
**CITY OF MIAMI BEACH
DECLARATION OF A STATE OF EMERGENCY AND EMERGENCY MEASURES
SPRING BREAK 2022 – DANGEROUS CRIMINAL CONDUCT, PUBLIC DISORDER, AND
UNRULY CROWD CONTROL
(E.O. NO. 2022-01-SB)**

EFFECTIVE THURSDAY, MARCH 24, 2022

WHEREAS, the City of Miami Beach is a small barrier island nestled between Biscayne Bay (on the west) and the Atlantic Ocean (on the east); and

WHEREAS, the City only has approximately 90,000 residents and fifteen (15) square miles of land within its territorial jurisdiction; and

WHEREAS, nonetheless, the City of Miami Beach is an internationally renowned tourist destination that is famous for its beautiful beaches, world-class shopping, entertainment, fine dining, and vast array of artistic and cultural events; and

WHEREAS, however, in recent years, the City (which has a limited capacity for ingress and egress) has seen a tremendous number of visitors during the Spring Break period, which has posed significant challenges including, but not limited to, extreme traffic and congestion, and severe impacts to the City's Police, Fire, Sanitation, and Code Compliance services; and

WHEREAS, in 2021, similar unruly crowd control issues during Spring Break resulted in the imposition of emergency measures, including an 8:00 p.m. curfew in the area between 5th Street and 16th Street, from Pennsylvania Avenue to Ocean Drive, while the remainder of the entire City was subject to a Miami-Dade County midnight (12:00 a.m.) curfew; and

WHEREAS, during this Spring Break period, this City has seen massive crowds, including this past weekend (March 18 – 20), which crowds have been beyond the capacity of the City and its law enforcement partners to control, and the City anticipates such crowds will continue based upon the Spring Break schedule of colleges and universities; and

WHEREAS, many of the visitors to the City during high impact periods, such as Spring Break, are under the influence of alcoholic beverages and have demonstrated a blatant disregard for the rule of law; and

WHEREAS, there have been multiple fights, shootings, armed robberies, reports of shots fired, and various other incidents and police calls for service; and

WHEREAS, such incidents include two (2) shootings that occurred just this past weekend, each after 12:00 a.m. (on March 20, 2022 and March 21, 2022, respectively), which resulted in the shooting of 5 different innocent pedestrians and created stampedes and mayhem in the public streets and rights-of-way; and

WHEREAS, despite the vast and highly-visible police officer presence in the City, criminals and their illegal behavior continue undeterred, as one (1) of those shootings even took place within feet of a police officer who had to take cover behind a police vehicle for safety; and

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WHEREAS, the City's police officers have been faced with unruly crowds and dangerous situations, and have been working twelve (12) to fourteen (14) hour shifts and up to six (6) days a week during the pendency of Spring Break, resulting in the Miami Beach Fraternal Order of Police stating that the City's police officers are exhausted and calling on the City to provide for their safety by ending the mayhem; and

WHEREAS, nine (9) separate police officers have been injured in the performance of their duties during this year's Spring Break period; and

WHEREAS, the police have responded to at least six (6) incidents concerning shots fired, including one such incident that took place in a residential neighborhood located in the western portion of the City, in which ten (10) spent shell casings were located, and projectiles were found to have pierced through a vehicle and a second floor residential bedroom window; and

WHEREAS, the Police Department and its law enforcement partners have impounded one-hundred (100) firearms from February 18, 2022 – March 21, 2022, with approximately thirty-seven (37) of such firearms having been impounded on Friday, Saturday, and Sunday (March 18 – 20); and

WHEREAS, these armed robberies, brawls, and various other transgressions and illegal acts that have taken place have resulted in numerous injuries to police officers and civilians, and caused extensive property damage (to both public and private property); and

WHEREAS, in response to the illegal and unruly behavior exhibited by these large crowds during Spring Break 2022, and in order to provide for the health and safety of persons and property, the City deployed 371 law enforcement officers this past weekend, which included the assistance of police officers from various law enforcement agencies, such as the Miami-Dade County Police Department (43 uniformed officers this past weekend) and approximately 60 uniformed police officers from the Multi-Agency Gang Task Force ("MAGTF") (including law enforcement officers from the Miami-Dade County Police Department, the Miami Gardens Police Department, the Aventura Police Department, the Florida City Police Department, the Homestead Police Department, along with ATF agents), in an attempt to control the unruly crowds and maintain some semblance of law and order in the City; and

