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WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Oakland Park, to make provisions for public meetings by use of communication media technology and for attendance by use of such technology by elected and appointed officials during periods when the City Manager determines and declares a local public health emergency or other circumstances in which the City Commission determines necessary to protect the health and safety of City Officials, City staff, and the public.

SECTION 2. LEGISLATIVE FINDINGS, PURPOSE, AND INTENT.

1. The Coronavirus (COVID-19), 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 the people of Oakland Park.
2. On March 1, 2020, Ron DeSantis, Governor of the State of Florida, issued Executive Order No. 20-51, directing the Florida Department of Health to issue a Public Health Emergency.

- 1 3. On March 1, 2020, the State Surgeon General and State Health Officer declared
2 that a Public Health Emergency exists in the State of Florida as a result of
3 COVID-19.
- 4
- 5 4. On March 9, 2020, Governor DeSantis declared that a state of emergency exists
6 in the State of Florida as a result of the continued spread of COVID-19.
- 7
- 8 5. On March 11, 2020, Mayor Matthew Sparks issued a proclamation declaring a
9 State of Emergency.
- 10
- 11 6. To reduce the spread of COVID-19, the United States Centers for Disease Control
12 and Prevention ("CDC") recommends implementation of community mitigation
13 strategies to increase containment of the virus.
- 14
- 15 7. The current outbreak of COVID-19 has made the City Commission acutely aware
16 that provisions must be made to ensure that the business of municipal governance
17 can occur without unnecessarily exposing public officials, City personnel or
18 members of the public to a risk of infection while ensuring public access and open
19 government.
- 20
- 21 8. As of November 1, 2020, the Florida Department of Health reports a total
22 number of COVID-19 cases of 807,412 in Florida and 86,961 cases in Broward
23 County.
- 24
- 25 9. Florida law, including Article 1, Section 24 (b) Florida Constitution, and Florida
26 Statutes Sections 286.011 and 166.041, requires that meetings of elected and
27 appointed officials ("Bodies"), for the conduct of public business, must be held
28 following procedures (notice, access of meetings, opportunity to be heard, the
29 taking of minutes, etc.) that ensure that the public is able to participate in and be
30 aware of the decision making process (the "Sunshine Law").
- 31
- 32 10. Previously, when asked whether a public body complies with the Sunshine Law
33 when one or more members of the Body wish to participate in a meeting
34 electronically from a remote location, the Florida Attorney General ("AG") has
35 opined that a quorum of the Body must be physically present in order to allow a
36 member, who due to "extraordinary circumstances" is unable to physically attend
37 the meeting, to appear and participate electronically.
- 38
- 39 11. On March 19, 2020, the AG issued an AGO 2020-03 which provides that "unless
40 and until legislatively or judicially determined otherwise, if a quorum is required
41 to conduct official business, local government bodies may only conduct meetings
42 by teleconferencing or other technological means if either a statute permits a
43 quorum to be present by means other than in-person, or the in-person requirement
44 for constituting a quorum is lawfully suspended by the Governor during the state
45 of emergency."

12. On March 20, 2020, Governor DeSantis issued Executive Order Number 20-69 which suspended any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place and permits local government bodies to utilize CMT such as telephonic and video conferencing, as provided in section 120.54(5)(b)2., Florida Statutes. EO 20-69 has been extended on several occasions reflecting the continued state of emergency and threat to the public when gathering to attend public meetings.
13. Section 4 D of Governor DeSantis' Executive Order 20-52 expressly authorized the City Commission to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in accordance with section 252.38, Florida Statutes.
14. Chapter 252, Florida Statutes, among other things, confers upon the City Commission the emergency powers provided for in Chapter 252 in order to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state; and to "make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division." Section 252.46(1), Florida Statutes.
15. COVID-19 has created or imminently threatens to create conditions that may severely affect the public health, safety, welfare and security of the citizens, residents and visitors of the City of Oakland Park, Florida.
16. The City Commission finds there is a clear and present danger in holding a public "in person" meeting for those attending and those who come in contact with those attending.
17. The technology exists to conduct public meetings using technology in which the City can comply with the provisions of the Sunshine Law while preserving human life.
18. The City Commission also possesses broad home rule powers that authorize it to protect the public health, safety, and welfare, declare emergencies, and protect its citizens.
19. There is no statute, Charter provision, or ordinance that defines "present" as physically within the walls of the City hall chambers. Webster's includes "in attendance" as a meaning of "present". Article III A, Section 7(c) of the City Charter provides:

