

RESOLUTION NO. 158-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, CONFIRMING A DECLARATION OF A STATE OF EMERGENCY; AMENDING PORTIONS OF RESOLUTION 144-20 OF THE CITY OF DELRAY BEACH TO REVISE RESTRICTIONS ON OPERATING HOURS AT RESTAURANTS, FOOD ESTABLISHMENTS, AND OTHER BUSINESSES LOCATED WITHIN THE CITY OF DELRAY BEACH CONSISTENT WITH PALM BEACH COUNTY COVID-19 ORDER NUMBER 2020-023; 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 twenty-five 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, Palm Beach County experienced a sharp increase in the number of positive COVID-19 cases in May, June, and July and numerous virus control strategies were employed to slow the spread of the virus; and

WHEREAS, the City of Delray Beach recognizes that interventions such as facial covering directives and social distancing mandates provide the necessary safeguards for the safe reopening of certain business establishments; and

WHEREAS, on September 3, 2020, the Palm Beach County Board of County Commissioners through its County Administrator issued Emergency Order 2020-023, modifying the hour restrictions pertaining to serving food and/or alcohol for on premise consumption and authorizing the reopening of tattooing, body piercing, and tanning establishments; and

WHEREAS, consistent with Palm Beach County EO 2020-023, the City of Delray Beach determines the above-referenced modifications to the hour restrictions contained in EO 20-018 and City of Delray Beach Resolution 144-20 are appropriate; 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 2020-023.

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 2020-023 dated September 3, 2020, attached hereto as **Exhibit A**.

Section 3. Sections 4 and 5 of Resolution 144-20 of the City of Delray Beach are hereby amended to replace all hour references from "between the hours of 11:00 p.m. and 5:00 a.m." to "between the hours of 12:00 a.m. and 5:00 a.m."

Section 4. Subsection 6k of Resolution 144-20 is amended to remove references to tattooing, body piercing, and tanning business establishments, which are no longer closed. All other provisions of Section 6 remain unchanged.

Section 5. All other provisions of Resolution 144-20 remain in full effect.

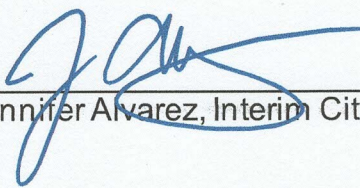
Section 6. This Resolution does not affect or limit the operations of Palm Beach County, the Palm Beach County School District, or any State or Federal office or facility.

Section 7. 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 8. In addition to the enforcement provisions listed in Section 6 of Palm Beach County Emergency Orders Number 2020-2023 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.

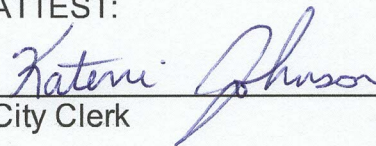
Section 9. This Resolution shall be effective in accordance with Palm Beach County Emergency Order Number 2020-023 and shall expire upon the expiration of the existing State of Local Emergency declared on March 13, 2020, as same may be extended by subsequent order or declaration, unless earlier terminated.

PASSED AND ADOPTED on this the 4th day of September, 2020.



Jennifer Alvarez, Interim City Manager

ATTEST:



Katemi Johnson
City Clerk



**EMERGENCY ORDER NUMBER 23
PALM BEACH COUNTY COVID-19
REVISED OPERATING HOUR RESTRICTIONS ON SERVING FOOD AND/OR
ALCOHOL FOR ON PREMISES CONSUMPTION AND OTHER BUSINESS HOURS**

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 remains in Phase 1 in accordance with Executive Order 20-123 and Executive Order 20-139 issued by Governor DeSantis on June 3, 2020. The Phase 1 restrictions allow indoor seating in restaurants at 50% capacity with appropriate partitioning in place between parties. Outdoor seating and take-out service is permitted; however, bar counters remain closed to seating, and eating at bars within restaurants is not allowed. Bars and nightclubs 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, Emergency Order 20-018, issued on August 11, 2020, among other things, prohibited establishments from serving food and/or alcohol for on premises consumption between the hours of 11:00 p.m. and 5:00 a.m. and mandated the closure of amusement parks, kava, kratom, and similar bars and lounges, banquet halls, and ballrooms between those hours; 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 amend Emergency Order 20-018 to reduce by an hour the aforementioned hour restrictions pertaining to serving food and/or alcohol for on premise consumption, modifying the prohibition to be between the hours of 12:00 a.m. and 5:00 a.m.; and

WHEREAS, the County Administrator has also determined that the same adjustment in operating hours is warranted for the operation of amusement parks, kava, kratom, and similar bars and lounges, banquet halls, and ballrooms that have otherwise been authorized to operate; and

WHEREAS, section 6(k) of Emergency Order 20-018 indicated, among other things, that tattooing, body piercing, and tanning establishments remained closed as of the date of that order, however, subsequently, the County issued Emergency Order 20-022 authorizing the reopening of those establishments; and

WHEREAS, the purpose of this Emergency Order is solely to modify the applicable hour restrictions contained in Emergency Order 20-018 and to make the clarification in section 6(k) aforementioned, it is not intended to, nor shall it be construed to, authorize the reopening of any business currently prohibited from operating.

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. Sections 4 and 5 of Emergency Order 2020-018 are hereby amended to replace all hour references from “between the hours of 11:00 p.m. and 5:00 a.m.” to “between the hours of 12:00 a.m. and 5:00 a.m.”

4. Subsection 6k of Emergency Order 2020-018 is amended to remove the references to tattooing, body piercing, and tanning business establishments, which are no longer closed within Palm Beach County. All other provisions of Section 6k are unchanged.
5. All other provisions of Emergency Order 2020-018 remain in full effect.
6. 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.
7. 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.
8. This order shall be effective as of 12:01 a.m. on September 4, 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

By: *Vernice C. Baker*
County Administrator

9/3/2020
Date

**APPROVED AS TO
LEGAL SUFFICIENCY**

By: *Denise Marie Nieman*
County Attorney

**ATTEST
CLERK & COMPTROLLER**

By: *Sharon R. Beck*
Clerk