

ORDINANCE NO. 2020-019

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, SPECIFICALLY ADOPTING THE PROVISIONS OF SECTION 8-56 OF THE BROWARD COUNTY CODE OF ORDINANCES AND THE BROWARD COUNTY EMERGENCY ORDERS PROMULGATED THEREUNDER TO ADDRESS THE CITY-WIDE STATE OF EMERGENCY CREATED BY THE COVID-19 PANDEMIC; PROVIDING FOR RATIFICATION; PROVIDING FOR ADOPTION; PROVIDING FOR EMERGENCY MEASURES; PROVIDING FOR DURATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the COVID-19 global pandemic has impacted localities around the world as a respiratory illness caused by a virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the lives, health, welfare, and safety of all humans; and

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency as a result of COVID-19, and on March 9, 2020, and continuously extended thereafter, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency as a result of COVID-19; and

WHEREAS, on March 10, 2020, the Broward County Board of County Commissioners authorized Bertha Henry, County Administrator, to take any appropriate and necessary actions to protect the health and safety of Broward County residents and visitors in connection with COVID-19, and granted other emergency powers including those provided under the state-approved county emergency management plan, wherein Mrs. Henry then declared a county-wide Local State of Emergency for Broward County; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) declared the spread of COVID-19 to be a global pandemic; and

WHEREAS, on March 12, 2020, and continuously extended thereafter, Louis Sarbone, Mayor of the City of Coconut Creek, filed a proclamation with the City Clerk declaring a city-wide state of emergency pursuant to Section 2-25 of the City's Code of Ordinances, entitled "Declaration of city-wide state of emergency," to address the spread of COVID-19 within the City; and

WHEREAS, on March 13, 2020, President Trump declared a national emergency concerning COVID-19; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention ("CDC") recommends implementation of community mitigation strategies to increase containment of the virus; and

WHEREAS, beginning on April 29, 2020, Governor DeSantis issued a series of Executive Orders, including Executive Orders 20-112, 20-120, and 20-123, establishing Phase 1 of a step-by-step plan for Florida's recovery (initially excluding Broward, Miami-Dade, and Palm Beach Counties) and permitting certain additional activities for individuals; and

WHEREAS, on May 14, 2020, Governor DeSantis issued Executive Order 20-122 permitting Broward and Miami-Dade Counties to participate in the Phase 1 reopening; and

WHEREAS, beginning on May 21, 2020 and continuing to date, Ms. Henry has enacted Broward County Emergency Orders, including Emergency Orders 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, and 20-21, which incorporate guidelines and requirements for safe operations for eligible establishments to reopen their businesses, amenities, and to deliver services in a safe manner; and

WHEREAS, given an increase in positive reported cases of COVID-19 within the City, Broward County, and the state as a whole, Broward County and the City of Coconut

Creek now find it necessary to work together to actively enforce the duly adopted safety measures upon those who fail to comply with the established guidelines; and

WHEREAS, pursuant to the authority provided in Sections 8-53 and 8-56 of the Broward County Code of Ordinances, and Section 203 of the City's Charter, as well as Sections 2-226 through 2-239 of the City's Code of Ordinances, Broward County and the City entered into an interlocal agreement, via City Resolution No. 2020-132, to implement and enforce the provisions of the county-wide Emergency Orders issued by Broward County including, but not limited to, Broward County Emergency Order Nos. 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21 and any subsequent duly adopted Broward County Emergency Orders (collectively referred to as "Broward County Emergency Orders," and published on the Broward County government webpage, last viewed at <https://www.broward.org/CoronaVirus/Pages/EmergencyOrders.aspx>, as may be amended and made available to the public); and

WHEREAS, pursuant to Section 2-25 of the City's Code of Ordinances, the Mayor has the authority to establish emergency measures applicable to a then-existing declaration or proclamation of a city-wide state of emergency; and

WHEREAS, the City Commission hereby specifically adopts the provisions of Section 8-56 of the Broward County Code of Ordinances and the Broward County Emergency Orders promulgated thereunder to address the city-wide state of emergency created by the COVID-19 pandemic, and pursuant to the most recent renewal of the Mayor's emergency proclamation dated July 23, 2020, Mayor Sarbone hereby authorizes same as emergency measures enacted pursuant to Section 2-25, City's Code of Ordinances; and

