**Emergency Ordinance No. 2021 - \_\_\_\_**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF LAZY LAKE, BROWARD COUNTY, FLORIDA, AUTHORIZING THE MAYOR TO ARRANGE FOR PUBLIC MEETINGS BY USE OF COMMUNICATION MEDIA TECHNOLOGY AND FOR ATTENDANCE BY USE OF SUCH TECHNOLOGY BY ELECTED AND APPOINTED OFFICIALS DURING A DECLARED PUBLIC HEALTH EMERGENCY; PROVIDING FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING A RETROACTIVE DATE TO FEBRUARY 11, 2021.

 **WHEREAS**, the Novel Coronavirus Disease 2019 (COVID- 19) is a contagious disease that has the apparent ability to spread rapidly among humans and may result in serious illness or death, constituting a clear and present threat to the lives, health, welfare, and safety of the people of the Village of Lazy Lake; and

 **WHEREAS**, pursuant to Governor DeSantis’s Executive Order No. 20-316, the Governor has extended the State-Wide State of Emergency related to COVID-19 until February 27, 2021; and,

 **WHEREAS**, pursuant to certain other Governor Executive Orders that were extended by Executive Order No. 20-316:

1. Florida remains in Phase 3 of the State’s “Safe. Smart. Step-by-Step. Plan for Florida’s Recovery” (the “Plan”).
2. The Plan encourages, but does not *require* that local governments return to conducting “in-person meetings, although the Plan encourages same, in stating:

**“Local Government Meetings**

These meetings should return to in person quorum and public participation for local governmental bodies.”

1. The Plan confirms that recommendations remain in place to limit public and social gatherings:

**“Vulnerable Populations**

Individuals older than 65 years of age and individuals with a serious underlying medical condition (such as chronic lung disease, moderate-to-severe asthma, serious heart conditions, immune-compromised status, cancer, diabetes, severe obesity, renal failure and liver disease) can resume public interactions, but should practice social distancing, minimizing exposure to social settings where distancing may not be practical, unless precautionary measures are observed. Vulnerable populations should affirmatively inform their employer that they are a member of the vulnerable population so that their employer can plan accordingly.

**Social Gatherings**

Non-vulnerable populations should consider minimizing time spent in crowded environments.”

 **WHEREAS**, Florida law, including Florida Statutes Sections 286.011 and 166.041, requires that meetings of elected and appointed officials, for the conduct of public business, must be held following procedures (notice, access to meetings, opportunity to be heard, the taking of minutes) that ensure that the public is able to participate in and be aware of the decision making process (the “Sunshine Law”); and

 **WHEREAS**, public meetings have traditionally been conducted in spaces with people in close proximity with each other and in groups varying in size, but generally much larger than ten people; and

 **WHEREAS**, due to the apparent ability to spread rapidly among humans, during this declared State of Emergency, the traditional public meetings, including compliance with the physical quorum and public attendance requirements of the Sunshine Law, may unnecessarily expose the residents of Lazy Lake, the Village’s elected officials, and the Village’s consultants to COVID-19; and

 **WHEREAS**, the Governor’s Executive Order 20-52 acknowledges that special duties and responsibilities placed on state, regional and local agencies in responding to the emergency may require them to suspend the application of the statutes, rules, ordinances and orders they administer; and

 **WHEREAS**, specifically, Section 4(D) of Executive Order 20-52 provides for political subdivisions within the State to “waive the procedures and formalities otherwise required . . . 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;
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.”; and

 **WHEREAS**, therefore, Executive Order 20-52 authorizes the Village Council to take prudent action to ensure the health, safety, and welfare of the community, which necessarily includes holding virtual public meetings; and

 **WHEREAS**, Governor DeSantis recognized virtual local governmental meetings were necessary as, on March 20, 2020, he rendered Executive Order 20-69, authorizing the suspending of any physical quorum requirements statewide for local government public meetings; and

 **WHEREAS**, Governor DeSantis has extended Executive Order 20-69 several times with the last statewide extension evidenced by Executive Order 20-246, which provided statewide authority for local governmental meetings to continue virtually through November 1, 2020; and,

 **WHEREAS**, the State of Florida Coronavirus Map Website New York Times statistics as of November 1, 2020 reflects that the new cases reported that day was 4,865, with a last 7-day average of 4,111; and,

 **WHEREAS**, the State of Florida Coronavirus Map Website New York Times statistics as of February 11, 2021 reflects that the new cases reported that day was 8,525, with a last 7-day average of 7782; and,

 **WHEREAS**, under Broward County’s COVID 19 Comprehensive Emergency Order, all people in the County must socially distance where possible, and indoor gatherings remain limited to a maximum of ten (10) persons; and,

 **WHEREAS,** Broward County Emergency Order No. 20-31, effective December 20, 2020, contained the following recitals:

“WHEREAS, the December 6, 2020, State Report from the White House Coronavirus Task Force confirmed Florida is in the "red zone" for new cases and for test positivity, hospital admissions for patients with confirmed COVID-19 rose 15% in the week following Thanksgiving, and the three counties in Florida with the highest number of new cases are Miami-Dade, Broward, and Palm Beach Counties…..”

WHEREAS, despite existing containment measures, the test positivity in Broward County has consistently exceeded the CDC's 5% threshold and has recently been exceeding the CDC's 8% threshold, which places on-site instruction in schools outside the "lowest" and "low" risk categories and into the "moderate" and "higher" risk categories as defined by the CDC….”

