

## RESOLUTION NO. 159-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, CONFIRMING A DECLARATION OF A STATE OF EMERGENCY; AMENDING RESOLUTION 93-20 IN ORDER TO PROVIDE FOR THE PHASE 2 REOPENING OF THE CITY OF DELRAY BEACH CONSISTENT WITH EMERGENCY ORDER NUMBER 24 PALM BEACH COUNTY COVID-19 "PHASE 2, STEP 1 RE-OPENINGS"; PROVIDING A CONFLICTS CLAUSE, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

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

WHEREAS, on March 20, 2020, the City of Delray Beach executed Resolution 75-20 providing for, *inter alia*, the closure non-essential retail and commercial establishments; and

WHEREAS, Resolution 75-20 was subsequently extended and modified several times, most recently on May 15, 2020 by Resolution 93-20; and

WHEREAS, both on a state and national level, task forces have been established to develop a plan to safely reopen the state and to assist local officials in determining when to reopen their economies and get people back to work while continuing to protect the health, safety, and welfare of the public at large; and

WHEREAS, on April 29, 2020, Governor Ron Desantis issued Executive Order 20-112, "Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery" providing for a phased path to re-opening the State; and

WHEREAS, since May 11, 2020, Palm Beach County has been operating under Phase 1 restrictions; and

WHEREAS, while Palm Beach County did experience a sharp increase in the number of positive COVID-19 cases in May, June, and July, numerous virus control strategies were employed that helped slow the spread of the virus; and

WHEREAS, in light of the requirements mandated by the County including, but not limited to, facial covering and social distancing mandates, and in consideration of the most current data and indicators related to COVID-19, a request was made to Governor Ron Desantis by the Board of County Commissioners to move Palm Beach County to Phase 2 in accordance with the Incremental Phase 2 Re-Opening Plan (the "Phase 2 Plan") recommended by the County Administrator; and

WHEREAS, on September 3, 2020, Governor Ron Desantis authorized Palm Beach County to move to phase 2 in accordance with the Phase 2 Plan; and

WHEREAS, on September 4, 2020, the Board of County Commissioners, through its County Administrator, issued Order No. 2020-024 providing for the Phase 2, Step 1 re-opening of businesses in Palm Beach County in accordance with the direction of Governor Desantis and Step 1 of the Phase 2 Plan; and

WHEREAS, the City of Delray Beach now desires to adopt its own Phase 2 re-opening plan to remain consistent with both the Governor's phased approach to re-opening the State as well as that of Palm Beach County; 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 2020-024 and continue to provide for a phased re-opening of the City of Delray Beach to prevent the spread of COVID-19 and mitigate its impacts.

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. The City of Delray Beach hereby adopts and incorporates by reference Palm Beach County Emergency Order Number 2020-024 ("PBC 2020-024") dated September 4, 2020, attached hereto and incorporated herein as **Exhibit A**.

Section 3. All individuals and all establishments shall adhere to all applicable guidelines issued by the Centers for Disease Control and Prevention ("CDC") including, but not limited to, social distancing guidelines and enhanced cleaning and disinfection guidance for re-openings.

Section 4. 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, except as may be provided in PBC 2020-024.

Section 5. All other provisions of Resolution 93-20 remain in full effect.


Section 6. 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 7. In addition to the enforcement provisions issued in Palm Beach County Emergency Order 2020-017 as well as those listed in Section 7 of Palm Beach County

Emergency Order Number 2020-024, violations of the provisions of this Resolution shall be subject to enforcement pursuant to Chapter 95 of the Delray Beach Code of Ordinances.

Section 8. This Resolution shall be effective in accordance with Palm Beach County Emergency Order Number 2020-024 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 8<sup>th</sup> day of September, 2020.

