resolution No. 2020-31312, authorizing the City Manager to extend the Declaration of a State of Emergency for an additional seven (7) days, commencing at 12:00 a.m. on July 18, 2020 and ending at 11:59 p.m. on July 24, 2020, and further authorizing the City Manager to extend the Declaration of a State of Emergency for one (1) additional 5-day increment, commencing at 12:00 a.m. on July 25, 2020, and ending at 11:59 p.m. on July 29, 2020; and

WHEREAS, on July 29, 2020, the Mayor and City Commission adopted Resolution No. 2020-31372, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on July 30, 2020, and ending at 11:59 p.m. on August 5, 2020, and further authorizing the City Manager to extend the Declaration for six (6) additional 7-day increments, commencing at 12:00 a.m. on August 6, 2020, and ending at 11:59 p.m. on September 16, 2020; and

WHEREAS, on July 29, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on July 30, 2020, and ending on August 5, 2020; and

WHEREAS, on August 5, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on August 6, 2020, and ending on August 12, 2020; and

WHEREAS, on August 12, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on August 13, 2020, and ending on August 19, 2020; and

WHEREAS, on August 19, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on August 20, 2020, and ending on August 26, 2020; and

WHEREAS, on August 26, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on August 27, 2020, and ending on September 2, 2020; and

WHEREAS, on September 2, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on September 3, 2020, and ending on September 9, 2020; and

WHEREAS, on September 9, 2020, and pursuant to Resolution No. 2020-31372, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on September 10, 2020, and ending on September 16, 2020; and

WHEREAS, on September 16, 2020, the Mayor and City Commission adopted Resolution No. 2020-31424, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on September 17, 2020, and ending at 11:59 p.m. on September 23, 2020, and further authorizing the City Manager to extend the Declaration for three (3) additional 7-day increments, which would commence at 12:00 a.m. on September 24, 2020, and end at 11:59 p.m. on October 14, 2020; and

WHEREAS, on September 16, 2020, and pursuant to Resolution No. 2020-31424, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on September 17, 2020, and ending on September 23, 2020; and

WHEREAS, on September 23, 2020, and pursuant to Resolution No. 2020-31424, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on September 24, 2020, and ending on September 30, 2020; and

WHEREAS, on September 25, 2020, Governor DeSantis issued Executive Order 20-244, stating that economic harms resulting from COVID-19 closures have exacerbated the State of Emergency; and

WHEREAS, Executive Order 20-244 moves the State of Florida into Phase 3 of its reopening plan, requiring local governments to provide economic impact analysis on the restaurant industry and explanation of why limits are necessary for public health if the local government intends to reduce capacity below 100 percent, and requiring all other businesses to open as part of Phase 3; and

WHEREAS, on September 26, 2020, Miami-Dade County Mayor Carlos Gimenez issued Emergency Order 30-20, authorizing every retail and commercial establishment and any other establishment or facility in the County to open, provided that each such establishment complies with specific capacity, social distancing, and other requirements, including the applicable activity-specific requirements in the "Moving To A New Normal Handbook" ("EO 30-20"); and

WHEREAS, the findings in EO 30-20 as to the economic impact analysis on the restaurant industry, and explanation of why limits on capacity are necessary for public health, are hereby incorporated by reference as if fully set forth herein; and

WHEREAS, on September 30, 2020, and pursuant to Resolution No. 2020-31424, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on October 1, 2020, and ending on October 7, 2020; and

WHEREAS, on October 7, 2020, and pursuant to Resolution No. 2020-31424, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on October 8, 2020, and ending on October 14, 2020; and

WHEREAS, on October 14, 2020, the Mayor and City Commission adopted Resolution No. 2020-31463, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on October 15, 2020, and ending at 11:59 p.m. on October 21, 2020, and further authorizing the City Manager to extend the Declaration for four (4) additional 7-day increments, which would commence at 12:00 a.m. on October 22, 2020, and end at 11:59 p.m. on November 18, 2020; and

WHEREAS, on October 14, 2020, and pursuant to Resolution No. 2020-31463, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on October 15, 2020, and ending on October 21, 2020; and

WHEREAS, on October 21, 2020, and pursuant to Resolution No. 2020-31463, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on October 22, 2020, and ending on October 28, 2020; and

WHEREAS, on October 28, 2020, and pursuant to Resolution No. 2020-31463, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on October 29, 2020, and ending on November 4, 2020; and

WHEREAS, on November 4, 2020, and pursuant to Resolution No. 2020-31463, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on November 5, 2020, and ending on November 11, 2020; and

WHEREAS, on November 11, 2020, and pursuant to Resolution No. 2020-31463, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on November 12, 2020, and ending on November 18, 2020; and

WHEREAS, on November 18, 2020, the Mayor and City Commission adopted Resolution No. 2020-31506, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on November 19, 2020, and ending at 11:59 p.m. on November 25, 2020, and further authorizing the City Manager to extend the Declaration for two (2) additional 7-day increments, which would commence at 12:00 a.m. on November 26, 2020, and end at 11:59 p.m. on December 9, 2020; and

WHEREAS, on November 18, 2020, and pursuant to Resolution No. 2020-31506, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on November 19, 2020, and ending on November 25, 2020; and

WHEREAS, on November 25, 2020, and pursuant to Resolution No. 2020-31506, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on November 26, 2020, and ending on December 2, 2020; and