WHEREAS, the City's Police Department and its law enforcement partners have effectuated 618 arrests from February 18, 2022 through March 20, 2022; and

WHEREAS, the overwhelming majority of these incidents and arrests have taken place in the area bounded by 23rd Street and Dade Boulevard on the north, Government Cut on the south, Biscayne Bay on the west, and the Atlantic Ocean on the east; and

WHEREAS, regrettably, some of these disturbing incidents and arrests in the above-referenced area have garnered attention (including national attention) from various news outlets and media; and

WHEREAS, the City's Police and Fire Departments have notified the City Administration that the sheer volume and level of crowds have made it extremely difficult for Police and Fire emergency vehicles to get through portions of the area in order to adequately protect the health, safety and welfare of the public; and

WHEREAS, these crowds of people have taken over City streets, sidewalks, and rights-of-way, and have refused to obey lawful orders of law enforcement officers to refrain from obstructing the rights-of-way; and

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WHEREAS, these crowds of unruly revelers have even gone so far as to block the road, surround a police vehicle, and force it to retreat in reverse from the crowd that had intentionally surrounded it to block its path; and

WHEREAS, the sale and distribution of alcoholic beverages for off-premises consumption fuels the reckless and illegal behavior exhibited by the throngs of unruly crowds on the City's streets, sidewalks, and rights-of-way, increases the number of individuals drinking and driving, and greatly exacerbates crowd control issues during Spring Break; and

WHEREAS, many of the unruly revelers in the City during this Spring Break period are lodging in illegal short-term rentals ("STR") in the area south of 23rd Street and Dade Boulevard, as evidenced by the 46 calls for service involving short-term rentals in this area resulting in 17 issued STR violations involving illegal STRs in the area and there is a legitimate concern that unruly revelers forced to vacate the Ocean Drive area may migrate to their STRs in the South Beach residential neighborhoods and commence illegal house parties in this area, disturbing the peace and tranquility of those neighborhoods, therefore requiring those neighborhoods to be included in the emergency curfew zone; and

WHEREAS, it is the necessary and the most narrowly-tailored approach to include the entire South Beach area (south of 23rd Street and Dade Boulevard) in the emergency curfew area in order to prevent the migration of massive crowds from the Ocean Drive area into the surrounding residential areas, which contain many large parks (Lummus Park, Flamingo Park, and South Pointe Park) and open-space corridors (such as Lincoln Road) where crowds of unruly revelers could easily congregate and create mayhem if forced to leave the Ocean Drive area but allowed to otherwise remain in the area; and

WHEREAS, the City has broad authority pursuant to its inherent police powers, and "cases have consistently held that it is a proper exercise of police power to respond to emergency situations with temporary curfews that might curtail the movement of persons who would otherwise enjoy freedom from restriction." See, *7020 Entertainment, LLC v. Miami-Dade County*, Court Case No. 20-25138, U.S. District Court for the Southern District of Florida (citing *Smith v. Avino*, 91 F.3d 105, 109 (11th Cir. 1996)); and

WHEREAS, in *Smith*, the Court also held that, "governing authorities must be granted the proper deference and wide latitude necessary for dealing with the emergency." *Id.*; and

WHEREAS, pursuant to Section 26-31 of the City Code, if the City Manager determines that there has been an act of violence or a flagrant and substantial defiance of or resistance to a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the City, the City Manager may declare that a state of emergency exists within the City's territorial jurisdiction; and

WHEREAS, the City Manager has determined that, based upon the preceding recitals and pursuant to Section 26-31 of the City Code, a State of Emergency exists in the City; and

WHEREAS, the City Manager is authorized, pursuant to Section 26-33 of the City Code, to order and promulgate any (or all) of those discretionary emergency measures set forth therein, in whole or in part, with such limitations and conditions as the City Manager may deem appropriate; and

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

WHEREAS, pursuant to Chapter 252 of the Florida Statutes and, more specifically, Florida Statutes §252.38 and §252.46, the City also has the power and authority to declare a local state of emergency and promulgate emergency orders to protect the health and safety of persons and property, and to make, amend and rescind such orders and rules as are necessary for such purposes; and

WHEREAS, Florida Statute §252.38 also requires that any such emergency order enacted by the City, pursuant to Chapter 252, must be narrowly tailored to serve a compelling public health or safety purpose, and must also be limited in duration (of no more than 7 days), applicability, and scope in order to reduce any infringement on individual rights or liberties to the greatest extent possible.

