Mayor
WILLIAM CAPOTE

Deputy Mayor
KENNY JOHNSON

Councilmembers
HARRY SANTIAGO, JR.
JEFF BAILEY
BRIAN ANDERSON

120 Malabar Road, SE - Palm Bay, FL 32907
(321-952-3400)
www.palmbayflorida.org

AGENDA

SPECIAL COUNCIL MEETING 2020-09

WEDNESDAY

April 1, 2020 – 6:00 P.M.

City Hall Council Chambers

CALL TO ORDER:

ROLL CALL:

PUBLIC COMMENTS:

BUSINESS:

1. Resolution 2020-10, amending Resolution 2020-09, extending the State of Local Emergency as declared by Legislative Order D-2020-01.

ADJOURNMENT:

If an individual decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required, and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (Section 286.0105, Florida Statutes). Such person must provide a method for recording the proceedings verbatim.

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE

RESOLUTION 2020-10

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING RESOLUTION 2020-09, EXTENDING THE STATE OF LOCAL EMERGENCY DECLARED BY LEGISLATIVE ORDER D-2020-01; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, during the past weeks, a severe acute respiratory illness known as Coronavirus Disease 2019 (COVID-19) has 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, Governor Ron Desantis declared that a state of emergency existed within the State of Florida and issued Executive Order Number 20-52 on March 9, 2020, and

WHEREAS, Mayor Capote declared a State of Local Emergency and issued Legislative Order No. D-2020-01 on March 19, 2020, and

WHEREAS, City Council approved an extension to the State of Local Emergency on March 25, 2020, via Resolution 2020-09, and

WHEREAS, the City's State of Local Emergency terminates at the end of a period of seven (7) consecutive days (April 2, 2020) unless prior to the end of the time frame, the City Council extends or terminates same by resolution, and

WHEREAS, the City Manager has certified that the emergency continues to exist.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The State of Local Emergency, declared by Legislative Order No. D-2020-01, is hereby extended by seven (7) days (April 9, 2020).

SECTION 2. All provisions contained within Legislative Order No. D-2020-01 shall remain in full force and effect.

SECTION 3. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting No. 2020- , of the City Council of the City of Palm Bay, Brevard County, Florida, held on , 2020.

_____
William Capote, MAYOR

ATTEST:

_____
Terese M. Jones, CITY CLERK

CITY OF PALM BAY, FLORIDA

OFFICE OF THE MAYOR

STATE OF LOCAL EMERGENCY – DECLARATION
Florida Statutes – Chapter 252
Legislative Order No. D-2020-01

WHEREAS, the City of Palm Bay, Brevard County, Florida, recognizes the danger to the residents of Palm Bay from manmade, natural, and technological emergencies or disasters, and

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, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic, 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, the City of Palm Bay 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 of the City of Palm Bay, 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, Chapter 252, Florida Statutes, provides authority for the city to declare a State of Local Emergency and provide emergency regulations relating to the emergency, and

WHEREAS, the City Manager has certified that an emergency or disaster exists.

NOW, THEREFORE, I, William Capote by virtue of the authority vested in me as Mayor of the City of Palm Bay, and by virtue of the City of Palm Bay Code of Ordinances, Article V, Legislative, Chapter 53, and Florida Statutes, Chapter 252, and all other applicable laws, do hereby promulgate the following Legislative Order:

SECTION 1. **DECLARATION OF STATE OF LOCAL EMERGENCY.** A State of Local Emergency is hereby declared for all the territory within the legal boundaries of the City of Palm Bay, Brevard County, Florida, as a result of the Novel Coronavirus Disease (COVID-19), which poses a serious threat to the health and lives of the residents of the

City. The State of Florida, Office of the Governor, Executive Order Number 20-52, and Brevard County Emergency Order COVID-19 #1, are hereby acknowledged as in full force and effect.

SECTION 2. **ACTIVATION OF EMERGENCY MANAGEMENT PLAN.** The City of Palm Bay's Comprehensive Emergency Management Plan is hereby activated, and such Plan shall be the authority for the preparation for, response to, and relief from the localized or widespread emergency or disaster.

SECTION 3. **WAIVER OF PROCEDURES, FORMALITIES OTHERWISE REQUIRED.** Due to the State of Local Emergency, effective immediately, the procedures and formalities required of the City by law or ordinance are hereby waived as they pertain to:

(a) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community;
(b) Entering into contracts;
(c) Incurring obligations;
(d) Employment of permanent and temporary workers;
(e) Utilization of volunteer work;
(f) Rental of equipment;
(g) Acquisition and distribution, with or without compensation, of supplies, materials and facilities;
(h) Appropriation and expenditure of public funds.
(i) Public notice of meetings held by the elected officials, relating to the emergency;
( ) (Additional procedures or formalities applicable to emergency to be added).

SECTION 4. **EMERGENCY REGULATIONS.** The emergency regulations, as identified by the item numbers below and defined in Exhibit A, attached hereto and incorporated herein as an integral part of this Declaration, are necessary and shall be effective during the period of this emergency. The following regulations are not all-inclusive and may be added to as deemed necessary:

None

SECTION 5. **DISASTER ASSISTANCE**. The City Manager is hereby authorized to apply for and receive federal and/or state disaster assistance.

