

PROPOSED

ORDINANCE NO. 2020-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, CREATING THE "BROWARD COUNTY LOCKSMITH ACT"; CREATING DIVISION 8 OF ARTICLE VII OF CHAPTER 20 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROVIDING FOR LICENSING OF LOCKSMITHS AND REGISTRATION OF LOCKSMITH BUSINESSES; PROVIDING FOR ENFORCEMENT AND PENALTIES; AMENDING SECTION 8½-16 OF THE CODE RELATING TO FINES FOR VIOLATIONS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Mark D. Bogen)

WHEREAS, professional locksmiths hold the keys to access the homes, businesses, and vehicles of residents and visitors of Broward County, including access to their children and personal possessions;

WHEREAS, Broward County does not currently regulate or license local locksmiths;

WHEREAS, neighboring counties, including Miami-Dade County, have a comprehensive locksmith business registration and locksmith licensing program, including requirements for inclusion of a county-issued business registration number on locksmith advertising, provisions for apprenticeships, and both civil and criminal enforcement mechanisms; and

WHEREAS, the Board of County Commissioners of Broward County finds that the safety and security of Broward County residents and visitors calls for enactment of a comprehensive regulatory program of locksmith regulation and licensing in Broward County,

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3
4 Section 1. Division 8 of Article VII of Chapter 20 of the Broward County Code of
5 Ordinances is hereby created to read as follows:

6 [Underlining omitted]

7 DIVISION 8. LOCKSMITHS AND LOCKSMITH BUSINESSES

8 **Sec. 20-176.130. Definitions.**

9 The following terms shall have the following meanings as used in this division:

10 *Advertisement* or *advertise* shall apply to business cards, business stationery,
11 business proposals, contracts, newspapers, airwave transmissions (other than internal
12 company communications), internet communications (other than intranet
13 communications), social media, classified telephone directories, handbills, billboards,
14 flyers, shopping and service guides (coupon offerings), magazines (including trade
15 association publications), classified advertisements, and signs on vehicles. The terms
16 “advertisement” and “advertise” do not include small promotional items such as pencils,
17 pens, hats, and articles of clothing. Additionally, the terms do not include free classified
18 telephone directory listings that display only the proper name, company name, address,
19 and/or telephone number, in whole or in part, in an unbolded or unhighlighted print,
20 without further textual or pictorial elaboration or touting in the overall display.

21 *Broward County Locksmith Act* or *Locksmith Act* shall mean this Division 8 of
22 Article VII of Chapter 20 of the Broward County Code of Ordinances.

23 *Code* shall mean the Broward County Code of Ordinances.

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1 *Compensation* shall mean money, fee, emolument, quid pro quo, barter,
2 remuneration, pay, reward, indemnification, or satisfaction.

3 *County Commission* shall mean the Board of County Commissioners of
4 Broward County, Florida.

5 *Customer* shall mean a person who makes an inquiry or request for, or purchases,
6 locksmith goods or services from a locksmith or a locksmith business.

7 *Director* shall mean the director of the Environmental and Consumer Protection
8 Division.

9 *ECPD* shall mean the Broward County Environmental and Consumer Protection
10 Division, or successor agency.

11 *Key* shall mean a properly combined device that is or most closely resembles
12 the device specifically intended by a lock manufacturer to operate the corresponding lock.
13 “Key” includes any digital or electronic device or app that is coded, calibrated, or
14 programmed to operate a corresponding lock.

15 *Key duplication machine* shall mean any device that is capable of copying or
16 reproducing keys.

17 *License* shall mean the authorization required by this Code for a locksmith to
18 perform locksmith work or services.

19 *Locksmith* shall mean any individual who for compensation, wages, or salary
20 engages in locksmith work and who has received a license under this chapter. This
21 definition shall not include any person whose activities are limited to making a duplicate
22 key from an existing key.

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1 *Locksmith business* shall mean any person advertising, offering to perform, or
2 performing locksmith work for compensation, including, but not limited to, locksmith
3 contractors, mobile locksmith business operators, locksmith shops, and sole proprietors.

4 *Locksmith work or locksmith services* shall mean installing, repairing, rebuilding,
5 rekeying, repinning, recoding, servicing, adjusting, opening, or modifying locks,
6 mechanical and electronic security locking devices and peripherals, safes, vaults, and
7 safe deposit boxes. It shall also mean originating keys for locks and the operation of
8 mechanical or electronic security locking devices and peripherals, safes, vaults, or safe
9 deposit boxes by any means other than the means intended by the manufacturer.