NOW, THEREFORE, I, ALINA T. HUDAK, as City Manager for the City of Miami Beach, Florida, pursuant to the authority vested in me pursuant to Sections 26-31 through 26-36 of the City of Miami Beach Code of Laws and Ordinances (the “City Code”) and Chapter 252 of the Florida Statutes, have determined that there is reason to believe that there exists a continuing clear and present danger of riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order, and to the general welfare of the City of Miami Beach.

In order to avert such clear and present dangers, and in order to mitigate dangerous and illegal conduct, to maintain control of unruly crowds, and to protect the public health, safety and welfare of the residents and visitors of the City of Miami Beach, I take this emergency action in good faith, which I deem to be necessary and narrowly tailored to serve a compelling public health and safety purpose that is properly limited in duration, applicability, and scope in order to reduce any infringement on individual rights or liberties to the greatest extent possible.

Accordingly, I hereby declare a State of Emergency in the City, pursuant to Sections 26-31 through 26-36 of the City Code and Chapter 252 of the Florida Statutes, and order the following emergency measures, which are narrowly tailored, reasonable in duration, applicability and scope, and necessarily implemented in response to this declared State of Emergency, and shall be effective on Thursday, March 24, 2022 at Noon, and shall continue in full force and effect until Monday, March 28, 2022 at 6:00 a.m., as extended by the Mayor and City Commission at its March 22, 2022 Special Commission Meeting.

- Effective each night, from 11:59 p.m. through 6:00 a.m., a **curfew** shall be imposed for that area of the City bounded by 23rd Street and Dade Boulevard on the north (including properties fronting the north side of 23rd Street or Dade Boulevard), Government Cut on the south, Biscayne Bay on the west, and the Atlantic Ocean on the east (the “Curfew Area”). Businesses within the Curfew Area shall close sufficiently in advance of the curfew in order to permit patrons to avoid violating the curfew.
- Notwithstanding the foregoing, businesses shall be permitted to continue to operate from 11:59 p.m. – 6:00 a.m. for delivery services **only**, and all City residents requiring access to or from their homes, guests requiring access to or from their hotels, and employees of business

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establishments requiring access, including business deliveries, shall be permitted. Pursuant to Section 26-33(a)(1) of the City Code and Florida Statute §252.46(4), the curfew shall not apply to the provision of designated essential services, such as fire, police, and hospital services, including the transportation of patients thereto, utility emergency repairs, and emergency calls by physicians, and the curfew shall also not apply to persons traveling to their places of employment to report for work and to return to their residences after their work has concluded.

- The sale or distribution of any alcoholic beverage(s) for off-premises consumption, with or without payment or consideration therefor, shall be prohibited in the curfew area after 6:00 p.m. on Thursday (March 24th), Friday (March 25th), and Saturday (March 26th), pursuant to Section 26-33(a)(2) of the City Code.

If any section, sentence, clause, portion, or phrase of this Declaration of a State of Emergency and Emergency Measures is held to be invalid or unconstitutional by any court of competent jurisdiction, then said ruling shall in no way affect the validity of the remaining portion(s) of these Emergency Measures.

THE EMERGENCY MEASURE(S) SET FORTH HEREIN SHALL BE EFFECTIVE ON THURSDAY, MARCH 24, 2022 AT NOON, AND SHALL CONTINUE THEREAFTER THROUGH MONDAY, MARCH 28, 2022 AT 6:00 A.M.

Any violation of these Emergency Measure(s) shall subject the violator(s) to arrest and criminal prosecution pursuant to Sections 26-36 and 1-14 of the City Code, or Florida Statutes §252.47 and §252.50.

CITY OF MIAMI BEACH, FLORIDA

DocuSigned by:

Alina Hudak
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Alina I. Hudak, City Manager

Date: 3/23/2022 | 10:43 AM EDT

Time: _____

ATTEST:

DocuSigned by:

Rafael E. Granado
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Rafael E. Granado, City Clerk