1 “Voting. Voting shall be by roll call and shall be recorded in the journal. A
2 majority of the city commission shall constitute a quorum. No action of the city
3 commission, except as otherwise provided in this Charter, shall be valid or
4 binding unless adopted by the affirmative vote of the majority of a quorum
5 present..”
6

7 20. The Charter does not prohibit attendance at the meeting of City Commissioners
8 by electronic media and the City Commission finds that its attendance
9 requirement for the purpose of establishing a quorum, participating and voting
10 can be satisfied by physical or CMT attendance. This same rule of attendance
11 applies to City Board or Committee meetings and quasi-judicial hearings.
12

13 21. The City Commission finds that it is in the best interests of the City Commission,
14 Boards, Committees, City personnel, and citizens and residents of the City to
15 authorize the City Manager to provide for the City Commission and members of
16 the various Boards and Committees to be able to attend meetings electronically
17 during a declared public health emergency or other emergencies as may be
18 determined by the City Commission, pursuant to the City’s Charter, Chapter 252,
19 Florida States, Section 4 D of Governor DeSantis’ Executive Order 20-52, and
20 the City’s home rule authority, including that set forth in Article VIII, Section
21 2(b), Florida Constitution, and Section 166.021, Florida Statutes.
22

23 **SECTION 3. DECLARATION OF EMERGENCY.** Pursuant to its home
24 rule powers, Chapter 252, Florida Statutes, and based upon the Legislative Findings set
25 forth in the above-stated recitals, the City Commission of the City of Oakland Park hereby
26 finds and declares that a public health emergency exists requiring immediate action by the
27 City Commission. By virtue of the threat to public health and safety and by virtue of the
28 threat to the City’s financial health and home rule powers, it is necessary for the City to
29 implement this regulation.

30 **SECTION 4. AUTHORIZATION FOR PUBLIC MEETINGS WITHOUT**
31 **PHYSICAL PRESENCE.** The City Manager is hereby authorized, pursuant to the
32 home rule authority of the City Commission, Chapter 252, Florida Statutes, and Section 4
33 D of Governor DeSantis’ Executive Order 20-52 and based upon the Legislative Findings
34 set forth in the above-stated recitals, during a declared public health emergency or other
35 emergencies as may be determined by the City Commission to:

- 36 a) arrange for the City Commission, Boards, and Committees to meet
37 electronically;
38
39 b) promulgate rules of procedure that will ensure compliance with the Sunshine
40 Law;
41 c) provide technology and administrative support as necessary to fulfill these
42 objectives.

1 Such a meeting may only be conducted without the physical presence of a quorum of the City
2 Commissioners, Boards, and Committees, if an emergency is declared based upon an
3 infectious disease, and only so long as (1) the meeting is properly noticed, (2) minutes are
4 taken, and (3) the public is permitted to attend via technology such as teleconferencing or web-
5 based conferencing.
6

7 **SECTION 5. SEVERABILITY.** If any clause, section, or other part of this
8 Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or
9 invalid, such unconstitutional or invalid part shall be considered as eliminated and in no
10 way affecting the validity of the other provisions of this Ordinance.
11

12 **SECTION 6. CONFLICTS.** All Ordinances or parts of Ordinances, Resolutions,
13 or parts of Resolutions in conflict herewith, be and the same are repealed to the extent of
14 such conflict.
15

16 **SECTION 7. EFFECTIVE DATE.** This Ordinance shall be effective upon its
17 passage and adoption by the City Commission of the City of Oakland Park.
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1 PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF
2 OAKLAND PARK, FLORIDA, THIS 4th DAY OF NOVEMBER, 2020.

3
4
5 J. BOLIN ABSENT
6 M. CARN YES
7 T. LONERGAN YES
8 M. SPARKS YES
9

10
11 PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY
12 COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA THIS 18th DAY OF
13 NOVEMBER 2020.

14
15 CITY OF OAKLAND PARK, FLORIDA

16
17 
18

19 MAYOR JANE BOLIN

20
21 M. CARN YES
22 A. GORDON YES
23 M. ROSENWALD YES
24 M. SPARKS YES
25 J. BOLIN YES
26

27 ATTEST:

28
29
30 
31

32 RENEE M. SHROUT, CMC
33 CITY CLERK
34

35 LEGAL NOTE:

36
37 I hereby certify that I have approved the form of this Ordinance. (O-2020-022)
38
39

40
41 
42
43 DONALD J. DOODY, CITY ATTORNEY