  
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Jennifer Alvarez, Interim City Manager

ATTEST:

  
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Kateri Johnson  
City Clerk



EMERGENCY ORDER NUMBER 24  
PALM BEACH COUNTY COVID-19  
PHASE 2, STEP 1 RE-OPENINGS

WHEREAS, 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 Palm Beach County; and

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, pursuant to Section 252.38(3)(a)(5), Florida Statutes, Palm Beach County declared a local State of Emergency due to the Coronavirus pandemic, which has since been extended in accordance with applicable law; and

WHEREAS, on March 24, 2020, Governor Ron DeSantis also issued Executive Order 20-83 directing the State Surgeon General and the State Health Officer to issue a public health advisory for senior persons and persons that have a serious underlying medical condition that places them at a high risk of severe illness from COVID-19 to stay at home. Such conditions include, but are not limited to, chronic lung disease or moderate to severe asthma; serious heart conditions; immunocompromised status, including those in cancer treatment; and severe obesity; and

WHEREAS, Governor Ron DeSantis has issued a number of subsequent Executive Orders in response to the COVID-19 pandemic, including Executive Order 20-112, a Phase 1: Safe Smart Step-by-Step Plan for Florida's Recovery, under which the Governor re-opened certain businesses; Executive Order 20-120 which, among other things, served to include Palm Beach County under Phase 1; and Executive Order 20-123, in which the Governor extended and brought all Florida counties into Full Phase 1; and

WHEREAS, Palm Beach County has been operating under Phase 1 since May 11, 2020 in accordance with Executive Orders 20-120, 20-123, and Order 20-139, issued by Governor DeSantis on June 3, 2020. The Phase 1 restrictions allowed indoor seating in restaurants at 50% capacity with appropriate partitioning in place between parties. Outdoor seating and take-out service was permitted; however, bar counters remained closed to seating, and eating at bars within restaurants was not allowed. Bars and nightclubs and certain other business types remain closed in Palm Beach County; and

WHEREAS, Palm Beach County experienced a sharp increase in the number of positive cases of COVID-19 in late May, June and July and numerous virus control strategies, including but not limited to, restrictions on business operations and events, facial covering and social distancing mandates, cleaning and hygiene requirements, testing, and public education, were employed to slow the spread of the virus; and

WHEREAS, all Phase 1 businesses in Palm Beach County have been permitted to open subject to various executive and emergency orders requiring cleaning and hygiene protocols, facial coverings, social distancing, and restricted operating hours for businesses serving food and alcohol for on premises consumption and certain other businesses; and

WHEREAS, given the above-mentioned interventions, and in consideration of the most current data and indicators related to COVID-19, on September 1, 2020, the Board of County Commissioners determined that it was appropriate to submit a request to Governor Ron DeSantis to move Palm Beach County to Phase 2 in accordance with the *Incremental Phase 2 Re-Opening Plan* recommended by the County Administrator; and

WHEREAS, on September 3, 2020, Governor Ron DeSantis authorized Palm Beach County to move to Phase 2 in accordance with the submitted *Incremental Phase 2 Re-Opening Plan*; and

WHEREAS, the County Administrator has determined that it is necessary and appropriate to issue an emergency order authorizing additional business re-openings in accordance with the direction of Governor DeSantis and Step 1 of the *Incremental Phase 2 Re-Opening Plan*.

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to Palm Beach County Code Chapter 9, Article II, Section 9-35, as well as the authorities granted to me by Declaration of Emergency issued by Governor DeSantis in Executive Order 20-52, by Chapter 252, Florida Statutes, by the Board of County Commissioners, by the Palm Beach County Comprehensive Emergency Management Plan, and as otherwise provided by law, I hereby order as follows:

1. The foregoing recitals are hereby incorporated herein by reference.
2. This Order applies in all incorporated and unincorporated areas of Palm Beach County.
3. **Adherence to CDC Guidelines.** Notwithstanding the reopening of the establishments contained herein, all individuals and all establishments, shall adhere to all applicable guidelines issued by the Centers for Disease Control and Prevention (CDC), including, but not limited to, social distancing guidelines and enhanced cleaning and disinfection guidance for reopenings.
4. **Applicability of Prior Emergency Orders.** Notwithstanding the reopening of the establishments contained herein, all individuals and establishments, shall adhere to all applicable executive orders and Palm Beach County emergency orders, including, but not limited to, Emergency Order 2020-012 entitled "Additional Directive on Wearing

of Facial Coverings,” and Emergency Order 2020-018, as amended by Emergency Order 2020-023, entitled “Revised Operating Hour Restrictions on Serving Food and/or Alcohol for on Premises Consumption and Other Business Hours,” as the same may be amended.