WHEREAS, on December 2, 2020, and pursuant to Resolution No. 2020-31506, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on December 3, 2020, and ending on December 9, 2020; and

WHEREAS, on December 9, 2020, the Mayor and City Commission adopted Resolution No. 2020-31529, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on December 10, 2020, and ending at 11:59 p.m. on December 16, 2020, and further authorizing the City Manager to extend the Declaration for four (4) additional 7-day increments, which would commence at 12:00 a.m. on December 17, 2020, and end at 11:59 p.m. on January 13, 2021; and

WHEREAS, on December 9, 2020, and pursuant to Resolution No. 2020-31529, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on December 10, 2020, and ending on December 16, 2020; and

WHEREAS, on December 16, 2020, and pursuant to Resolution No. 2020-31529, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on December 17, 2020, and ending on December 23, 2020; and

WHEREAS, on December 23, 2020, and pursuant to Resolution No. 2020-31529, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on December 24, 2020, and ending on December 30, 2020; and

WHEREAS, on December 30, 2020, and pursuant to Resolution No. 2020-31529, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on December 31, 2020, and ending on January 6, 2021; and

WHEREAS, on January 6, 2021, and pursuant to Resolution No. 2020-31529, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on January 7, 2021, and ending on January 13, 2021; and

WHEREAS, on January 13, 2021, the Mayor and City Commission adopted Resolution No. 2021-31558, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on January 14, 2021, and ending at 11:59 p.m. on January 20, 2021, and further authorizing the City Manager to extend the Declaration for three (3) additional 7-day increments, which would commence at 12:00 a.m. on January 21, 2021, and end at 11:59 p.m. on February 10, 2021; and

WHEREAS, on January 13, 2021, and pursuant to Resolution No. 2020-31558, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on January 14, 2021, and ending on January 20, 2021; and

WHEREAS, on January 20, 2021, and pursuant to Resolution No. 2020-31558, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on January 21, 2021, and ending on January 27, 2021; and

WHEREAS, on January 27, 2021, and pursuant to Resolution No. 2020-31558, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on January 28, 2021, and ending on February 3, 2021; and

WHEREAS, on February 3, 2021, and pursuant to Resolution No. 2020-31558, the City Manager extended the Declaration of a State of Emergency for an additional seven (7) days, commencing on February 4, 2021, and ending on February 10, 2021; and

WHEREAS, as continued measures are required to address the COVID-19 pandemic, the City Manager hereby requests that the Mayor and City Commission authorize the City Manager to extend the Declaration of a State of Emergency in the City of Miami Beach, for an additional 7-day increment, which would commence on February 11, 2021, and end on February 17, 2021; and

WHEREAS, the City Manager hereby further requests that the Mayor and City Commission provide authorization to continue to extend the Declaration of a State of Emergency for four (4) additional 7-day increments, which would commence at 12:00 a.m. on February 18, 2021, and end at 11:59 p.m. on March 17, 2021; and

WHEREAS, the Mayor and City Commission hereby acknowledge and consent to the aforesaid 7-day incremental extension and the additional incremental extensions; provided, however, that at any duly-noticed regular or special City Commission meeting, the Mayor and City Commission may determine whether any further extensions of the City Manager's Declaration of a State of Emergency are necessary and warranted; and

WHEREAS, on March 20, 2020, the Florida Governor issued Executive Order 20-69, which (i) suspended any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place, and (ii) permits local government bodies to utilize communications media technology such as telephonic and video conferencing; and

WHEREAS, the use of communications media technology to hold public meetings permits the City Commission, the City's land use boards, and the City's other boards and committees to conduct public business, while mitigating the public health risks associated with in-person gatherings; and

WHEREAS, Executive Order 20-69 expired on November 1, 2020; and

WHEREAS, on October 28, 2020, the Mayor and City Commission adopted Resolution No. 2020-31474, making certain legislative findings concerning the COVID-19 public health emergency, and adopting a policy for attendance at public meetings. Specifically, the Resolution provides as follows:

- (1) The City's advisory boards and committees, as well as the City's Charter Officers (City Manager, City Attorney, City Clerk, and Inspector General) and their staff, shall continue to meet virtually;
- (2) Commencing November 1, 2020, the City Commission and Land Use Boards shall maintain a physically-present quorum at meetings requiring action, with remaining City Commissioners and Land Use Board members who are not physically present to participate virtually, due to the extraordinary circumstances presented by the current public health emergency;
- (3) Any applicable requirements within the City Charter, Code of Ordinances, Resolutions, or other City policy that may require the physical presence of quorum/board members or Charter officers/staff at public meetings are hereby waived; and
- (4) All virtual meetings/participation shall continue to be compliant with the Florida Constitution and Florida's Government in the Sunshine Law, at Chapter 286, Florida Statutes.

