

ORDINANCE NO. 2022-005

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 2, "ADMINISTRATION," ARTICLE II, "CITY COMMISSION," SECTION 2-25, "DECLARATION OF CITY-WIDE STATE OF EMERGENCY," TO PROVIDE A DEFINITION OF PUBLIC HEALTH EMERGENCY, UPDATE NOTICE REQUIREMENTS, CLARIFY AUTHORITY CONSISTENT WITH PRACTICES AND EMERGENCY NEEDS, AND REVISE THE PERMITTED DURATION OF CERTAIN EMERGENCY MEASURES, WHICH LIMIT THE RIGHTS OR LIBERTIES OF INDIVIDUALS OR BUSINESSES WITHIN THE CITY TO SEVEN (7) DAY PERIODS WITH RENEWALS NOT TO EXCEED FORTY-TWO (42) DAYS PURSUANT TO STATE LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City's Code of Ordinances by and through Section 2-25, "Declaration of city-wide state of emergency," currently authorizes the Mayor to declare a city-wide state of emergency by proclamation; and

WHEREAS, safe guarding the life and property of its residents is an innate responsibility of the governing body of each political subdivision of the state; and

WHEREAS, it is essential to implement emergency procedures, guidelines, and measures during times of emergency in order to protect the public health and welfare and ensure order; and

WHEREAS, Chapter 252, Florida Statutes, authorizes emergency powers and responsibilities during man-made, technological, and natural emergencies; and

WHEREAS, Chapter 870, Florida Statutes, authorizes emergency measures and procedures during declarations of state of emergencies due to threats of violence; and

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Words in underscored type are additions to existing text.
A line of *** indicates existing text not shown.

WHEREAS, it is important for the safety of the City’s residents, property owners, and visitors to ensure that the City’s Code of Ordinances authorizes the city officials most directly engaged in emergency management to promptly and efficiently declare a state of emergency and take certain prescribed actions, consistent with state law, once a state of emergency has been declared; and

WHEREAS, the Florida Statutes establish specific renewal requirements and time limitations for declarations of a local state of emergency, which were amended by the state during the 2021 legislative session; and

WHEREAS, the City Commission finds and determines that the safety of all persons and property within the City of Coconut Creek is of paramount importance during a declared city-wide state of emergency and such measures are appropriate.

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.

Section 2: Amendment. That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 2, “Administration,” Article II, “City Commission,” by amending Section 2-25, “Declaration of city-wide state of emergency,” to read as follows:

Sec. 2-25. - Declaration of city-wide state of emergency.

(a) *Definitions.*

- (1) *Enacting authority:* The City Commission, City Manager, or Police Chief or their respective designees, as authorized by state law and this section. The enacting authority for any individual declaration or measure shall be considered the party who most recently issued the emergency declaration or emergency measures.
- (2) *Man-made emergency:* An emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(32) *Natural emergency*: An emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.

(4) *Public health emergency*: Any occurrence, or threat thereof, whether natural or manmade, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters, declared as a public health emergency as declared by the State Health Officer pursuant to Chapter 381, Fla. Stat.

(53) *State of emergency*: A state of emergency occurs when there has been an emergency occurrence, whether a natural, technological, or man-made, public health, or act or threat of violence emergency, which on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, or risk of substantial injury to persons or to property, all of which constitute an imminent threat to the public peace or order and to the general welfare of the area affected or a part thereof.

(64) *Technological emergency*: An emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

(75) *Act or threat of violence emergency*: An emergency due to an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority.

(b) *Declaration of emergency*.

(1) *Due to a natural, technological, or man-made emergency*. The city manager, or designee, jointly with the mayor shall be empowered to declare a local state of emergency within the city due to a natural, technological, or man-made emergency, by proclamation as needed pursuant to ~~F.S. Chapter 252 or Ch. 870~~ Fla. Stat.

(2) *Due to a threat of violence emergency*. The chief of police jointly with the mayor shall be empowered to declare a local state of emergency within the city due to a threat of violence emergency, by proclamation as needed pursuant to ~~F.S. Chapter 252 or Ch. 870~~ Fla. Stat.

(c) *Emergency measures*. After a state of emergency is declared by the county, state or federal government applicable to the City or the city manager or chief of police and Mayor declares a local state of emergency by proclamation pursuant to this section,

(1) The enacting authority who declared the emergency mayor, at their his or her discretion, may concurrently or subsequently set the following emergency measures, as needed:

- a. Delineate mandatory evacuation zones effective immediately; and/or
- b. Set curfews within the city.