10 **Sec. 20-176.131. Intent and purpose.**

11 It is hereby declared by the County Commission that the health, safety, and welfare
12 of the people of Broward County, and protection of their families and property, require the
13 licensure and regulation of individuals and businesses engaged in locksmith services.
14 Any individual desiring to perform locksmith services in Broward County shall be required
15 to obtain a Broward County license; locksmith businesses shall be required to obtain a
16 Broward County registration certificate; and locksmiths and locksmith businesses shall
17 be required to comply with the regulations provided in this division.

18 It is the legislative intent of the County Commission that the fees assessed under
19 this division shall be sufficient to fund the costs incurred in implementing this division.

20 **Sec. 20-176.132. Locksmith license required; apprentice licenses.**

21 (a) It shall be a violation of this section for an individual to provide, offer to
22 provide, or advertise for the provision of locksmith services for compensation without first
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1 obtaining and maintaining a current and valid locksmith license or a current and valid
2 apprentice locksmith license pursuant to the provisions of this division.

3 (b) An apprentice locksmith may perform locksmith services for compensation
4 only under the supervision of a licensed locksmith. "Supervision" means, at a minimum,
5 that the licensed locksmith reviews the work of the apprentice locksmith before the
6 locksmith services are completed and before final payment is accepted from the
7 customer.

8 (c) Each locksmith and each apprentice locksmith must display a current and
9 valid license certificate issued by Broward County in full view of the customer at the
10 locksmith's primary place of business.

11 (d) The license number of the licensed locksmith must appear on all
12 advertisements, forms, quotations, invoices, and commercial motor vehicles of the
13 licensed locksmith. The license number of the licensed apprentice locksmith and the
14 supervising licensed locksmith must appear on all advertisements, forms, quotations,
15 invoices, and commercial motor vehicles of the licensed apprentice locksmith.

16 **Sec. 20-176.133. Application for locksmith license or apprentice locksmith**
17 **license.**

18 (a) An applicant for a locksmith license or an apprentice locksmith license must:

19 (1) Complete an application in the form provided by ECPD and pay the
20 nonrefundable application fee; and

21 (2) Submit documentation demonstrating that the applicant has successfully
22 passed the background screening required by Section 20-176.137.

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1 (b) Each application for a locksmith license or an apprentice locksmith license
2 must contain the following information:

- 3 (1) Full legal name of the applicant;
- 4 (2) Current telephone number (rotating voice over internet protocol (VOIP)
5 telephone numbers are not permitted); the telephone number may be a
6 cellular phone number but must be associated with a single physical
7 address;
- 8 (3) Current residential address;
- 9 (4) Current employer;
- 10 (5) Current business mailing address and physical address(es), if any;
- 11 (6) Background check and list of all offenses required to be disclosed pursuant
12 to Section 20-176.137 of this division;
- 13 (7) One of the following:
- 14 a. For a locksmith license, a sworn statement from the applicant
15 attesting that the applicant has worked as a locksmith or an
16 apprentice locksmith for at least one (1) year, accompanied by the
17 name and contact information of a person or persons who employed
18 the applicant as a locksmith or an apprentice locksmith for at least
19 one (1) year; or
- 20 b. For an apprentice locksmith license, a sworn statement from a
21 currently licensed locksmith who has agreed to supervise the
22 applicant as an apprentice for at least one (1) year. Any apprentice
23 locksmith licensed under this provision must notify ECPD within ten
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1 (10) days after any change in place of employment or supervising
2 licensed locksmith; and

3 (8) Such other relevant items or information as may be required by the Director
4 that are consistent with the provisions of this division.

5 (c) The application must be executed under penalty of perjury by the applicant.

6 (d) The criteria for issuance of a locksmith license or an apprentice locksmith
7 license by ECPD shall be as follows:

8 (1) Compliance by the applicant with all the applicable provisions of this division
9 and all rules, regulations, and standards promulgated thereunder, including
10 that the applicant has no disqualifying offenses as set forth in
11 Section 20-176.137 of this division; and

12 (2) Submission of a complete, sworn application and payment of the applicable
13 application fee.

