



**EMERGENCY ORDER NUMBER 17
PALM BEACH COUNTY COVID-19
ADOPTION OF STATE EXECUTIVE ORDERS BY REFERENCE AND
ENFORCEMENT OF COUNTY EMERGENCY ORDERS**

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 1, 2020, Governor DeSantis declared a Public Health Emergency as a result of COVID-19; and

WHEREAS, on March 9, 2020, Governor 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 11, 2020, the World Health Organization declared the spread of COVID-19 to be a global pandemic; and

WHEREAS, on March 13, 2020, President Trump declared a national emergency concerning 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 20, 2020, Governor DeSantis issued Executive Order 20-70, which closed various establishments in Palm Beach County and vested in the County Administrator the power to enforce, relax, modify, or remove those closures, as warranted; and

WHEREAS, on March 24, 2020, Governor 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, on March 26, 2020, the County Administrator, pursuant to her emergency management powers under state law and local ordinance, issued an emergency order directing the closure of all noncritical businesses in Palm Beach County, subject to certain conditions and limitations, as thereafter amended; and

WHEREAS, on April 27, 2020, as part of a coordinated effort with the local municipalities and the adjoining counties, the County Administrator reopened certain parks, golf courses, and other recreational facilities in Palm Beach County pursuant to the guidelines in Palm Beach County Emergency Order 2020-005, as thereafter amended; and

WHEREAS, Governor 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, and 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 with regard to business activities in accordance with Executive Order 20-123 and Executive Order 20-139 issued by Governor DeSantis on June 3, 2020. Among other things, 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, including greater numbers of cases in the teen and young adult age categories. Over 33,000 positive cases had been reported by the end of July. Elospital bed utilization, including ICU bed use, also increased during the same time period due to COVID-19; and

WHEREAS, on July 14, 2020, in consideration of the foregoing, the Palm Beach County Board of Commissioners directed the County Administrator to rescind the County's request to Governor DeSantis for Palm Beach County to enter Phase 2: Safe Smart Step-by-Step Plan for Florida's Recovery; and

WHEREAS, in order to respond to these sharp increases in positive COVID-19 cases and to increase public awareness of the safety and sanitation measures required to protect public health, the County Administrator has mandated the wearing of facial coverings in all businesses, establishments, and in public spaces and requiring retail establishments and restaurants to post signage containing information regarding sanitization, social distancing, and facial covering

requirements. The County Administrator has also restricted the operating hours of restaurants and other establishments where individuals may gather; and

WHEREAS, it has been determined that education, compliance, and enforcement are important components of the State and County COVID-19 containment strategies.

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to Palm Beach County Code Chapter 9, Article II, Sections 9-35 and 9-37, 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. **Adoption by Reference of State Executive Orders.**

Any and all executive orders issued by the State of Florida related to COVID-19, prior to or after the effective date of this Order, that are applicable to Palm Beach County (“State Order”), including, but not limited to, State of Florida Executive Order 2020-70 (Emergency Management – COVID-19 – Broward and Palm Beach County Closures); State of Florida Executive Order 2020-89 (Emergency Management – COVID-19 – Miami-Dade County, Broward County, Palm Beach County, Monroe County Public Access Restrictions); State of Florida Executive Order 2020-91 (Essential Services and Activities During COVID-19 Emergency); State of Florida Executive Order 2020-112 (Phase 1: Safe. Smart. Step-by-Step. Plan for Florida’s Recovery); State of Florida Executive Order 2020-120 (Expanding Phase 1: Safe. Smart. Step-by-Step. Plan for Florida’s Recovery); State of Florida Executive Order 2020-123 (Full Phase 1: Safe. Smart. Step-by-Step. Plan for Florida’s Recovery); and State of Florida Executive Order 2020-131 (Expanding Full Phase 1: Safe. Smart. Step-by-Step. Plan for Florida’s Recovery) are hereby adopted by reference as if the State Order were a Palm Beach County issued emergency order and may be enforced as such.

2. **Closures of Establishments for Failure to Comply with Emergency Orders.** In addition to being subject to the other penalties set forth in Section 9-37 of the County's Code of Ordinances, and penalties otherwise authorized by law, any establishment, including, but not limited to, any commercial business location, place of public accommodation, or any other physical location (“Business Establishment”), that operates in a manner inconsistent with or otherwise in violation of any Palm Beach County emergency order or any State Order may be ordered to close immediately. If a Business Establishment was never authorized to be open in the first place, then it shall remain closed until it is authorized to be open by appropriate order. If a Business Establishment is generally authorized to be open pursuant to applicable emergency orders, but has been ordered to shut down because

it is operating in a manner inconsistent with or otherwise in violation of applicable orders, then such Business Establishment may reopen only after: (1) a minimum of a twenty-four (24) hour period during which the establishment shall conduct a thorough review of the County's applicable emergency orders, including, but not limited to, Emergency Orders 2020-012 and 2020-015, as amended and extended, and all applicable attachments thereto, and take all necessary measures to bring the establishment into compliance with the requirements of such emergency orders; and (2) submitting a fully executed attestation under penalty of perjury by the owner, general manager, or chief executive officer of the establishment, in the form attached hereto, to the County by email to ComplianceReopening@pbcgov.org, attesting that the review has been completed and the required measures have been taken, and receipt of County's written acknowledgment of a valid executed attestation form. In addition, the Business Establishment shall, within five (5) calendar days after reopening, submit to inspection and be inspected by authorized enforcement personnel to confirm the violation has been corrected.