A copy of Resolution No. 2020-31474 is attached to this Declaration and incorporated herein as Exhibit "A"; and

WHEREAS, in December 2020, the Food and Drug Administration granted emergency use authorizations for the Pfizer-BioNTech and Moderna mRNA coronavirus vaccines and, since then, distribution of these vaccines has begun; and

WHEREAS, "herd immunity," also known as "population immunity," is the indirect protection from an infectious disease that happens when a population is immune either through vaccination or immunity developed through previous infection; and

WHEREAS, the World Health Organization (WHO) "supports achieving 'herd immunity' through vaccination, not by allowing a disease to spread through any segment of the population, as this would result in unnecessary cases and deaths"; and

WHEREAS, according to the WHO, "to safely achieve herd immunity against COVID-19, a substantial proportion of a population would need to be vaccinated, lowering the overall amount of virus able to spread in the whole population"; and

WHEREAS, until "herd immunity" or "population immunity" is achieved through widespread vaccination, social distancing, masking, and other measures must remain in place to control the spread of COVID-19; and

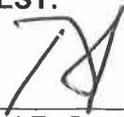
WHEREAS, should the currently scheduled meetings of the Mayor and City Commission be canceled or rescheduled to a subsequent date, the City Manager shall call a special emergency meeting of the City Commission, pursuant to Section 2.04 of the City Charter, for the express purpose of terminating or continuing to extend the Declaration of a State of Emergency.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, as follows:

1. The City Manager is hereby authorized to extend the Declaration of a State of Emergency in the City of Miami Beach to address the COVID-19 pandemic; said extension for an additional period of seven (7) days, commencing at 12:00 a.m. on February 11, 2021, and ending at 11:59 p.m. on February 17, 2021.
2. The City Manager is further authorized to extend the Declaration of a State of Emergency in the City of Miami Beach for four (4) additional 7-day increments, which would commence at 12:00 a.m. on February 18, 2021, and end at 11:59 p.m. on March 17, 2021.
3. The scope of any emergency measures ordered by the City Manager pursuant to the Declaration of a State of Emergency shall, consistent with all prior emergency measures imposed by the City Manager to date, be limited to respond to immediate threats posed by the COVID-19 pandemic. Further, no emergency action taken by the City Manager shall be binding on the City Commission beyond the period of the COVID-19 State of Emergency, or otherwise limit the ability of the City Commission to undo any action of the City Manager, whether contractually or legislatively.
4. The City Commission may, at a duly-noticed City Commission meeting, determine whether the then-current extension of the Declaration of a State of Emergency should be rescinded, or whether any further extensions are warranted. Should the currently scheduled meetings of the Mayor and City Commission be canceled or rescheduled to a subsequent date, the City Manager shall call a special emergency meeting of the City Commission, pursuant to Section 2.04 of the City Charter, for the express purpose of terminating or continuing to extend the Declaration of a State of Emergency.
5. The City Manager shall be required to call a City Commission meeting prior to ordering any emergency measure that is more restrictive than the emergency measures in effect as of February 11, 2021.

PASSED and ADOPTED this 10 day of February, 2021.

ATTEST:


2/22/2021
Rafael E. Granado, City Clerk



Dan Gelber, Mayor

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION



City Attorney NK Date 2-1-21



MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Rafael Paz, Acting City Attorney
DATE: February 10, 2021

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXTEND THE DECLARATION OF A STATE OF EMERGENCY, DATED MARCH 12, 2020, IN THE CITY OF MIAMI BEACH TO ADDRESS THE COVID-19 PANDEMIC, AS EXTENDED THROUGH FEBRUARY 10, 2021, SUCH EXTENSION FOR AN ADDITIONAL PERIOD OF SEVEN (7) DAYS, COMMENCING AT 12:00 A.M. ON FEBRUARY 11, 2021, AND ENDING AT 11:59 P.M. ON FEBRUARY 17, 2021; FURTHER AUTHORIZING THE CITY MANAGER TO CONTINUE TO EXTEND THE DECLARATION OF A STATE OF EMERGENCY FOR FOUR (4) ADDITIONAL 7-DAY INCREMENTS, WHICH WOULD COMMENCE AT 12:00 A.M. ON FEBRUARY 18, 2021, AND END AT 11:59 P.M. ON MARCH 17, 2021; PROVIDED THAT THE SCOPE OF ANY EMERGENCY MEASURES ORDERED BY THE CITY MANAGER SHALL, CONSISTENT WITH ALL PRIOR EMERGENCY MEASURES IMPOSED BY THE CITY MANAGER TO DATE, BE LIMITED TO RESPOND TO IMMEDIATE THREATS POSED BY THE COVID-19 PANDEMIC; PROVIDING THAT NO EMERGENCY ACTION TAKEN BY THE CITY MANAGER SHALL BE BINDING ON THE CITY COMMISSION BEYOND THE PERIOD OF THE COVID-19 STATE OF EMERGENCY, OR OTHERWISE LIMIT THE ABILITY OF THE CITY COMMISSION TO UNDO ANY ACTION OF THE CITY MANAGER, WHETHER CONTRACTUALLY OR LEGISLATIVELY; FURTHER, PROVIDING THAT THE SUBJECT DECLARATION OF EMERGENCY SHALL BE TERMINABLE BY THE CITY COMMISSION IN ACCORDANCE WITH THE PROVISIONS OF THIS RESOLUTION; AND, FINALLY, PROVIDING THAT THE CITY MANAGER SHALL BE REQUIRED TO CALL A CITY COMMISSION MEETING PRIOR TO ORDERING ANY EMERGENCY MEASURE THAT IS MORE RESTRICTIVE THAN THE EMERGENCY MEASURES IN EFFECT AS OF FEBRUARY 11, 2021.

