

**CITY OF COCOA BEACH, FLORIDA
DECLARATION OF EMERGENCY PROCLAMATION**

A PROCLAMATION OF THE CITY OF COCOA BEACH, FLORIDA, DECLARING A STATE OF EMERGENCY DUE TO THE THREAT OF COVID-19; MAKING FINDINGS OF FACT; PROVIDING THE CITY WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND CITY CODE CHAPTER 8.5, "EMERGENCY MANAGEMENT"; GRANTING THE CITY MANAGER CERTAIN POWERS; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE, A TERMINATION DATE, AND PROCEDURES FOR EXTENSIONS

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and other potential methods, and presents symptoms similar to those of influenza with the elderly and persons with underlying medical issues particularly at risk; and

WHEREAS, in December of 2019, a new and substantial outbreak of COVID-19 emerged in Wuhan, China, and has since spread rapidly to 117 countries and territories throughout the World, including the United States, and more specifically to the State of Florida; and

WHEREAS, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and

WHEREAS, according to the WHO, as of March 14, 2020, there are 142,539 confirmed cases of COVID-19 globally, and 5,393 deaths, with 9,769 new cases and 438 new deaths, and 12 new countries reporting cases of COVID-19, in the preceding 24 hours; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) is predicting that it is likely that widespread transmission of COVID-19 will also occur in the United States; and

WHEREAS, no vaccine or drug is currently available to cure or combat COVID-19; and

WHEREAS, as of March 16, 2020, 142 residents in the State of Florida have tested positive for COVID-19, with 39 new Florida cases reported on March 15, 2020, reporting on with an unknown number of persons awaiting testing or awaiting test results; and

WHEREAS, the City of Cocoa Beach is threatened by COVID-19 because of the apparent ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the citizens and visitors of the City of Cocoa Beach; and

WHEREAS, the CDC has issued guidelines for "community mitigation strategies" to limit the spread of COVID-19, including recommendations for social distancing, which has proven to be an effective method for containing COVID-19; and

WHEREAS, on March 9, 2020, Governor Desantis issued Executive Order Number 20-52 regarding COVID-19, declaring a state of emergency in the State of Florida, and authorizing in accordance with Section 252.38, Florida Statutes, each political subdivision within the State to "waive the procedures and formalities otherwise required of the political subdivision 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;" and

WHEREAS, in view of these recent events there is the potential for health risk to the residents of the City of Cocoa Beach, city employees and elected officials; and

WHEREAS, the City of Cocoa Beach City Commission desires to take timely precautions to protect the public and city employees from the potential effects of COVID-19; and

WHEREAS, this Declaration of Emergency is not pursuant to the provision of Florida Statutes, Section 252.38 (3)(a)(5) since this is not "an emergency affecting only one political subdivision," and therefore is not subject to the state statutory seven day limit of duration; and

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WHEREAS, pursuant to Section 22-36 of the Code of Ordinances of the City of Cocoa Beach, Florida, certain emergency measures may be implemented as follows:

Sec. 8.5-4. - Same—Authority of designated official.

Upon the declaration of a state of emergency pursuant to this chapter, the person issuing the proclamation when a quorum of the city commission is unable to meet shall have the authority and power to take such action to protect the health, safety, and welfare of the community including the following which shall have the force of municipal law during this emergency including the following:

- (1) Establish curfews, including, but not limited to, the prohibition of or restrictions on pedestrian and vehicular movement, standing and parking, except for the provisions of designated essential services, such as fire, police, emergency medical services (including the transportation of patients and emergency calls by physicians or other approved medical personnel), and public works services (including utility emergency repairs).
- (2) Utilize all available resources of the city government as reasonably necessary to cope with the disaster emergency, including emergency expenditures not to exceed \$100,000 per item (currently the city code specifies \$50,000).
- (3) Declare certain areas of the city off limits and closed to all nonessential personnel.
- (4) Make provisions for the availability and use of temporary emergency housing and the emergency warehousing of materials.
- (5) Establish an emergency operating center and employee shelter in addition to or in place of those provided for in the Brevard County's emergency plan.
- (6) Declare that during an emergency it shall be unlawful for any person, firm or corporation operating within the city to charge more than the normal, average retail price for any merchandise, goods, or services sold during the emergency. The average retail price as used herein is defined to be that price at which similar merchandise, goods or services were being sold during the ninety (90) days immediately preceding the emergency or a markup which is not a larger percentage over wholesale cost than was being added to wholesale cost before the emergency.
- (7) Confiscate merchandise, equipment, vehicles, or property needed to alleviate the emergency. Reimbursement shall be within sixty (60) days and at customary value charged for the items during the ninety (90) days previous to the emergency.
- (8) In cooperation with Brevard County Emergency Management and on behalf of the city, call on the National Guard of the Army, Coast Guard or other law enforcement divisions as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
- (9) Shall be able to activate the statewide mutual aid system.

NOW, THEREFORE, be it resolved by the City Commission of the City of Cocoa Beach as follows:

SECTION 1. Findings of Fact.

The Whereas clauses set forth above are hereby adopted as findings of fact and are a part of this Proclamation.

SECTION 2. Emergency Management – Chapter 8.5, Cocoa Beach City Code.

