



CITY OF AVENTURA
OFFICE OF THE CITY MANAGER

**ORDER AND SUPPLEMENT TO DECLARATION OF
STATE OF EMERGENCY
(Order Number 21)**

PUBLIC MEETINGS THROUGH USE OF COMMUNICATIONS MEDIA TECHNOLOGY

WHEREAS, on March 12, 2020, I, as City Manager of the City of Aventura, promulgated a Declaration of Emergency (the “Declaration”), due to the COVID-19/Coronavirus health emergency within the jurisdictional limits of the City of Aventura (“City”), pursuant to Section 2-404 of the City of Aventura Code of Ordinances; and

WHEREAS, Section 2-404 of the City’s Code of Ordinances authorizes the City Manager, to adopt emergency orders which may include, but are not limited to, curfews, declaration of certain areas being off limits, and other matters related to the Declaration; and

WHEREAS, on March 20, 2020, the Governor of the State of Florida issued Executive Order 2020-69, which suspended, during the COVID-19 public health emergency, an interpretation of Section 286.011, Florida Statutes, (the “Sunshine Law”) and Chapter 166, Florida Statutes (the “Municipal Home Rule Powers Act”) by the Florida Attorney General (set forth in advisory opinions) suggesting that in order to comply with the Sunshine Law, an *in-person, physical* quorum must be present for local government bodies to conduct business, and acknowledged that local governments may utilize communications media technology such as telephonic and video conferencing (“CMT”) to conduct business; and

WHEREAS, in its advisory opinions, the Florida Attorney General has relied upon language in the Sunshine law declaring all “meetings” of a municipality to be “public meetings open to the public at all times,” and language in the Municipal Home Rule Powers Act providing for the requisite vote of a “*quorum present*” to adopt an ordinance or resolution; and

WHEREAS, even if Florida law were to require an *in-person, physical* quorum for local government bodies to conduct business (which it does not), the Florida Attorney General has recently acknowledged, (as set forth in Fla. AGO 2020-03) that local governments can meet without a quorum *physically present* if “the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency.” To that end, Chapter 252, Florida Statutes, and the Municipal Home Rules Powers Act, among other authorities, provide a basis for the City, in its discretion, to lawfully suspend any *in-person, physical* quorum requirement and to achieve a quorum through virtual attendance; and

WHEREAS, since the issuance of the Declaration, and issuance of Executive Order 2020-69, the City Commission has been conducting virtual meetings utilizing CMT in an effective, safe and secure manner, without unnecessarily exposing either City personnel or members of the public to an increased

risk of infection from COVID-19, while ensuring public access and open government in compliance with the Sunshine Law; and

WHEREAS, the virtual meetings conducted by the City Commission have expanded the ability of the public to participate in, and be aware of, the decision making process of the City to an extent that has not been otherwise possible if the City conducted in-person meetings following the social distancing guidance (and other measures to limit the risk of COVID-19 exposure) issued by the Centers for Disease Control (“CDC”); and

WHEREAS, due to the fact that Executive Order 2020-69 expired on November 1, 2020, and in order to protect the health, safety, and welfare of the City officials, employees, residents, contractors, and other members of the public, by taking action to mitigate the spread of COVID-19 (which the City deems to be an “extraordinary circumstance”), the City wishes to continue to hold all meetings of the City Commission, and any other City Board or Committee meetings virtually, and conduct City business utilizing CMT (without an *in-person physical* quorum) during the City declared COVID-19 public health emergency, as provided in the Declaration; and

WHEREAS, this Emergency Order is issued pursuant to the Home Rule powers of the City (Article VIII, Section 2(b), Florida Constitution and Chapter 166, Florida Statutes), Chapter 252, Florida Statutes, and any and all other applicable statutes, the City Charter, and the City’s Code of Ordinances.

THEREFORE, as City Manager for the City of Aventura, Florida, and pursuant to the authority vested in me under Section 2-404 of the City of Aventura Code of Ordinances (the “City Code”), as well as that certain City of Aventura Declaration of State of Emergency, dated March 12, 2020, I hereby ORDER and PROMULGATE the following additional emergency measures:

Section 1. Declaration Supplemented.

In accordance with City Code Section 2-404, and Chapter 252, Florida Statutes, the Declaration of the State of Emergency within the City of Aventura, dated March 12, 2020, is hereby re-affirmed, and remains in full force and effect, and is further supplemented pursuant to this Order, as provided herein:

Section 2. Findings.

The detailed findings contained in the above WHEREAS clauses are hereby incorporated herein by reference.

Section 3. Authorized Use of Communications Media Technology for City Commission and City Board and Committee Meetings

(A) Based upon the authority as stated herein, the City Commission, and all City Boards and Committees shall continue to conduct business at and through virtual meetings, utilizing CMT in accordance with the rules of procedure promulgated by the City, during the City-declared COVID-19 public health emergency. Even if Florida law were to require an *in-person, physical* quorum be present to conduct business (which it does not), or were to require that the City Commission, or any other City Board or Committee meet at a specific public place (which it does not), such requirements are hereby suspended.

(B) This Emergency Order is issued pursuant to the Home Rule powers of the City (Article VIII, Section 2(b), Florida Constitution and Chapter 166, Florida Statutes), Chapter 252, Florida Statutes, and any and all other applicable statutes, the City Charter, and the City's Code of Ordinances.

Section 4. Effective Date.

This Order and Supplement to Declaration shall be effective as of November 9, 2020, and may be further supplemented from time to time in accordance with Article VIII of Chapter 2 of the City Code. This document shall be posted and distributed as provided by City Code Section 2-404(f).

Executed this 9th day of November, 2020.

By: 

Ronald J. Wasson, City Manager
City of Aventura, Florida

Copy: Mayor and Commissioners, City Clerk, Police Chief, City Attorney, Department Directors