BACKGROUND/HISTORY

The attached Resolution requests authorization, pursuant to City Code Section 26-35, to further extend the duration of the Declaration of a State of Emergency, dated March 12, 2020, in order

to continue to address threats associated with the coronavirus disease 2019 ("COVID-19") pandemic.

On March 12, 2020, the City Manager declared a State of Emergency for the City of Miami Beach, on the basis that the COVID-19 pandemic poses a health risk to the City's residents, particularly elderly residents and those who are immunosuppressed or otherwise have high risk of medical conditions (the "Declaration").

On March 13, 2020, the City Commission adopted Resolution No. 2020-31192, authorizing the City Manager to extend the duration of those discretionary emergency measures that the City Manager deemed necessary to address the COVID-19 pandemic beyond the 72-hour time period set forth in City Code Section 26-35, for a period of seven (7) days commencing March 12, 2020, and ending on March 19, 2020.

On March 18, 2020, the City Commission adopted Resolution No. 2020-31219, which, in pertinent part, authorized the City Manager to extend the duration of the Declaration in additional 7-day increments, through April 23, 2020.

On April 22, 2020, the City Commission adopted Resolution No. 2020-31245, authorizing the City Manager to extend the duration of the Declaration for an additional period of seven (7) days, commencing on April 24, 2020, and ending on April 30, 2020. The Resolution further authorized the City Manager to extend the duration of the Declaration on April 30, 2020, for an additional 7-day increment, which would commence on May 1, 2020, and end on May 7, 2020.

On May 1, 2020, the City Commission adopted Resolution No. 2020-31246, authorizing the City Manager to extend the duration of the Declaration for an additional period of seven (7) days, commencing on May 8, 2020, and ending on May 14, 2020.

On May 13, 2020, the City Commission adopted Resolution No. 2020-31273, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing on May 15, 2020 and ending on May 21, 2020, and further authorizing the City Manager to extend the Declaration by one (1) additional day, commencing at 12:00 a.m. on May 22, 2020, and ending at 11:59 p.m. on May 22, 2020.

On May 22, 2020, the City Commission adopted Resolution No. 2020-31280, authorizing the City Manager to extend the duration of the Declaration for an additional period of seven (7) days, commencing on May 23, 2020, and ending on May 29, 2020.

On May 28, 2020, the City Commission adopted Resolution No. 2020-31282, authorizing the City Manager to extend the duration of the Declaration for an additional period of seven (7) days, commencing on May 30, 2020, and ending on June 5, 2020.

On June 5, 2020, the Mayor and City Commission adopted Resolution No. 2020-31284, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing on June 6, 2020 and ending on June 12, 2020.

On June 12, 2020, the Mayor and City Commission adopted Resolution No. 2020-32187,

authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on June 13, 2020, and ending at 11:59 p.m. on June 19, 2020, and further authorizing the City Manager to extend the Declaration for an additional period of five (5) days, commencing at 12:00 a.m. on June 20, 2020, and ending at 11:59 p.m. on June 24, 2020.

On June 24, 2020, the Mayor and City Commission adopted Resolution No. 2020-31308, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on June 25, 2020, and ending at 11:59 p.m. on July 1, 2020, and further authorizing the City Manager to extend the Declaration for two (2) additional 7-day increments, and one (1) additional 2-day increment, commencing at 12:00 a.m. on July 2, 2020, and ending at 11:59 p.m. on July 17, 2020.

On July 17, 2020, the Mayor and City Commission adopted Resolution No. 2020-31312, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on July 18, 2020, and ending at 11:59 p.m. on July 24, 2020, and further authorizing the City Manager to extend the Declaration for one (1) additional 5-day increment, commencing at 12:00 a.m. on July 25, 2020, and ending at 11:59 p.m. on July 29, 2020.

On July 29, 2020, the Mayor and City Commission adopted Resolution No. 2020-31372, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on July 30, 2020, and ending at 11:59 p.m. on August 5, 2020, and further authorizing the City Manager to extend the Declaration for six (6) additional 5-day increments, commencing at 12:00 a.m. on August 6, 2020, and ending at 11:59 p.m. on September 16, 2020.

On September 16, 2020, the Mayor and City Commission adopted Resolution No. 2020-31424, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on September 17, 2020, and ending at 11:59 p.m. on September 23, 2020, and further authorizing the City Manager to extend the Declaration for three (3) additional 7-day increments, which would commence at 12:00 a.m. on September 24, 2020, and end at 11:59 p.m. on October 14, 2020.

On October 14, 2020, the Mayor and City Commission adopted Resolution No. 2020-31463, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on October 15, 2020, and ending at 11:59 p.m. on October 21, 2020, and further authorizing the City Manager to extend the Declaration for four (4) additional 7-day increments, which would commence at 12:00 a.m. on October 22, 2020, and end at 11:59 p.m. on November 18, 2020.

On November 18, 2020, the Mayor and City Commission adopted Resolution No. 2020-31506, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on November 19, 2020, and ending at 11:59 p.m. on November 25, 2020, and further authorizing the City Manager to extend the Declaration for two (2) additional 7-day increments, which would commence at 12:00 a.m. on November 26, 2020, and end at 11:59 p.m. on December 9, 2020.

