

EMERGENCY PROCLAMATION 20-08

AN EMERGENCY PROCLAMATION BY THE MAYOR OF THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA, AUTHORIZING THE CITY MANAGER TO ARRANGE FOR PUBLIC MEETINGS BY USE OF COMMUNICATION MEDIA TECHNOLOGY AND FOR ATTENDANCE BY USE OF SUCH TECHNOLOGY BY ELECTED OFFICIALS FROM CITY HALL AND BY APPOINTED OFFICIALS DURING THE DECLARED COVID-19 PUBLIC HEALTH EMERGENCY.

WHEREAS, the Novel Coronavirus Disease 2019 (COVID-19) is a contagious disease that has the ability to spread rapidly among humans and may result in serious illness or death, and which constitutes a clear and present threat to the lives, health, welfare, and safety of the people of Pompano Beach; and

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued Executive Order 20-51 directing the Florida Department of Health to issue a Public Health Emergency; and

WHEREAS, on March 1, 2020, the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

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

WHEREAS, on March 4, 2020, the City of Pompano Beach had already taken similar action to declare a local State of Emergency due to COVID-19; and

WHEREAS, Governor DeSantis' Executive Orders 20-51 and 20-52 also contain a recommendation to limit public gatherings; and

WHEREAS, to date, Governor DeSantis has issued fifty two (52) Executive Orders providing direction to local governments and citizens throughout the State of Florida, necessitated by the COVID-19 virus; and

WHEREAS, on November 2, 2020, a Declaration of Emergency was entered by Broward County, Florida, declaring a local state of emergency exists in Broward County due to the COVID-19 virus. Said declaration became effective on November 3, 2020 at 9:00 a.m.; and

WHEREAS, on November 3, 2020, Governor DeSantis entered Executive Order 20-276 to extend his issued State of Emergency for 60 days; and

WHEREAS, Florida Law, including Florida Statutes §§ 286.011 and 166.041, requires that meetings of elected and appointed officials, for the conduct of public business, must be held

following procedures (notice, access to meetings, opportunity to be heard, the taking of minutes) that ensure that the public is able to participate in and be aware of the decision making process (the “Sunshine Law”); and

WHEREAS, public meetings have traditionally been conducted in spaces with people in close proximity with each other and in groups varying in size, but generally much larger than ten people; and

WHEREAS, due to the apparent ability to spread rapidly among humans, during this declared State of Emergency, the traditional public meeting, including compliance with the physical quorum and public attendance requirements of the Sunshine Law, may unnecessarily expose the residents of Pompano Beach, the City’s elected officials, appointed board members, employees, and first responders to COVID-19; and

WHEREAS, the Governor’s Executive Order 20-52 acknowledges that special duties and responsibilities placed on state, regional and local agencies in responding to the emergency may require them to suspend the application of the statutes, rules, ordinances and orders they administer; and

WHEREAS, specifically, Section 4(D) of Executive Order 20-52 provides for political subdivisions within the State to “waive the procedures and formalities otherwise required . . . by law pertaining to:

- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community;
- 2) Entering into contracts . . .;
- 3) Incurring obligations;
- 4) Employment of permanent and temporary workers;
- 5) Utilization of volunteer workers;
- 6) Rental of equipment;
- 7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities; and
- 8) Appropriation and expenditure of public funds.”; and

WHEREAS, therefore, Executive Order 20-52 authorizes the City to take prudent action to ensure the health, safety, and welfare of the community, which necessarily includes holding virtual public meetings; and

WHEREAS, on September 4, 2020, Governor DeSantis signed Executive Order 20-213, which extended Order 20-52 through November 3, 2020; and

WHEREAS, Governor DeSantis recognized this action was necessary as, on March 20, 2020, he rendered Executive Order 20-69, suspending the physical quorum requirement for local government public meetings; and

WHEREAS, Governor DeSantis has extended Executive Order 20-69 several times with the last extension taking place on September 30, 2020, Executive Order 20-246, allowing public meetings to continue virtually through November 1, 2020; and

WHEREAS, Chapter 252, Florida Statutes, among other things, confers upon the City emergency powers provided for throughout Chapter 252 in order to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state; and to “make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31 - 252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division.” Section 252.46(1), Florida Statutes; and

WHEREAS, COVID-19 threatens the public health, safety, welfare and security of the citizens, residents and visitors of the City of Pompano Beach, Florida; and

WHEREAS, as of November 2, 2020, the Florida Department of Health reports a total number of Florida resident COVID-19 cases of 801,371 statewide with 16,834 deaths in Florida and 86,652 cases and 1,531 deaths in Broward County with said numbers currently increasing; and

WHEREAS, due to the continued danger from the COVID-19 virus, Pompano Beach City Hall continues to be closed to the public; and

WHEREAS, the opening of City Hall in the nearby City of Fort Lauderdale has recently resulted in the infection of the virus by multiple city personnel; and

WHEREAS, on October 29, 2020, due to the continued rising number of COVID-19 infections statewide and in Broward County, the City’s Medical Director, Dr. Michael Farrell, M.D. advised the City Manager it was his medical opinion to continue to limit opening and to not yet return to pre-COVID-19 government operations. Thus, based upon all factors including said medical advice, City Hall will for now remain closed to the public for most purposes including meetings of the City Commission, Boards and Committees.