 **WHEREAS,** municipal corporations in Dade, Broward, and Palm Beach Counties have taken a variety of approaches to continue to implement virtual meetings and public participation since the expiry of Governor DeSantis Executive Order 20-246; and,

**WHEREAS**, according to the Florida League of Cities’ 12Feb2021 Website Edition of the Municipal Directory, Lazy Lake’s population is reported as being 26 persons; and,

**WHEREAS**, there are no public buildings within the Village that can accommodate a public meeting; and consequently the Meeting space for Village Council Meetings took place before the Pandemic in an Office Conference Room in accordance with Fla. Stat. §166.0213 (1) (2020), which authorizes the Village Council of Lazy Lake, Florida to hold meetings within five (5) miles of the exterior boundary of the Village; and,

**WHEREAS**, the size of the conference room meeting space is insufficient to allow the recommended social distancing requirements when more than one person is present within the conference room; and,

**WHEREAS**, at two (2) elected Official of the Village who regularly attend Village Council Meetings are included within the definition of “Vulnerable Populations;” and,

 **WHEREAS**, Chapter 252, Florida Statutes, among other things, confers upon the Village Council 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.”; and

 **WHEREAS**, COVID-19 threatens the public health, safety, welfare and security of the citizens, residents and visitors of the Village of Lazy Lake; and

 **WHEREAS**, the Village Council 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; and

 **WHEREAS**, the current and continued outbreak of COVID-19 has made the Village Council acutely aware that provisions must be made to ensure that the business of municipal governance can occur without unnecessarily exposing public officials, public consultants, public personnel, or members of the public to a risk of infection while ensuring public access and open government; and

 **WHEREAS**, the technology exists to conduct public meetings using technology in which the Village can comply with the provisions of the Sunshine Law while preserving human life; and

 **WHEREAS**, during the timeframe that Executive Order 20-69 was rendered and extended by the Governor, the Village has conducted virtual public meetings using communications media technology; and

 **WHEREAS**, the technology and methods to hold virtual public meetings by the Village provide broader access to the general public to watch, listen to, or comment on public business; and

 **WHEREAS**, the Village is unaware of any person that has been unable to view or participate in any virtual meeting held to date; and

 **WHEREAS**, the Village Council also possesses broad home rule powers that authorize it to protect the public health, safety, and welfare, declare emergencies, and protect its citizens; and

 **WHEREAS**, no statute or Village Charter provision expressly provides that the Village Council must physically be *present at the same place* to hold a meeting; and

 **WHEREAS**, Florida Statutes, Section 166.041(3)(b) allows a municipality to enact an emergency ordinance in one meeting if approved by a two-thirds vote of the governing body; and

 **WHEREAS,** due to the significant risk to the public health, safety, and welfare by having in-person meetings the Village Council at its meeting of February 16th, 2021 considered the adoption of this Emergency Ordinance; and

 **WHEREAS**, the Village Council finds that it is in the best interests of the Village Council, its public consultants and personnel, and citizens and residents of the Village to authorize the Mayor to provide for the Village Council to attend meetings electronically during a declared public health emergency;

 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF LAZY LAKE, FLORIDA:**

 **SECTION 1**. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

 **SECTION 2.** Pursuant to the Village Charter and Code of Ordinances, the home rule authority of the Village Council, Chapter 252, Florida Statutes, Section 4D of Governor DeSantis’ Executive Order 20-52, and based upon the Legislative Findings set forth in the above-stated recitals, the Mayor is hereby authorized, during the continuation of the State’s declared public health emergency, to arrange for the Village Council to utilize communications media technology, such as telephonic and video conferencing, as provided in Fla. Stat. §120.54(5)(b)2. (2020) and to meet virtually. Such meetings shall be planned and conducted in to ensure, to the extent practicable, substantial compliance with Section 286.001, Florida Statutes, “Florida’s Sunshine Law.

 **SECTION 3**. All ordinances or parts of ordinances in conflict herewith shall be and hereby are repealed.

 **SECTION 4**. If any section, subsection, clause or provision of this Emergency Ordinance is held invalid, the remainder shall not be affected by such invalidity.

 **SECTION 5**. This Emergency Ordinance shall take effect immediately, and shall apply retroactively to February 11, 2021.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** this \_\_\_ day of February 2021.

 Council Member Voice Vote Absent

Daniel Copher Yea \_\_\_\_ Nay \_\_\_ \_\_\_

Patrick Kaufman Yea \_\_\_\_ Nay \_\_\_ \_\_\_

 Carlton Kirby Yea \_\_\_\_ Nay \_\_\_ \_\_\_

Ray Nyhuis Yea \_\_\_\_ Nay \_\_\_ \_\_\_

Richard Willard Yea \_\_\_\_ Nay \_\_\_ \_\_\_

**SIGNED BY THE MAYOR** this 16th day of February, 2021.

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 MAYOR EVAN ANTHONY

ATTEST:

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VILLAGE ADMINISTRATIVE ASSISTANT

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Resolution was received by the Village Administrative Assistant and entered into the Public Record this \_\_\_\_\_ day of February 2021.

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 Village Administrative Assistant, Lisa Tayar

REQUESTED BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTY. OK: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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