SECTION 6. **PENALTY**. Any person, firm, or corporation who refuses to comply with or violates any section of this Legislative Order shall, upon each conviction, be punished as provided for in Chapter 53 of the City of Palm Bay Code of Ordinances.

SECTION 7. **SEVERABILITY**. If any provision of this order or the application thereof to any person or circumstance is held invalid, it is the intent of the City Council of the City of Palm Bay that such validity shall not affect other provisions or applications of

this Legislative Order which can be given effect without the invalidated provisions or application and to this end, the provisions of this Legislative order are declared severable.

SECTION 8. **ENFORCEMENT.** The emergency personnel, (law enforcement officers, fire prevention, emergency personnel, and code enforcement officers) shall, in conjunction with their duties imposed by state statutes and local ordinance, enforce the provisions of this Order.

SECTION 9. **EFFECTIVE DATE AND DURATION**. This State of Local Emergency shall take effect immediately upon signature by the Mayor and shall remain in effect for a period of seven (7) days, unless extended or terminated by the City Council.

The City Council may extend the state of emergency, as deemed necessary, for additional increments of seven (7) days each.

IN WITNESS HEREOF, I have hereunto set my hand and caused the Seal of the City of Palm Bay, Brevard County, Florida, to be affixed this 19th day of March 2020.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

CERTIFICATION
EXISTANCE OF AN EMERGENCY OR DISASTER

I, Lisa Morrell, City Manager of the City of Palm Bay, Brevard County, Florida, hereby certify that an Emergency or Disaster, as defined in Chapter 53 of the City of Palm Bay Code of Ordinances, exists within the City of Palm Bay as of March 19, 2020; 10:00 AM EST.

Lisa Morrell, CITY MANAGER

EXHIBIT 'A'

Discretionary emergency regulations may consist of, but are not limited to, the following subjects:

(1) CURFEW. There shall be a general curfew prohibiting or restricting pedestrian and vehicular movement, standing and parking, except for the provision of designated essential services such as fire, police, public works, utility emergency repairs and hospital services, including the transportation of patients thereto, and emergency calls by physicians, throughout the city between the hours of _____ and _____, DST. The following personnel are exempt:

(a) Emergency management personnel;

(b) Regular employees of local industries while traveling to and from their jobs provided they have identification from their employer if stopped by any law enforcement personnel

(c) Elected officials of the city, county, and state, while such officials are conducting official city business.

(2) ALCOHOLIC BEVERAGES.

(a) No alcoholic beverages shall be sold or distributed, with or without payment or consideration therefor, in the city.

b) The possession by any person, in a public place, of any container containing any alcoholic beverage is prohibited.

(3) PUBLIC ASSEMBLAGE. The closing of places of public assemblage with designated exceptions.

(4) LIQUID COMBUSTIBLES.

(a) The sale or other transfer or possession, with or without consideration, of gasoline or any other flammable or combustible liquid altogether or except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter, boat, or airplane and necessary for the propulsion thereof, is prohibited.

(b) Possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid is prohibited.

(5) INGRESS AND EGRESS OF EVACUATION ZONES.

(a) The Police Department of the city, its officers and duly designated volunteers shall have sole and exclusive authority to regulate the ingress and egress of persons and vehicles in those zones which are required to be evacuated in a local declaration of a state of emergency, and to designate the terms and conditions of re-entry into such areas upon official declaration that the evacuated zones are safe and secure for re-entry. Elected officials will be exempt from this provision while such officials are conducting official city business. In the exercise of such authority, the Chief of Police, or the Chief's designee, shall consult with all affected local governments.

(b) The city and its governmental agencies including, but not limited to, members of the City Council or its representatives are prohibited from issuing written or verbal orders or directives contrary to the orders or directives of the Chief of Police in regulating the ingress and egress of evacuation zones. The Chief of Police is authorized to delegate the authorities herein granted upon a determination that such delegation of authority is necessary and proper.

(6) OVERCHARGING. It shall be unlawful and an offense against the city 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 mark-up which is a larger percentage over wholesale cost than was being added to wholesale cost prior to the emergency.

(7) OPEN BURNING. The general public is hereby prohibited from conducting any open burning including any campfires, bonfires, trash burning, and other similar open incineration while this order is in effect.

(8) SALE/USE OF FIREWORKS, COMBUSTIBLES. The sale, use, or discharge of the following are prohibited:

1. Fireworks as defined in Florida Statutes, Section 791.01(4)(a); and
2. Sparklers as defined in Florida Statutes, Section 791.01(8).

(9) WATER RESTRICTIONS. It shall be unlawful for any person, firm or corporation to use any fresh water supplied by the city, private well or any other water system for washing automobiles or buildings or watering grass or plants. It shall be lawful to use fresh water only for cooking, drinking or bathing during a State of Emergency.

(10) USE OF AND RATIONING OF FUEL, ICE, AND OTHER ESSENTIALS.