

**EMERGENCY ORDINANCE NO. 20-22
CITY OF WINTER GARDEN**

**THIS EMERGENCY ORDINANCE SHALL ONLY
APPLY TO SPECIAL EVENTS AND CITY PROGRAMS**

AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, DECLARING A STATE OF EMERGENCY WITHIN THE CITY OF WINTER GARDEN IN ACCORDANCE WITH THE DECLARATION OF EMERGENCY BY THE GOVERNOR; ADOPTING EMERGENCY REGULATIONS TO ADDRESS PREPARATION, MANAGEMENT, AND MITIGATION OF THE COVID-19 THREAT; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE, AND AN EXPIRATION DATE.

WHEREAS, a respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting many countries, including the United States; and

WHEREAS the State of Florida has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS, on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS, on March 1, 2020, Governor Ron DeSantis of the State of Florida issued Executive Order No. 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 7, 2020, Governor Ron DeSantis of the State of Florida directed the Director of the Division of Emergency Management to activate the State Emergency Operations Center to Level 2 to provide coordination and response to the COVID-19 emergency; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis of the State of Florida issued Executive Order No. 20-52 declaring a state of emergency within the State of Florida in response to the COVID-19 Public Health Emergency; and

WHEREAS, in accordance with § 252.38, Florida Statutes, Executive Order No. 20-52 authorizes the City to waive the procedures and formalities otherwise required of the City 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 (however, the City is cautioned against entering into time and materials contracts without ceiling as defined in 2 CFR 200.318(j) or cost plus percentage contracts as defined by 2 CFR 200.323(d)); (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;

WHEREAS, § 252.38(3), Florida Statutes, authorizes the City of Winter Garden to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, § 166.041(3)(b), Florida Statutes, permits the City to, by a 2/3 vote of the City Commission, enact an emergency ordinance without complying with the noticing and hearing requirements of § 166.041(3)(a), Florida Statutes; and

WHEREAS, § 21 of the City's Charter further permits the commission, by an affirmative 2/3 vote of the total commission, to enact ordinances dealing with emergencies at the meeting in which such ordinances are introduced; and

WHEREAS, § 21 of the City's Charter further provides that any new and unexpected condition or occurrence of a nonrecurring nature that constitutes an immediate and serious menace to the public welfare of the City is to be deemed an emergency, and when no expenditure of city funds is entailed, emergency ordinances may be temporarily effective for a period of not more than fifteen (15) days from the date of their passages; and

WHEREAS, pursuant to § 21 of the Charter, such emergency ordinances are subject to all other provisions of the charter governing the enactment of ordinances, and if not finally adopted in the manner herein provided, shall expire at the end of the time for which they are temporarily effective; and

WHEREAS, pursuant to § 21 of the Charter, an emergency ordinance authorizing the expenditure of funds by the City for other than a regular or recurring requirement may be effective upon any date fixed in the ordinance by the City Commission, and every emergency ordinance must set forth specifically the conditions or occurrences that create the emergency, and shall be printed in full in the first issue of any newspaper thereafter published and of general circulation within the City, in addition to the other publications required by the Charter, and must be captioned as an emergency ordinance; and

WHEREAS, § 30-27 of the Winter Garden Code of Ordinances ("Code") provides that the City Manager may declare a state of emergency in writing and file a copy thereof with both the chief of police and the office of the city clerk and provide prompt notice thereof to the City Commissioners and all local press, radio, and television news media for publication thereof; and

WHEREAS, § 30-29 of the Code further provides that when the city manager declares that a state of emergency exists pursuant to § 870.043, Florida Statutes, the emergency measures contained within § 870.044, Florida Statutes, are to be effective throughout the City; and

WHEREAS, § 30-30 of the Code further provides that upon declaration of a state of emergency, the City Manager may then or subsequently by further proclamation order and promulgate all or any emergency measures, including, but not limited to: (1) the establishment of curfews, including restrictions on pedestrian and vehicular movement, excepting any restrictions upon emergency first responders, repair crews, and physicians; and (2) the closing of places of public assembly with designated exceptions; and

WHEREAS the Florida Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in Winter Garden, to implement measures to mitigate the spread of COVID-19, and to prepare

to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS the City must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid; and

WHEREAS, the City finds that this Ordinance is in the interests of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1. Recitals. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Declaration of Emergency. The City Commission of the City of Winter Garden finds, due to those reasons enumerated in the Recitals above, that a State of Emergency is hereby declared to exist within the City of Winter Garden immediately upon the effective date of this ordinance. The City Commission therefore makes this formal declaration of a State of Emergency, which shall continue until the expiration of the Florida Governor's Executive Order No. 20-52, as may be extended by the Governor, unless otherwise earlier terminated by the City.

SECTION 3. Emergency Powers.