On December 9, 2020, the Mayor and City Commission adopted Resolution No. 2020-31529, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on December 10, 2020, and ending at 11:59 p.m. on December 16, 2020, and further authorizing the City Manager to extend the Declaration for four (4) additional 7-day increments, which would commence at 12:00 a.m. on December 17, 2020, and end at 11:59 p.m. on January 13, 2021.

On January 13, 2021, the Mayor and City Commission adopted Resolution No. 2021-31558, authorizing the City Manager to extend the Declaration for an additional seven (7) days, commencing at 12:00 a.m. on January 14, 2021, and ending at 11:59 p.m. on January 20, 2021, and further authorizing the City Manager to extend the Declaration for three (3) additional 7-day increments, which would commence at 12:00 a.m. on January 21, 2021, and end at 11:59 p.m. on February 10, 2021.

ANALYSIS

The attached Resolution authorizes the City Manager to extend the duration of the Declaration for an additional period of seven (7) days, commencing at 12:00 a.m. on February 11, 2021, and ending at 11:59 p.m. on February 17, 2021. In addition, the Resolution authorizes the City Manager to extend the Declaration for four (4) additional 7-day increments, commencing at 12:00 a.m. on February 18, 2021, and ending at 11:59 p.m. on March 17, 2021 (i.e. the date of the next regularly scheduled City Commission meeting).

The Resolution further provides that the scope of any emergency measures ordered by the City Manager pursuant to the Declaration shall, consistent with all prior emergency measures imposed by the City Manager to date, be limited to respond to immediate threats posed by the COVID-19 pandemic. Further, no emergency action taken by the City Manager shall be binding on the City Commission beyond the period of the COVID-19 State of Emergency, or otherwise limit the ability of the City Commission to undo any action of the City Manager, whether contractually or legislatively.

SUPPORTING SURVEY DATA

n/a

Applicable Area

Not Applicable

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Strategic Connection

Non-Applicable

Legislative Tracking

Office of City Attorney

ATTACHMENTS:

Description

- Resolution Extending Declaration of a State of Emergency, COVID-19
- Exhibit A: Resolution No. 2020-31474

RESOLUTION NO. 2020-31474

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FURTHER ADDRESSING THE ONGOING COVID-19 PUBLIC HEALTH EMERGENCY FOR PURPOSES OF SAFEGUARDING THE CITY'S HEALTH, SAFETY AND WELFARE AND SERVING A PUBLIC PURPOSE IN THE BEST INTEREST OF THE CITY BY PROVIDING THAT: 1) THE CITY'S ADVISORY BOARDS AND COMMITTEES SUBJECT HEREIN, AS WELL AS THE CITY'S CHARTER OFFICERS (CITY MANAGER, CITY ATTORNEY, CITY CLERK AND INSPECTOR GENERAL) AND THEIR STAFF, SHALL CONTINUE TO MEET VIRTUALLY, CONSISTENT WITH THE DICTATES STATED IN THIS RESOLUTION; 2) COMMENCING NOVEMBER 1, 2020, THE CITY COMMISSION AND CITY LAND USE BOARDS (CONSISTING OF THE BOARD OF ADJUSTMENT, PLANNING BOARD, DESIGN REVIEW BOARD AND HISTORIC PRESERVATION BOARD) SHALL MAINTAIN PHYSICALLY-PRESENT QUORUMS AT MEETINGS REQUIRING ACTION, WITH REMAINING CITY COMMISSION AND LAND USE BOARD MEMBERS WHO ARE NOT PHYSICALLY PRESENT TO PARTICIPATE VIRTUALLY, DUE TO THE EXTRAORDINARY CIRCUMSTANCES PRESENTED BY THE CURRENT PUBLIC HEALTH EMERGENCY; 3) WAIVER OF APPLICABLE REQUIREMENTS WITHIN THE CITY'S CHARTER, CODE OF ORDINANCES, RESOLUTIONS OR OTHER CITY POLICY THAT MAY REQUIRE THE PHYSICAL PRESENCE OF QUORUM/BOARD MEMBERS OR CHARTER OFFICERS/STAFF AT ANY SAID PUBLIC MEETINGS; 4) ALL VIRTUAL MEETINGS/PARTICIPATION SHALL CONTINUE TO BE COMPLIANT WITH THE FLORIDA CONSTITUTION AND FLORIDA'S GOVERNMENT IN THE SUNSHINE LAW, CHAPTER 286 FLORIDA STATUTES; 5) THE TERMS OF THIS RESOLUTION SHALL BE INCORPORATED INTO THE CITY MANAGER'S DECLARATION OF EMERGENCY, FOR IMPLEMENTATION COMMENCING NOVEMBER 1, 2020 AND CONTINUING UNTIL THE CURRENT CITYWIDE STATE OF EMERGENCY HAS ENDED; AND PROVIDING FOR SEVERABILITY.

WHEREAS, following the COVID-19 Statewide Emergency declared by Governor Ron Desantis on March 9 2020 via Executive Order 20-52, the Miami Beach City Manager declared on March 12, 2020 a State of Emergency for the City of Miami Beach, which Declaration of Citywide Emergency has been extended to-date by the City Commission¹; and

WHEREAS, on March 20, 2020, the Governor issued Executive Order No. 20-69 which suspended any Florida Statute that "...requires a quorum to be present in person or requires a local government body to meet at a specific public place...", and authorized local government bodies to conduct meetings remotely, utilizing communications media technology, such as telephonic and video conferencing meetings; and

¹ CMB Resolution No. 2020-31463, adopted by the City Commission on October 14, 2020, extended the City Manager's Declaration of Emergency to November 18, 2020.