1. The City Commission of the City of Cocoa Beach, Florida, in accordance with its home rule powers, the powers vested in it pursuant to Chapter 252, Florida Statutes, and the powers vested in it by Chapter 8.5, Emergency Management, of the Cocoa Beach City Code, does hereby proclaim the existence of a State of Emergency in the City of Cocoa Beach, Florida due to the threat of COVID-19.
2. The City Commission designates the City Manager, or designee in his absence, to take actions to protect the community, while under the State of Emergency. The City Manager, or designee in his absence, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Florida Statutes and the Cocoa Beach City Code. This Proclamation further authorizes the City Manager, or designee in his absence, to utilize all lawful authority granted to the City of Cocoa Beach by Federal, State, County, or City Emergency Management Laws, Rules, Regulations, or Orders.

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3. All existing laws, ordinances, and rules inconsistent with any rule or order specifically promulgated under this Proclamation shall be suspended during this period of time and to the extent that such conflict exists.
4. The City Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the City of Cocoa Beach Code of Ordinances, to the extent necessary to accommodate the emergency.
5. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the City hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:
 - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - Entering into contracts;
 - Incurring obligations;
 - Employment of permanent and temporary workers;
 - Utilization of volunteer workers;
 - Rental of equipment;
 - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
 - Appropriation and expenditure of public funds
6. If deemed appropriate by the City Manager, and in consultation with the Mayor and Public Safety officials, is authorized during this State of Emergency to:
 - (1) Establish curfews, including, but not limited to, the prohibition of or restrictions on pedestrian and vehicular movement, standing and parking, except for the provisions of designated essential services, such as fire, police, emergency medical services (including the transportation of patients and emergency calls by physicians or other approved medical personnel), and public works services (including utility emergency repairs).
 - (2) Utilize all available resources of the city government as reasonably necessary to cope with the disaster emergency, including emergency expenditures not to exceed one hundred thousand dollars (\$100,000) per item.
 - (3) Declare certain areas of the city off limits and closed to all nonessential personnel.
 - (4) Make provisions for the availability and use of temporary emergency housing and the emergency warehousing of materials.
 - (5) Establish an emergency operating center and employee shelter in addition to or in place of those provided for in the Brevard County's emergency plan.
 - (6) Declare that during an emergency it shall be unlawful for any person, firm or corporation operating within the city to charge more than the normal, average retail price for any merchandise, goods, or services sold during the emergency. The average retail price as used herein is defined to be that price at which similar merchandise, goods or services were being sold during the ninety (90) days immediately preceding the emergency or a markup which is not a larger percentage over wholesale cost than was being added to wholesale cost before the emergency.
 - (7) Confiscate merchandise, equipment, vehicles, or property needed to alleviate the emergency. Reimbursement shall be within sixty (60) days and at customary value charged for the items during the ninety (90) days previous to the emergency.
 - (8) In cooperation with Brevard County Emergency Management and on behalf of the city, call on the National Guard of the Army, Coast Guard or other law enforcement divisions as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.
 - (9) Activate the statewide mutual aid system.
 - (10) Prohibit the sale or distribution of any alcoholic beverage, with or without the payment or a consideration therefore.
 - (11) Prohibit possession by any person in a public place and ocean beach park of any portable container containing any alcoholic beverage.
 - (12) Close places of public assembly including, but not limited to the Ocean Beach Park, or portions thereof, with designated exceptions, if any.

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- (13) Close, limit occupancy, or impose restrictions on, any commercial establishment(s), or types of commercial establishment(s), to limit the spread of Covid-19.
- (14) Take any and all actions necessary or appropriate to comply with any and all directives of the federal or state government for the protection of the citizens of and visitors to the City of Cocoa Beach.

SECTION 3. Penalties for Violations.

Any person violating any rule or order issued pursuant to this Proclamation or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefor, be punished as provided by Section 8.5-6 of the Code of the City of Cocoa Beach. Each day of continued non-compliance or violation shall constitute a separate offense. In addition, any business in the city found guilty of violating any provision of this Proclamation or the emergency measures which may be made effective pursuant to this Proclamation may be subject to an action for the suspension or revocation of its right to operate in the city by the City Commission. Nothing contained in this section shall prevent the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with or violation of this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to an equitable action for injunctive relief or any action at law for damage.

SECTION 4. Conflicts.

Any and all Proclamations or parts of Proclamations in conflict herewith are hereby repealed.

SECTION 5. Severability.

If any provision or portion of this Proclamation or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Proclamation, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Proclamation are declared severable.

SECTION 6. Direction to Implement.

The City Commission directs the City Manager to implement this Proclamation.

SECTION 7. Effective Date.

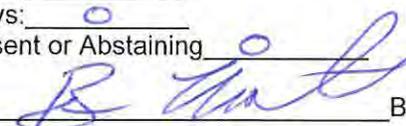
This Proclamation shall become in full force and effect upon adoption, and shall continue for a period of sixty (60) days unless extended by the City Manager if, in his reasonable discretion, the extension is appropriate considering information obtained from the state and federal government. If extended, a notice of extension will be posted on the city's website, will be posted on the front door of City Hall, and will be emailed to any person or entity that has requested in writing such notice.

This Proclamation was duly adopted at an Emergency Special Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 17 day of March, 2020.

Ayes: 5

Nays: 0

Absent or Abstaining


Ben Malik, Mayor-Commissioner

ATTEST:


Loredana Kalaghchy, MMC, City Clerk