5. **Opening of specific establishments.** As of the effective date of this Emergency Order, the following establishments may re-open in accordance with all applicable CDC Guidelines, applicable prior executive and emergency orders, and the requirements below.
- **Bowling alleys:**
    - Limit to 50% of total lanes operational;
    - 4 players per lane maximum;
    - House bowling balls shall not be shared by players during play and must be thoroughly cleaned in between parties;
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.
  - **Escape rooms:**
    - No combining of parties; only one party at a time;
    - Staggered reservations or start times must be utilized;
    - Maximum 6 persons per room;
    - Each room must be disinfected after each game;
    - All patrons shall be required to wash hands or use hand sanitizer prior to entering rooms.
  - **Movie theaters:**
    - Maximum of 50% total seating capacity;
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.
  - **Playhouses (venues with less than 400 seats):**
    - Maximum of 33% total seating capacity;
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.
  - **Skating centers:**
    - Maximum of 25 skaters per standard rink of approximately 16,000 ft<sup>2</sup>, larger rinks may have a proportionally larger occupancy;
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.
  - **Trampoline centers:**
    - Maximum of 50% total building capacity;
    - Only one (1) person per trampoline, battle beam, tumble mat, ninja pit, or other attraction/piece of equipment;
    - All equipment must be sanitized between patrons;
    - No shared equipment where cleaning between patron contact is not feasible (e.g., dodge ball);
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.

- Other indoor entertainment venues offering, either for participation or observation, recreational opportunities or games of skill in an enclosed building:
    - Examples include, but are not limited to, billiard halls not licensed as bars, indoor soccer, laser tag, axe throwing, and paintball;
    - Maximum 50% total building capacity;
    - No shared equipment or high contact equipment among patrons where cleaning between patrons is not feasible;
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.
  - Restaurants and food establishments including clubhouses, banquet halls, and ballrooms providing seated meal service:
    - Continue indoor service at up to 50% seating capacity;
    - Full capacity outdoor seating is permissible with appropriate physical distancing;
    - Bar top meal service permissible with appropriate physical distancing;
    - Restaurants and food establishments may operate up to 50% of their existing billiard tables (i.e., one table or half of all tables, whichever is greater). Restricted tables shall be clearly prohibited from operation (e.g., signage or covered);
    - Parties shall be limited to no more than 10 people; and
    - Parties must be spaced at least 6-feet apart.
  - The following may operate at full capacity, limiting parties to no more than 10 and ensuring that parties are spaced at least 6-feet apart:
    - In-store retail sales establishments;
    - Museums and libraries;
    - Personal services establishments, including, but not limited to, tanning, tattooing, body piercing, licensed acupuncture and massage establishments, with appropriate guidelines as outlined by the Florida Department of Health;
    - Gyms and fitness centers.
6. **Businesses that Remain Closed.** 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.
- Auditoriums;
  - Bingo Parlors;
  - Comedy Clubs;
  - Concert Houses;
  - Bars;
  - Nightclubs, establishments offering adult entertainment, strip clubs;
  - Hookah, cigar, smoking bars and lounges;
  - Arcades; and
  - Billiard halls licensed as bars.

7. The Sheriff of Palm Beach County, other law enforcement agencies including municipal law enforcement agencies, and any other personnel authorized by law, including, but not limited to, the personnel described in Section 9-37 of the Palm Beach County Code of Ordinances, are authorized to enforce this order in accordance with the provisions of Emergency Order 2020-017, and any subsequent amendments thereto.
8. Any provision(s) within this order that conflict(s) with any state or federal law or constitutional provision, or conflict(s) with, or are superseded by, a current or subsequently-issued Executive Order of the Governor or the President of the United States, shall be deemed inapplicable and deemed to be severed from this order, with the remainder of the order remaining intact and in full force and effect. To the extent application of some or all of the provisions of this order is prohibited on the sovereign land of a federally or state recognized sovereign or Indian tribe, such application is expressly excluded from this order. The provisions of this order shall supersede the specific provisions of any previously issued County Emergency Order that is contrary to or in conflict with this order.
9. This order shall be effective as of 12:01 a.m. on September 8, 2020. This order shall expire upon the expiration of the existing State of Local Emergency, as same may be extended by subsequent order or declaration, unless earlier terminated by subsequent order.

PALM BEACH COUNTY

APPROVED AS TO  
LEGAL SUFFICIENCY

By: *Verdenia C. Baker*  
County Administrator

By: *Denise Marie Nieman*  
County Attorney

*9/4/2020*  
Date

ATTEST  
CLERK & COMPTROLLER  
By: *Shawn R. Beck*  
Clerk