WHEREAS, since issuance of the Governor’s EO 20-69, the City has conducted all of its City Commission and Board and Committee meetings remotely, in accordance with the City’s procedural safeguards² for ensuring full transparency in compliance with the Florida Constitution and Florida’s Government in the Sunshine Law, Chapter 286 Florida Statutes; and

WHEREAS, significantly, of the 310 virtual public meetings conducted by the City since EO-20-69’s issuance, the City has not received any complaints regarding its process for conducting said meetings; and

WHEREAS, on September 30, 2020, the Governor issued Executive Order No. 20-246, extending Executive Order 20-69 until 12:01 a.m. on November 1, 2020³; and

WHEREAS, the November 1, 2020 expiration of EO 20-69 presents an imminent health threat to the City of Miami Beach, as the need to suspend in-person quorum requirements for the City’s public bodies will be no less compelling after November 1, 2020 than as presently exists; and

WHEREAS, the City remains in a State of Emergency due to the COVID-19 pandemic; and

WHEREAS, the impact of this health emergency is particularly significant in our tourist destination and, further, because the City’s Boards and Committees are composed in large part with members of at-risk groups (over age 65 or with pre-existing conditions), or those who live with at-risk individuals, or who had members that may have been subject to quarantine for exposure and thus unable to attend in person⁴; and

WHEREAS, relevant opinions of the State’s Attorney General have concluded that a quorum of a public body must be physically present in order to allow members, who due to

² Though the move to remote meetings required changes to the City’s meeting practices and procedures, these changes were done consistent with the existing laws and statutes governing public access.

³ NOTE: Per Section 2 of EO 20-246: “This order shall not apply to election canvassing boards.”

⁴ Countless City board and committee members have informed City personnel that they will not be attending in-person meetings post-November 1, due to the public health emergency.

"extraordinary circumstances" are unable to physically attend the meeting, to appear and participate electronically⁵; and

WHEREAS, the subject relevant Attorney General opinions, however, are expressly based upon a "conservative interpretation"⁶ of the law that applies exclusively to meeting requirements for "governing bodies"⁷ such as the City Commission, *not* to City boards or committees; and

WHEREAS, furthermore, the Attorney General's "conservative interpretation" is based upon "concerns about the validity of official actions taken by a public body when less than a quorum is present", which concerns have been addressed by the City via its creation and enforcement of Sunshine Law procedural safeguards for virtual meetings (enacted following the Governor's authorization for remote meetings in his EO 20-69), with no related concerns/controversy having been expressed by the public; and

WHEREAS, as such, in his legal analysis of the Sunshine Law and related Constitutional open government requirements⁸ as well as statutory requirements applicable to actions of municipal bodies, the City Attorney has advised the City Commission that despite the Attorney General's opinions advising that a quorum be present in order to conduct remote meetings of all public boards and committees, these State laws *do not* expressly prohibit remote electronic participation for the City's advisory boards and committees⁹; and

WHEREAS, in accordance with § 252.38, Florida Statutes, the Governor's Executive Order No. 20-52 authorized the City to waive the procedures and formalities otherwise required

⁵ The Attorney General's most recent opinion on this issue, issued March 19, 2020 (immediately prior to the Governor's EO 20-69), advised that local government bodies could meet remotely, if authorized by statute or state of emergency declaration. AGO 2020-03.

⁶ See, Fla. AGO 2001-66: "...concerns about the validity of official actions taken by a public body when less than a quorum is present argue for a very conservative reading of the statute"; and Fla. AGO 2010-34: "For meetings where a quorum is required, this office has consistently suggested a conservative interpretation of the requirement to ensure the validity of official actions taken by a public body. This office has concluded that, in the absence of a statute to the contrary, the requisite number of members must be physically present at a meeting in order to constitute a quorum."

⁷ Florida Statutes Section 166.041(4): "A majority of the *members of the governing body* shall constitute a quorum. An affirmative vote of a majority of a quorum present is necessary to enact any ordinance or adopt any resolution...". (Emphasis added.)

⁸ See, Article I, section 24, Florida Constitution, ensuring a right of access to meetings of collegial public bodies.

⁹ All references in this Resolution to the City's "advisory boards and committees" concern those bodies set forth in the City Code, at subparts A and B, as well as the Mayor's City Commission Committees.

of the City by law: "...pertaining to the ... performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community"¹⁰; and

WHEREAS, for reasons directly related to combating effects of the existing public health emergency including, but not limited to, fostering adequate social distancing, protecting those who may be at a greater risk for severe effects from COVID-19, and ensuring the continued business of the City's advisory boards and committees, the City Commission hereby determines that a public purpose is served and it is in the public interest during this public health emergency to continue allowing members of the City's advisory boards and committees to attend their public meetings virtually (by phone or video conferencing) in light of the extraordinary circumstances presented by the current health emergency, and thus waives any and all applicable requirements within the City's Charter, Code of Ordinances, Resolutions or other City policy that may require the physical presence of a quorum and/or board members' physical presence at any said public meeting¹¹; and

