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**CITY OF MIAMI BEACH**  
**DECLARATION OF A STATE OF EMERGENCY AND EMERGENCY MEASURES**  
**MARCH, 2023 – DANGEROUS CRIMINAL CONDUCT, PUBLIC DISORDER, AND UNRULY**  
**CROWDS**  
**(E.O. NO. 2023-02)**

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**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 / March high impact 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 March 2021, similar unruly crowd control issues during the month of March resulted in the imposition of emergency measures, including an 8:00 pm. curfew in the area between 5<sup>th</sup> Street and 16<sup>th</sup> 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**, in March 2022, the City also experienced massive crowds and several shootings in a concentrated tourist area over a period of a few days, resulting in the declaration of a state of emergency and imposition of a weekend curfew for the last weekend of March, 2022; and

**WHEREAS**, many of the visitors to the City during March are under the influence of alcoholic beverages and have demonstrated a blatant disregard for the rule of law; and

**WHEREAS**, in March 2023, there have been multiple fights, shootings, and various other incidents and police calls for service—for example, for the period between February 27, 2023 and March 18, 2023, there have been four (4) aggravated assault arrests, three (3) aggravated battery arrests, seven (7) robbery arrests, twenty (20) arrests for carrying a concealed firearm, thirty-seven (37) felony drug arrests, twelve (12) arrests for battery on a law enforcement officer, and eighty-two (82) arrests for other felonies; and

**WHEREAS**, such incidents include two (2) shootings that occurred the weekend of

March 17<sup>th</sup>, which resulted in two (2) fatalities and injuries to others, and which also created stampedes that caused injuries to several people, including two (2) volunteer goodwill ambassadors, and all of which pose a danger to public safety and order in the public streets and rights-of-way; and

**WHEREAS**, the first deadly shooting, on March 17, 2023, occurred at approximately 10:45 p.m. on Ocean Drive near 7th Street, while police officers had been stationed half a block away at the 100 block of 7th Street, meaning that there was a police presence approximately 75–100 feet away from the shooting when it occurred; and

**WHEREAS**, the second deadly shooting, on March 19, 2023, occurred at approximately 3:00 a.m. on Ocean Drive near 11th Street, while police officers had been stationed nearby at the 100 block of 11th Street, meaning that there was a police presence approximately 100 feet away from the shooting when it occurred; and

**WHEREAS**, in response to each of the two (2) deadly shootings, officers were able to arrive on the scene within a matter of seconds, but nevertheless were unable to prevent the shootings; and

**WHEREAS**, if each of the shootings had occurred only moments earlier or later, police officers in the area could have been caught in cross-fire; and

**WHEREAS**, despite the vast and highly-visible police officer presence in the City, criminals and their illegal behavior continue undeterred; and

**WHEREAS**, the City's police officers have been faced with unruly crowds and dangerous situations, and have been working additional shifts and foregoing some of their days off during the pendency of Spring Break; and

**WHEREAS**, the Police Department and its law enforcement partners have impounded over seventy (70) firearms from February 27, 2023 – March 19, 2023; and

**WHEREAS**, in response to the illegal and unruly behavior exhibited by these large crowds during March 2023, and in order to provide for the health and safety of persons and property, the City deployed hundreds of law enforcement officers this past weekend, which included the assistance of police officers from various law enforcement agencies—including twenty-five (25) officers from the Miami-Dade Police Department's Priority Response Team, twenty (20) officers from the Miami-Dade School Board, six (6) officers from the Coral Gables Police Department, two (2) mounted patrols from the City of Miami Police Department, and four (4) agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF")—in an attempt to control the unruly crowds and maintain law and order in the City; and

**WHEREAS**, the City's Police Department and its law enforcement partners have effectuated 322 arrests from February 27, 2023 to March 19, 2023; and

**WHEREAS**, the overwhelming majority of these incidents and arrests have taken place in the area bounded by 23<sup>rd</sup> 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 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**, the City of Miami Beach Fraternal Order of Police's President, Robert Hernandez, has requested emergency relief for officer safety purposes; and