WHEREAS, I find there is a clear and present danger in holding a public “in person” meeting for those attending and those who come in contact with those attending; and

WHEREAS, the current outbreak of COVID-19 has made the City Commission acutely aware that provisions must be made to ensure that the business of municipal governance can occur without unnecessarily exposing public officials, City personnel or members of the public to a risk of infection while ensuring public access and open government; and

WHEREAS, the technology exists to conduct public meetings using technology in which the City can comply with the provisions of the Sunshine Law while protecting human life; and

WHEREAS, since Executive Order 20-69 was rendered by the Governor, the City Commission as well as various City Boards and Committees have engaged in virtual public meetings, which have been live broadcast over television and the internet; and

WHEREAS, the City Commission's virtual public meetings provide for the public to comment live over the phone or via email; and

WHEREAS, the technology and methods to hold virtual public meetings by the City provides broader access to the general public to watch, listen to, or comment on public business; and

WHEREAS, the City is unaware of any person that has been unable to view or participate in any virtual meeting held to date; and

WHEREAS, the Mayor and the City Commission also possess broad home rule powers that authorize them to protect the public health, safety, and welfare, declare emergencies, and protect its citizens; and

WHEREAS, no statute, City Charter provision, or City ordinance provides that the City Commission must physically be present in the same room to hold a City Commission meeting; and

WHEREAS, the City's Charter does not prohibit attendance at the meeting of City Commissioners by electronic media and the City Commission finds that its attendance requirement for the purpose of establishing a quorum, participating and voting can be satisfied by physical or CMT attendance; and

WHEREAS, the Governor's Executive Order 20-246, regarding virtual meetings and use of technology expired on November 1, 2020, and

WHEREAS, I, as Mayor of the City of Pompano Beach, find that it is in the best interests of the City Commission, Boards, Committees, City personnel, and citizens and residents of the City to authorize the City Manager to provide for the City Commission and members of all Boards and Committees to be able to attend meetings electronically during this declared public health emergency; now, therefore,

BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. Pursuant to § 252.46 F.S. and Chapter 94 of the Pompano Beach Code of Ordinances, I declare that the state of emergency from the COVID-19 virus declared on March 4, 2020 continues to exist throughout the entire City of Pompano Beach.

SECTION 2. Pursuant to the City's Charter and Code of Ordinances, the home rule authority of the City Commission afforded by Article VIII, Section 2 of the Florida Constitution, and by § 166.021, Florida Statutes, Chapter 252, Florida Statutes, Section 4D of Governor DeSantis' Executive Order 20-52, and based upon the findings set forth in the above-stated recitals, the City Manager is hereby authorized, during this declared public health emergency due to COVID-19 virus, to arrange for the City Commission, Community Redevelopment Agency ("CRA"), and all Boards and Committees to meet electronically. Such meetings shall be planned and conducted in consultation with the City Attorney's Office to ensure, to the extent practicable, substantial compliance with § 286.001, Florida Statutes, "Florida's Sunshine Law," and shall provide for remote electronic access and participation by the public to the fullest extent possible.

SECTION 3. For all meetings of the City Commission, a quorum of Commissioners shall be present at City Hall and for all meetings of the City's CRA, a quorum of CRA Board members shall be present at City Hall, to conduct such meetings. The Mayor and City Commissioners and CRA Board Members shall each conduct such meetings from their offices adjacent to one another on the 4th Floor of City Hall and participate live by electronic means.

SECTION 4. The provision of this Emergency Proclamation shall take effect immediately and shall remain in full force and effect until terminated.

SECTION 5. This Proclamation is effective at 3:30 a.m. (p.m.) on Wednesday, November 4th 2020.

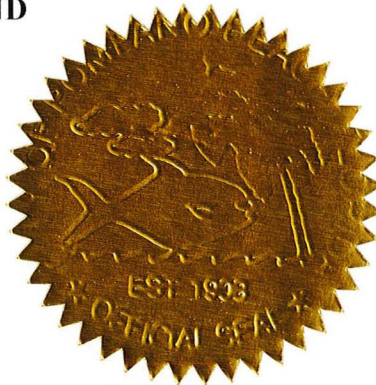
PROCLAIMED at 1550 hours this the 5th day of November 2020.



REX HARDIN



ASCELETA HAMMOND



MEB:jrm
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