WHEREAS, the above waiver and determination of public purpose served shall apply as well during this public health emergency to any and all requirements within the City's Charter, Code of Ordinances, Resolutions or other City policy that may require the physical presence at public meetings of the Charter Officers (City Manager, City Attorney, City Clerk and Inspector General) and their staff, as the City Commission finds a public purpose is served and it is in the public interest to continue allowing their virtual attendance in light of the extraordinary circumstances presented by the current health emergency, except when otherwise directed by the City Commission; and

WHEREAS, notwithstanding the above, the City Commission recognizes that unlike the City's advisory boards, actions taken by the City Commission and the City's Land Use Boards (consisting of the Board of Adjustment, Planning Board, Design Review Board and Historic Preservation Board) are binding/non-advisory on City policy and legislation and, as such, the City Commission determines that it serves the public interest to take a heightened, more conservative¹² approach with regard to the issue of "physical presence" at those meetings in order to insulate

¹⁰ Fla. Stat. sec. 252.38(3)(a)5a. See also, AGO 2004-58 in which the Attorney General has seemingly confirmed the applicability of municipal emergency powers under Florida Statutes Chapter 252 to the partial waiver of Sunshine Law: "...The waiver of the notice requirements required under the Sunshine Law is not among those listed, although the statute does recognize the authority of the political subdivision to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community. ...".

¹¹ Provisions of law establishing the number of members required to constitute a quorum for each of the subject boards or committees remain in effect and are unaffected by this Resolution.

¹² Adoption of this conservative approach is not to be interpreted as concession on the City's part of a legal requirement for physical presence of City personnel at its public meetings.

decisions made and forestall potential legal challenges, which challenges can cause additional disruptions to City government to those presently encountered by the City due to the public health emergency; and

WHEREAS, accordingly, the City Commission deems a public purpose is served and it is in the public interest to impose stricter requirements (than established above for the City's advisory boards), by requiring a physically-present quorum at City Commission and Land Use Board meetings requiring action, while allowing those remaining members who are not physically present to participate virtually in light of the extraordinary circumstances presented by the current health emergency; and

WHEREAS, all virtual public meetings of the City of Miami Beach shall remain subject to, and be otherwise compliant with, the Florida Constitution and Florida's Government in the Sunshine Law, Chapter 286 Florida Statutes; and

WHEREAS, it is the intent of the City Commission that the terms of this Resolution shall be incorporated into the City Manager's Declaration of Emergency for implementation commencing November 1, 2020¹³, and continue until the current Citywide State of Emergency has ended; and

WHEREAS, if any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission hereby determine that a public purpose is served and it is in the public interest in order to ensure the health, safety and welfare of our community in the face of the ongoing COVID-19 public health emergency that: 1) the City's Advisory Boards and Committees subject herein, as well as the City's Charter Officers (City Manager, City Attorney, City Clerk and Inspector General) and their staff, shall continue to meet virtually, consistent with the dictates stated hereinabove; 2) commencing November 1, 2020, the City Commission and City Land Use Boards (consisting of the Board of Adjustment, Planning Board, Design Review Board and Historic Preservation Board) shall maintain a physically-present quorum at meetings requiring action, with remaining City Commission and Land Use Board members who are not physically present to participate virtually due to the extraordinary circumstances presented by the current health

¹³ The November 1 2020 expiration date of the Governor's EO 20-69 is intended as a condition precedent to this Resolution; in the event EO 20-69 is extended in its entirety beyond November 1, 2020, the terms of this Resolution shall not take effect on said date, and all public meetings of the City shall continue to be held virtually with City personnel's remote attendance, consistent with EO 20-69.

emergency; 3) the City Commission thus waives any and all applicable requirements within the City's Charter, Code of Ordinances, Resolutions or other City policy that may require the physical presence of quorum/board members or Charter Officers/staff at any said public meeting; 4) providing that all virtual meetings/participation shall continue to be compliant with the Florida Constitution and Florida's Government in the Sunshine Law, Chapter 286 Florida Statutes; and 5) the terms of this Resolution shall be incorporated into the City Manager's Declaration of Emergency, for implementation commencing November 1, 2020 and continue until the current Citywide State of Emergency has ended.

PASSED and ADOPTED this 28 day of October, 2020.

ATTEST:



DAN GELBER
MAYOR

RAFAEL E. GRANADO
CITY CLERK



**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Paul Civit 10/28/20
City Attorney Date

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MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Raul J. Aguila, City Attorney
DATE: October 28, 2020