- A. In accordance with applicable statutory, executive, and common law authority, the City Commission hereby elects to suspend the effect of any statute, ordinance, procedure, rule or order, to the extent necessary to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, including, but not limited to, any and all statutes, rules, ordinances, or orders affecting budgeting, leasing, printing, purchasing, travel, and the condition of employment and compensation of employees, provided that any such statute, ordinance, rule, or order is suspended only to the extent necessary to ensure timely performance of response to and mitigation of the COVID-19 virus. To this end, the City Commission opts to waive those procedures and formalities otherwise required of the City as authorized by § 4, ¶ D. of the Governor's Executive Order # 20-52, which order is incorporated herein by reference.
- B. In addition to those powers granted to the City Manager pursuant to § 30-30 of the Winter Garden Code of Ordinances, the Commission further authorizes the City Manager to have the authority on behalf of the City to execute contracts with third parties and other governmental agencies as deemed necessary to prepare for and mitigate and counteract the ill effects of the declared emergency. Any emergency contracts so executed shall be limited to the purpose of mitigating or otherwise managing the emergency declared and shall not obligate the City to the purchase of products or services beyond the timeframe of such emergency.
- C. The City shall have the right to exercise any of the powers specifically provided to local governments pursuant to § 252.38, Fla. Stat., and authorizes and directs City Manager to execute those activities deemed necessary to respond to and mitigate the effects and conditions attributable to COVID-19 and any other related adverse health conditions concomitantly impacting the City. For the purpose of carrying out COVID-19 mitigation, the City Manager is directed and encouraged to seek assistance from any and all applicable federal, state, and local agencies that may be capable of providing medical services, compensation, or reimbursement to the City.

- D. The City Manager has the right to determine a threat to public health and safety that may result from COVID-19 and that the contagious nature of such virus constitutes a hazardous environment for the citizens of Winter Garden. To such end, the City Manager shall have the authority to close public spaces or otherwise cancel, rescind, close, or postpone any special events, assemblies, or gatherings scheduled or unscheduled within the City where COVID-19 may be spread or otherwise transmitted to others. The City Manager may further close any public offices, facilities, parks, or buildings of the City or otherwise limit access thereto to further assist in any quarantine efforts. To assist in maintaining safe and sanitary living and functioning conditions and protect property from immediate threat, the City Manager shall have the power, but not the obligation, to authorize and issue sanitary processes and supplies to reduce or otherwise mitigate potential sources of contagion. The City Manager is further authorized to enter into temporary lease or license agreements for real property which is necessary for creating and operating temporary medical staging areas to process, quarantine, and/or otherwise treat any persons diagnosed with or suspected of being infected by COVID-19.
- E. The City Manager shall have the authority to authorize the City or the City's contracted agent(s) right of access to private roads or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, and sanitation to alleviate immediate threats to public health and safety.
- F. During the state of emergency declared by this Ordinance, the City Manager has the power to invoke any or all of the following prohibitions or restrictions:
- (1) *Restrictions.* In the interest of protecting citizens and property during a declared state of emergency, the City Manager may apply additional restrictions contained in this subsection to certain neighborhoods, subdivisions, or sections of the City impacted or threatened by a disaster.
 - (2) *Restricted Access Areas.* No person may enter an area designated as a Restricted Access Area by the City Manager unless he/she is in performance of his/her official governmental duties, has written permission of the City Manager or his/her designee, or resides in such area.
 - (3) *Curfew.* If it is necessary to preserve peace and order within the City, the City Manager may impose a curfew for a restricted area or the entire City as required by the circumstances surrounding a declared state of emergency. Such curfew shall not apply to persons in the bona fide performance of designated essential services such as fire, police, medical and physician services, public service, government, or government-contracted employees in the execution of their delegated duties, or other employees, with verifiable identification, traveling to and from their place of employment.
 - (4) *Notice of Restrictions.* Should the City Manager or his/her designee invoke any or all of the foregoing provisions contained in this subsection F, he shall inform City staff, law enforcement, and emergency personnel of such and provide local news media with written notification thereof for immediate dissemination to the public.
- G. During this declared state of emergency, all procedural and notice time periods affecting the normal functions of the City, including those set forth in ordinances and rules of the City, to the extent such requirements cannot be complied with due to the emergency, shall be temporarily suspended during the emergency. Such functions include, but are not limited to, permitting, development applications, code enforcement matters, and other municipal review and approval procedures.

SECTION 4. Non-Codification. Given the temporary nature and effect of this Ordinance, it is the intent of the City Commission that this Ordinance will not be codified.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 7. Effective Date. This Ordinance shall become effective immediately and expire coterminous with Executive Order No. 20-52, issued by the Governor of the State of Florida, including any extensions thereof, unless earlier terminated by the City Commission.

READ AND ADOPTED this 12th day of March, 2020, by the City Commission of the City of Winter Garden, Florida.

CITY COMMISSION, CITY OF WINTER GARDEN

SIGNED: __/S/ __ John Rees, Mayor/Commissioner

ATTESTED: __/S/ __ Angela Grimmage, City Clerk