

RESOLUTION NO. 144-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, CONFIRMING A DECLARATION OF A STATE OF EMERGENCY; REPEALING RESOLUTION 130-20 OF THE CITY OF DELRAY BEACH IN ITS ENTIRETY; PROVIDING REVISIONS ON RESTRICTIONS ON OPERATING HOURS OF RESTAURANTS, FOOD ESTABLISHMENTS, AND OTHER BUSINESSES LOCATED WITHIN THE CITY OF DELRAY BEACH CONSISTENT WITH PALM BEACH COUNTY COVID-19 ORDER NUMBER 2020-018; PROVIDING FURTHER CLARIFICATION OF CURRENT BUSINESS CLOSURES; PROVIDING A CONFLICTS CLAUSE, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, on March 9, 2020, Governor Ron Desantis issued Executive Order 20-52 declaring a state of emergency for the State of Florida as a result of COVID-19; and

WHEREAS, on March 13, 2020, Palm Beach County declared a local State of Emergency due to the Coronavirus pandemic, which has been extended in accordance with applicable law; and

WHEREAS, on March 13, 2020, a State of Emergency in the City of Delray Beach was proclaimed by the City Commission, which has been extended seventeen times due to the spread of the Novel Coronavirus Disease 2019 (COVID-19); and

WHEREAS, Palm Beach County is in Full Phase 1 pursuant to Executive Order 20-123 issued by Governor Desantis providing for the limited reopening of certain businesses; and

WHEREAS, on July 24, 2020, the City of Delray Beach executed Resolution 130-20, adopting Palm Beach County COVID-19 Order 2020-014 and establishing restrictions on operating hours of restaurants, food establishments, and other business; and

WHEREAS, on August 11, 2020, the Palm Beach County Board of County Commissioners through its County Administrator issued Emergency Order 2020-018, revising restrictions on operating hours of restaurants, food establishments, and other businesses and clarifying current business closures; and

WHEREAS, Palm Beach County continues to experience an increase in the number of positive cases of COVID-19 and the City recognizes that additional measures are necessary to minimize the spread of COVID-19; and

WHEREAS, the City of Delray Beach determines that it is necessary and appropriate to revise and clarify the hours that restaurants and food establishments may serve food and alcohol for on-premises consumption and to provide further clarification regarding current business closures; and

WHEREAS, Chapter 95 of the City of Delray Beach Code of Ordinances authorizes the City Manager to take necessary measures in order to protect the health, safety and welfare of the citizens of Delray Beach and the public at large; and

WHEREAS, the City of Delray Beach wishes to adopt, by reference, Palm Beach County Emergency Order 2020-018 providing for restrictions on operating hours of restaurants, food establishments, and other businesses.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. A declaration of a State of Emergency proclaimed on March 13, 2020 is hereby confirmed.

Section 2. City of Delray Beach Resolution 130-20 is hereby repealed in its entirety and replaced with this Resolution 144-120.

Section 3. The City of Delray Beach hereby adopts and incorporates by reference Palm Beach County Emergency Order Number 2020-018 dated August 11, 2020, attached hereto as **Exhibit A**.

Section 4. No establishment permitted to serve alcohol for on-site consumption, whether indoor or outdoor, shall serve alcohol or allow alcohol to be consumed on premises between the hours of 11:00 p.m. and 5:00 a.m. No establishment permitted to serve food for on-site consumption, whether indoor or outdoor, shall serve food or allow food to be consumed on premises between the hours of 11:00 p.m. and 5:00 a.m. Said establishments shall be closed and vacated between the hours of 11:00 p.m. and 5:00 a.m. with the exception of staff performing necessary functions (such as cleaning and closing services) and except for drive through, pick-up, or take-out services for off-site consumption. Indoor and outdoor seating shall be vacated between the hours of 11:00 p.m. and 5:00 a.m. and shall not be available for customers utilizing pickup or take-out services.

Section 5. Notwithstanding the terms of Section 4, *supra*, the following businesses and venues, to the extent they have been authorized to legally operate, shall be closed between the hours of 11:00 p.m. and 5:00 a.m.: amusement parks, kava, kratom, and similar bars and lounges; banquet halls; and ballrooms.

Section 6. For clarifying purposes, below is a list of businesses that are closed pursuant to the terms of applicable prior orders, and which remain closed. These businesses do not represent the universe of closed businesses, but serve as a clarifying list to ensure compliance with applicable emergency orders. The operation of any closed business, including, but not limited to, those listed below, is in violation of law and punishable in accordance therewith.

a. Bars;

- b. Nightclubs, establishments offering adult entertainment, strip clubs;
- c. Hookah, cigar, and other smoking bars and lounges;
- d. Bowling alleys;
- e. Arcades;
- f. Playhouses;
- g. Concert houses;
- h. Movie theaters;
- i. Auditoriums;
- j. Other indoor entertainment venues offering, either for participation or observation, recreational opportunities or games of skill in an enclosed building. Such venues include, but are not limited to, skating centers, trampoline centers, billiard halls, escape rooms, bingo parlors, casinos, and interactive bars or lounges allowing for sports participation; and
- k. Tattoo businesses and establishments, body piercing businesses and establishments, tanning businesses and establishments, massage therapy and/or massage businesses and establishments where massage and/or massage therapy are performed by persons other than those licensed under Chapter 480, Florida Statutes, acupuncture businesses and establishments where acupuncture is performed by persons other than those licensed under Chapter 457, Florida Statutes.

Section 7. This Resolution does not affect or limit the operations of Palm Beach County, the Palm Beach County School District, or any State or Federal office or facility.

Section 8. Any provision(s) within this Resolution that conflict with any state or federal law or constitutional provision, or conflicts with, or are superseded by, a current or subsequently issued Executive Order of the Governor or President of the United States, shall be deemed inapplicable and deemed to be severed from this Resolution, with the remainder of the Resolution remaining intact and in full force and effect.

Section 9. In addition to the enforcement provisions listed in Section 7 of Palm Beach County Emergency Order Number 2020-018 and 2020-017, violations of the provisions of this Resolution shall be subject to enforcement pursuant to Chapter 95 of the Delray Beach Code of Ordinances.

Section 10. This Resolution shall be effective in accordance with Palm Beach County Emergency Order Number 2020-018 and shall expire upon the expiration of the existing State of Local Emergency declared on March 13, 2020, as same may be extended by subsequent order or declaration, unless earlier terminated.

PASSED AND ADOPTED on this the 13th day of August, 2020.



Jennifer Alvarez, Interim City Manager

ATTEST:



Kateri Johnson
City Clerk