3. **Civil Penalties for Persons and Establishments for Failure to Comply with Emergency Orders.** In addition to any other enforcement mechanism set forth in this Order, Section 9-37 of the County's Code of Ordinances, or as otherwise authorized by law, any person or Business Establishment that operates in a manner inconsistent with or otherwise in violation of any Palm Beach County emergency order or any State Order, may be issued a civil citation as follows:
 - a. Pursuant to Section 9-37(c) of the County's Code of Ordinances, authorized enforcement personnel who have reasonable cause to believe that a person, in their individual capacity, has committed an act in violation of an emergency order, State Order, or is otherwise in violation of Article II of Chapter 9 of the County's Code of Ordinances, shall be fined twenty-five dollars (\$25) for the first violation, fifty dollars (\$50) for the second violation, and one-hundred dollars (\$100) for each additional violation. Business Establishments shall be fined two-hundred-and-fifty dollars (\$250) for the first violation, three-hundred-and-fifty dollars (\$350) for the second violation, and five-hundred dollars (\$500) for each additional violation.
 - b. In addition to the civil citations described in Section 3(a), pursuant to Section 9-37(d) of the County's Code of Ordinances, violations of any emergency order, State Order, or any other violation of Article II of Chapter 9 of the County's Code of Ordinances, may also be enforced pursuant to the procedures in F.S. Ch. 162, Local Government Code Enforcement Boards Act, and Article 10 of the Palm Beach County Unified Land Development Code. Pursuant to § 162.09(2)(d), Fla. Stat., a code enforcement board or Palm Beach County Special Master may impose fines that shall not exceed \$1,000 per day per

violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or Palm Beach County Special Master finds the violation to be irreparable or irreversible in nature.

4. **Criminal Penalties for Failure to Comply with Emergency Orders.** Pursuant to the authority granted in Sections 252.46 and 252.47, Florida Statutes, the Sheriff of Palm Beach County and other law enforcement authorities of the State, and the political subdivisions thereof, shall enforce the orders and rules issued pursuant to Sections 252.31 through 252.90, Florida Statutes. Any person violating any provision of Sections 252.31 through 252.90, Florida Statutes, or any rule or order made pursuant to the authority granted in Sections 252.31 through 252.90, Florida Statutes, is guilty of a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes.
5. **Other Enforcement Mechanisms authorized by law.** Nothing herein shall limit any other enforcement mechanisms authorized by law.

Each incident of a continuing violation under Sections 2 through 5 shall be deemed a separate additional violation.

6. **Conflicting Enforcement Provisions In Prior Orders Superseded.** It is intended that the foregoing enforcement provisions in this Order govern violations of any emergency order issued prior to or after the date of this Order. To the extent that any prior emergency order contains enforcement provisions inconsistent with this Order, they are superseded as to those inconsistencies.
7. **Applicability; Severability.** This Order supersedes and replaces any contrary provision in any prior emergency order. Except as superseded, all emergency orders remain in full force and effect. This Order applies to incorporated and unincorporated areas within Palm Beach County, but has no application outside of Palm Beach County. The provisions of this Order shall serve as minimum standards, and municipalities within Palm Beach County may establish more stringent standards within their jurisdictions, to the extent permitted by law. Any provision(s) within this Order that (i) conflict(s) with any state or federal law or constitutional provision, or (ii) conflict(s) with or are superseded by a current or subsequently-issued executive order of the Governor or the President of the United States, solely to the extent such executive order (a) expressly preempts the substance of this Order or (b) imposes stricter closures than set forth herein, 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. If any section, paragraph, sentence, clause, phrase, or word of this Order is for any reason held by a court to be

unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Order. 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 Indian tribe, such application is expressly excluded from this Order.

8. **Effective Date; Duration.** This Order shall be effective as of 12:01 a.m. on Saturday, August 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 or Board of County Commissioners action.

PALM BEACH COUNTY

By: Verdenia Baker
County Administrator

8/7/20 Date

**APPROVED AS TO
LEGAL SUFFICIENCY**

By: Denise Marie Niemaii
County Attorney

ATTEST

CLERK & COMPTROLLER

By: Sharon R. Back

Attestation of Compliance with Palm Beach County's Reopening Guidelines

1. I am the _____ [POSITION] of _____ [NAME OF ESTABLISHMENT], located at _____ [ADDRESS], and hereby affirm under penalty of perjury that I have reviewed all of Palm Beach County's emergency orders, including, but not limited to, Emergency Orders 2020-012 and 2020-015, as amended and extended, and all applicable attachments thereto, which were developed and promulgated to limit the spread of COVID-19 and to allow certain establishments to operate safely during this global pandemic.

2. I understand the establishment mentioned above may only operate in compliance with the aforementioned emergency orders.

3. I affirm that the establishment mentioned above has taken all necessary steps to comply with the aforementioned emergency orders.

4. I understand that future violations of any Palm Beach County emergency orders could result in additional closures, fines, and even imprisonment in accordance with Sections 9-35 and 9-37 of the Palm Beach County Code of Ordinances and as otherwise authorized by law.

5. I acknowledge that the establishment mentioned above is subject to inspection by authorized enforcement personnel as authorized by law, including, but not limited to, per the terms of Palm Beach County Emergency Order 2020-017.

Under penalties of perjury, I declare that I have read the foregoing Attestation and that the facts stated in it are true.

Signature of owner or other authorized agent

Date