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FURTHER ADDRESSING THE ONGOING COVID-19 PUBLIC HEALTH EMERGENCY FOR PURPOSES OF SAFEGUARDING THE CITY'S HEALTH, SAFETY AND WELFARE AND SERVING A PUBLIC PURPOSE IN THE BEST INTEREST OF THE CITY BY PROVIDING THAT: 1) THE CITY'S ADVISORY BOARDS AND COMMITTEES SUBJECT HEREIN, AS WELL AS THE CITY'S CHARTER OFFICERS (CITY MANAGER, CITY ATTORNEY, CITY CLERK AND INSPECTOR GENERAL) AND THEIR STAFF, SHALL CONTINUE TO MEET VIRTUALLY, CONSISTENT WITH THE DICTATES STATED IN THIS RESOLUTION; 2) COMMENCING NOVEMBER 1, 2020, THE CITY COMMISSION AND CITY LAND USE BOARDS (CONSISTING OF THE BOARD OF ADJUSTMENT, PLANNING BOARD, DESIGN REVIEW BOARD AND HISTORIC PRESERVATION BOARD) SHALL MAINTAIN PHYSICALLY-PRESENT QUORUMS AT MEETINGS REQUIRING ACTION, WITH REMAINING CITY COMMISSION AND LAND USE BOARD MEMBERS WHO ARE NOT PHYSICALLY PRESENT TO PARTICIPATE VIRTUALLY, DUE TO THE EXTRAORDINARY CIRCUMSTANCES PRESENTED BY THE CURRENT PUBLIC HEALTH EMERGENCY; 3) WAIVER OF APPLICABLE REQUIREMENTS WITHIN THE CITY'S CHARTER, CODE OF ORDINANCES, RESOLUTIONS OR OTHER CITY POLICY THAT MAY REQUIRE THE PHYSICAL PRESENCE OF QUORUM/BOARD MEMBERS OR CHARTER OFFICERS/STAFF AT ANY SAID PUBLIC MEETINGS; 4) ALL VIRTUAL MEETINGS/PARTICIPATION SHALL CONTINUE TO BE COMPLIANT WITH THE FLORIDA CONSTITUTION AND FLORIDA'S GOVERNMENT IN THE SUNSHINE LAW, CHAPTER 286 FLORIDA STATUTES; 5) THE TERMS OF THIS RESOLUTION SHALL BE INCORPORATED INTO THE CITY MANAGER'S DECLARATION OF EMERGENCY, FOR IMPLEMENTATION COMMENCING NOVEMBER 1, 2020 AND CONTINUING UNTIL THE CURRENT CITYWIDE STATE OF EMERGENCY HAS ENDED; AND PROVIDING FOR SEVERABILITY.

RECOMMENDATION

See memorandum attached.

Applicable Area

Not Applicable

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Office of the City Attorney

ATTACHMENTS:

Description

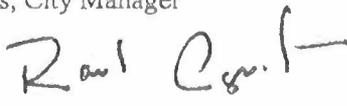
- Virtual Public Hearings
- Reso Virtual Public Hearing

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Honorable Mayor Dan Gelber and Members of the City Commission
Jimmy Morales, City Manager

FROM: Raul J. Aguila 
City Attorney

DATE: October 28, 2020

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, SETTING FORTH STATEMENTS OF PUBLIC NEED FOR PURPOSES OF SERVING THE PUBLIC INTEREST DURING THE ONGOING COVID 19 PUBLIC HEALTH EMERGENCY, BY ESTABLISHING POST-NOVEMBER 1, 2020 STANDARDS AND PROCEDURES FOR ATTENDANCE AT MEETINGS OF THE CITY COMMISSION, CITY COMMISSION COMMITTEES, AND CITY BOARDS.

As a matter of further addressing the ongoing COVID-19 public health emergency, and for purposes of safeguarding uninterrupted the City of Miami Beach's health, safety and welfare, the attached Resolution confronts the imminent threat presented to our community as a result of the upcoming November 1, 2020 deadline by which Governor DeSantis's EO 20-69, authorizing virtual City public meetings with members' remote attendance, will expire. This Resolution thus expresses the Mayor and City Commission's statements of public need (including, without limitation, as discussed and expressed at the September 29, 2020 Commission Meeting) to continue said virtual public meetings during this health emergency; thereby establishing and clarifying the City's post-November 1, 2020 standards and procedures for attendance at meetings of the City Commission and stated City Boards and Committees, summarized as follows:

- The City Commission and City Land Use Boards (consisting of the Board of Adjustment, Planning Board, Design Review Board and Historic Preservation Board) shall maintain a physically-present quorum at meetings requiring action, with remaining City Commission and Land Use Board members who are not physically present to participate virtually.
- The City's Advisory Boards and Committees subject to this Resolution, including, without limitation, the City Commission Committee (consisting of the Land Use and Sustainability Committee; the Finance and Economic Resiliency Committee; and the Neighborhood and Quality of Life Committee), as well as the City's Charter Officers (City Manager, City Attorney, City Clerk and Inspector General) and their staff, shall continue to meet virtually (except re: Charter Officers, when otherwise directed by the City Commission).

- In accordance with authority provided in the Governor's EO 20-52 and Florida statutory law, the Mayor and City Commission hereby waive, during this public health emergency, any and all applicable requirements within the City's Charter, Code of Ordinances, Resolutions or other City policy that may require the physical presence of quorum/board members or Charter Officers/staff at any said City public meeting.
- All virtual meetings/participation shall be compliant with the Florida Constitution and Florida's Government in the Sunshine Law, Chapter 286 Florida Statutes.
- The terms of this Resolution shall be incorporated into the City Manager's Declaration of Emergency for implementation, commencing November 1, 2020, and continue until the current Citywide State of Emergency has ended.

Finally, it should be noted that in the event the Governor's EO 20-69 is extended in its entirety beyond November 1, 2020, the terms of this Resolution shall not take effect on said date, and all public meetings of the City shall thus continue to be held virtually with City personnel's remote attendance, consistent with EO 20-69.