**WHEREAS**, comparing the time period of February 27, 2023 through March 19, 2023, to last year's equivalent time period of February 28, 2022 through March 20, 2022, felonies have increased by 27% this year, and homicides have increased by 200%; 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 (11<sup>th</sup> 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**, based on similar threats to the health, safety and welfare of the City of Miami Beach, a Circuit Court upheld the City's March, 2022 emergency measures, which imposed the same curfew over the same geographic area as the measures herein, and denied several establishments' motion to enjoin the enforcement of the March, 2022 emergency measures, finding that "the emergency curfew promotes a compelling governmental interest (the health and safety of Miami Beach residents and visitors), is narrowly tailored to advance that interest, and accomplishes its goal through the use of the least intrusive means;" and

**WHEREAS**, based on the foregoing and related circumstances, on March 19, 2023, Executive Order No. 2023-01 ("E.O. 2023-01") was entered, declaring a state of emergency and imposing emergency measures, including those measures prescribed below, but for the effective time from 1:00 P.M. on Sunday, March 19, 2023, continuing in full force and effect until Monday, March 20, 2023 at 6:00 A.M.; and

**WHEREAS**, E.O. 2023-01 advised that a separate Declaration and Emergency

Measures would be implemented from the period from Thursday, March 23, 2023 to Monday, March 27, 2023 (following action by the Mayor and City Commission); and

**WHEREAS**, the City reasonably anticipates that increased crowds and attendant chaos and criminal activity may continue or even increase based upon the recess schedules of colleges and universities, as well as high schools, and in light of the forthcoming Miami Music Week attractions;

**WHEREAS**, the sale and distribution of alcoholic beverages for off-premises consumption fuels the reckless and illegal behavior exhibited by the 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**, pursuant to Section 26-31 of the City Code, if the City Manager determines that there is reason to believe that there exists a clear and present danger of 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 continues to exist 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

**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, except that an emergency order may be extended by a majority vote of the governing body of

the political subdivision, as necessary, in 7-day increments for a total duration of not more than 42 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 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.

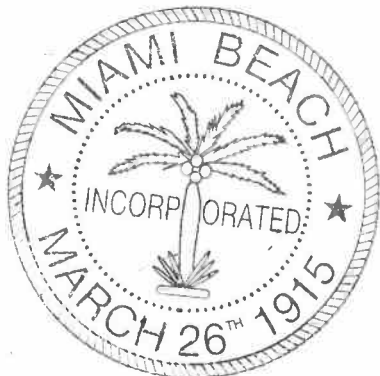
**Accordingly, I hereby declare a State of Emergency in the City, pursuant to Sections 26-31 through 26-36 of the City Code and Chapter 252 of the Florida Statutes, and order the following emergency measures, which are narrowly tailored, reasonable in duration, applicability and scope, and necessarily implemented in response to this declared State of Emergency, and shall be effective on March 23, 2023, and shall continue in full force and effect until Monday, March 27, 2023 at 6:00 a.m., as extended by the Mayor and City Commission at its March 20, 2023 Special Commission Meeting.**

- The sale or distribution of any alcoholic beverage(s) for off-premises consumption, with or without payment or consideration therefor, shall be prohibited in 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 after 6:00 p.m. on Thursday (March 23rd), Friday (March 24th), Saturday (March 25th), and Sunday (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 by any court of competent jurisdiction, then said ruling shall in no way affect the validity of the remaining portions of these Emergency Measures.

**THE EMERGENCY MEASURE(S) SET FORTH HEREIN SHALL BE EFFECTIVE ON MARCH 23, 2023, AND SHALL CONTINUE THEREAFTER UNTIL MONDAY, MARCH 27, 2023 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

*Alina T. Hudak*  
Alina T. Hudak, City Manager

Date: 3/22/23

Time: 10:45 am

ATTEST:

*Rafael E. Granado*  
For Rafael E. Granado, City Clerk