WHEREAS, the City's broad emergency powers and other legal authority for this action are derived from Chapters 162, 166, 252, 381, and 870 of the Florida Statutes, as amended, the City's general Home Rule Power provided under Article VII, Section 2(b) of the Florida Constitution, as amended, Section 201 of the City's Charter, and the City's

Comprehensive Emergency Response Plan (2020); and

WHEREAS, since adoption of the Broward County Emergency Orders contemplate enforcement of penalties and establishment of rules or regulations for violations of which a fine or other penalty may be imposed, Section 310 of the City's Charter requires such action be adopted by ordinance; and

WHEREAS, this ordinance is intended to meet the ever-changing environment created by the COVID-19 pandemic and the corresponding city-wide state of emergency, and not to be a permanent law of the City forevermore, it will not be codified within the City's Code of Ordinances and will expire upon the expiration or earlier termination of the Mayor's Proclamation of the city-wide state of emergency, and any renewals thereof; and

WHEREAS, the City Commission of the City of Coconut Creek finds and determines that this ordinance is in the best interest of the residents and is aimed to ensure the health, safety, and welfare of the community.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance; that the City Commission reaffirms the existence of the city-wide state of emergency created by the COVID-19 global pandemic and its local effects.

Section 2: Adoption. That the City Commission hereby specifically adopts and expressly incorporates Section 8-56, Broward County Code of Ordinances, and the Broward County Emergency Orders promulgated thereunder as if set forth in the City's Code of Ordinances in full, including, but not limited to, Broward County Emergency Order Nos. 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21 and any subsequent Broward County Emergency Orders issued to address the state of emergency; that the City's law enforcement officers and code compliance officers may issue citations for violations of those laws/rules referenced and incorporated herein; that such citations shall be enforced as provided in Sections 2-226 through 2-239, City's Code of Ordinances, for code enforcement cases, and through the county court system for criminal cases; that a fine of One Thousand Dollars (\$1,000.00) per day per violation shall be imposed for any act found to be in violation of the laws/rules referenced and incorporated herein, except that a violation found to be a knowing violation and to be

irreparable or irreversible in nature shall be subject to a fine of up to Fifteen Thousand Dollars (\$15,000.00) per violation; that nothing herein shall limit the City's right to seek injunctive and other equitable relief to ensure compliance with any order made pursuant to this ordinance.

Section 3: Emergency Measures. That the Mayor, in conjunction with the Broward County Administrator, has determined the scope of these emergency measures and future measures of a similar nature, as well as the duration of the City's enforcement efforts provided pursuant to this ordinance and the interlocal agreement for same, is reasonable, supported by a rational basis at minimum, and in no event shall exceed the scope or duration of the applicable emergency declaration(s) and proclamation(s).

Section 4: Duration. That this ordinance will not be codified within the City's Code of Ordinances and will expire upon the expiration of the Mayor's Proclamation of the city-wide state of emergency created by the COVID-19 global pandemic and its local effects, as may be renewed, unless terminated earlier by action of the City Commission.

Section 5: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby temporarily repealed to the extent of such conflict. Any provision(s) within this ordinance or any of the laws/rules that (i) conflict(s) with any state or federal law or constitutional provision, or (ii) conflict(s) with or are superseded by a current or subsequently-issued Executive Order of the Governor or the President of the United States, solely to the extent such Executive Order (a) expressly preempts the substance of this ordinance or the laws/rules adopted herein or (b) imposes stricter closures than set forth herein, shall be deemed inapplicable and deemed to be severed from this ordinance or laws/rules adopted herein, with the remainder intact and in full force and effect; that to the extent application of some or all of the provisions of this ordinance and the laws/rules adopted herein are prohibited on the sovereign land of a federally or state recognized sovereign Indian tribe, such application is expressly excluded from this ordinance and laws/rules adopted herein.

Section 6: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 7: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 23RD DAY OF JULY, 2020.

PASSED SECOND READING THIS 27TH DAY OF AUGUST, 2020.

Louis Sarbone, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>

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7/6/2020