- c. ~~Emergency measure(s) authorized pursuant to this section shall remain in effect for the duration of the declared state of emergency, unless repealed earlier by the mayor, or repealed by formal action of the city commission.~~
- (2) Upon declaration of a state of emergency due to a natural, manmade, public health, or technological emergency, the city manager, or designee, jointly with the mayor may implement emergency management powers pursuant to ~~F.S. Ch. Chapter~~ 252, Fla. Stat. as needed during the emergency declaration.
- (3) Based on the declaration of an emergency due to an act or threat of violence, the chief of police jointly with the mayor may order discretionary emergency measures pursuant to ~~F.S. Ch. Chapter~~ 870 Fla. Stat., as needed during the emergency declaration.
- (d) *Notice.*
- (1) The declaration of a local state of emergency ~~by the mayor~~, any applicable extensions, and any emergency measures must be filed with the city clerk, or designee, as promptly as practicable thereafter, but within no more than three (3) days of the issuance and delivered to local news media outlets for publication free of charge over radio and television broadcast.
- (2) In addition if practicable, the mayor's proclamation of a local state of emergency declaration and the emergency measure(s) authorized herein shall be written and published on a dedicated webpage accessible through a conspicuous link on the city's homepage and, if practicable shall be published by other means such as by ~~posting on the city's website and announcement~~ d over loudspeakers or other available platforms.
- (e) *Duration.*
- (1) Declaration of Emergencies.
- a. Natural, manmade or technological emergencies. The duration of a local state of emergency declaration due to a natural, manmade, or technological emergency as provided in Section 2-25 (b)(1) shall be limited to seven (7) days, unless terminated earlier by the enacting authority ~~mayor~~, or repealed by formal action of the city commission. The state of emergency may be extended by the enacting authority ~~mayor~~ in seven (7) day increments.
- b. Threat of violence emergency. A declaration of a state of emergency due to an act or threat of violence, shall commence upon the declaration thereof as provided in Section 2-25 (b)(2) ~~by the mayor~~ and shall terminate at the end of a period of seventy-two (72) consecutive hours thereafter unless terminated by the enacting authority ~~mayor~~ prior to the end of such 72-hour period. The state of emergency may be extended beyond the 72-hour time limit by request from the chief of police and mayor with the concurrence of the city commission by duly enacted resolution in regular or special session, unless the nature of the emergency renders a meeting of the city commission impossible. If it is not possible for the city commission to meet, the chief of police and the mayor ~~and the city manager~~ jointly shall have the authority to extend such 72-hour period, which shall be reviewed and ratified

by the city commission at the first available opportunity to schedule a city commission meeting.

(2) Emergency Measures.

a. Emergency Measures pursuant to a Natural Emergency. All emergency measures issued pursuant to a natural emergency shall remain in effect for the duration of the declared state of emergency, unless repealed earlier by the enacting authority, or repealed by formal action of the city commission.

b. Emergency Measures pursuant to a Manmade, Technological, Public Health, or Threat of Violence Emergency.

1. Not limiting rights or liberties. Emergency measure(s) which are issued pursuant to a manmade, technological, public health, or threat of violence emergency, and which do not limit the rights or liberties of individuals or businesses within the City, shall remain in effect for the duration of the declared state of emergency including any extensions of the state of emergency, unless the emergency measures are repealed earlier by the enacting authority, or repealed by formal action of the city commission.

2. Limiting rights or liberties. Emergency measures which are issued pursuant to a manmade, technological, public health, or threat of violence emergency, and that limit the rights or liberties of individuals or businesses within the City shall be limited to the duration of the declaration of emergency or seven (7) days, whichever is less, unless terminated earlier by the enacting authority, or repealed by formal action of the city commission. These emergency measures may be extended only by a majority vote of the city commission, as necessary, in seven (7) day increments, for a total duration of not more than 42 days. Upon the expiration of such emergency orders, a substantially similar order may not be issued during the relevant state of emergency.

Section 3: 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 repealed to the extent of such conflict.

Section 4: 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 5: Codification. That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 6: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 12TH DAY OF MAY, 2022.

PASSED SECOND READING THIS 26TH DAY OF MAY, 2022.

Attest:

Joshua Rydell, Mayor

Joseph J. Kavanagh, City Clerk

	<u>1st</u>	<u>2nd</u>
Rydell	<u>Nay</u>	<u>Nay</u>
Welch	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>
Brodie	<u>Aye</u>	<u>Aye</u>

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KMM
1/10/2022