14 (e) If the application is incomplete or ECPD requires more information to
15 process it, then ECPD shall provide written notice to the applicant of the defects or the
16 additional information required. The applicant shall have thirty (30) days from the date of
17 ECPD's notification to correct the defects or provide the additional information required.
18 If the applicant does not provide a timely written response, the application shall be
19 deemed abandoned and no further action shall be required by ECPD.

20 (f) ECPD shall act on all complete applications within thirty (30) days after
21 receipt of the complete application.

22 (g) If ECPD determines that an applicant does not qualify for a locksmith
23 license, then ECPD shall so inform the applicant in writing.

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1 (h) Upon determining that the applicant has qualified for a license pursuant to
2 this division, ECPD shall issue a license in the form prescribed by the Director.

3 (i) Locksmith licenses and apprentice locksmith licenses are nontransferable.

4 **Sec. 20-176.134. Locksmith business registration required.**

5 (a) It shall be a violation of this section for a locksmith business to provide, offer
6 to provide, or advertise for the provision of locksmith services for compensation or as part
7 of a regularly conducted business activity without first obtaining and maintaining a current
8 and valid registration pursuant to the provisions of this division.

9 (b) The locksmith business must display a valid, current locksmith business
10 registration issued by Broward County in full view of the customer at the place of business
11 for which the registration was obtained.

12 (c) All advertisements of the locksmith business must include the locksmith
13 business registration number issued pursuant to this division.

14 (d) Each locksmith business must employ or retain the services of at least
15 one (1) locksmith licensed by Broward County. The licensed locksmith may be an owner,
16 employee, or independent contractor of the locksmith business.

17 (e) If the only licensed locksmith employed or retained by a locksmith business
18 leaves the employ or retention of the locksmith business, the locksmith business must
19 promptly notify ECPD, and may not perform locksmith services until the locksmith
20 business hires or retains the services of a licensed locksmith.

21 (f) Existing locksmith businesses as of the effective date of this division shall
22 have twelve (12) months from the effective date of this division to come into full
23 compliance with the requirements of this division. Locksmith businesses that commence
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1 operation after the effective date of this division must meet all requirements of this division
2 prior to commencement of business operations.

3 **Sec. 20-176.135. Application for locksmith business registration; criteria for**
4 **registration.**

5 (a) Each application for a locksmith business registration must contain the
6 following information:

- 7 (1) Legal business name and trade name (if any);
- 8 (2) Current telephone number (rotating voice over internet protocol (VOIP)
9 telephone numbers are not permitted); the telephone number may be a
10 cellular phone number but must be associated with a single physical
11 address;
- 12 (3) Current business mailing address (which must be the same as the address
13 listed on the Broward County local business tax receipt for the locksmith
14 business), as well as the addresses of any branch office(s);
- 15 (4) Proof of registration of fictitious name (if any);
- 16 (5) Copy of current local business tax receipt(s);
- 17 (6) Federal taxpayer identification number;
- 18 (7) If the application for registration is by an individual, the applicant's full name,
19 current address, and telephone number;
- 20 (8) If the application for registration is by a partnership, then the full names,
21 current addresses, and telephone numbers of all general partners; the
22 Florida registered agent, if a limited partnership; and the full name, current
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1 address, and telephone number of the individual who will be actively in
2 charge of the locksmith business;

3 (9) If the application for registration is by a corporation or limited liability
4 company, the full names, addresses, and telephone numbers of its
5 corporate officers and directors or members; the federal tax identification
6 number of the corporation; the Florida registered agent of the corporation;
7 the date and place of incorporation; a statement listing the names of any
8 other corporations, entities, or trade names through which any owner,
9 director, officer, or member of the applicant was known or did business as
10 a locksmith or as a locksmith business within five (5) calendar years
11 preceding the date upon which the corporation is submitting the application
12 for registration; and the full name, current address, and telephone number
13 of the individual who will be actively in charge of the locksmith business;

14 (10) The full name, current address, and license number of all locksmiths who
15 are currently employed or retained by the locksmith business;

16 (11) Evidence of a minimum of fifty thousand dollars (\$50,000.00) in combined
17 liability insurance;

18 (12) Evidence of workers' compensation insurance as required by Chapter 440
19 of the Florida Statutes, a State certificate of exemption, or a sworn
20 statement from the applicant affirming that such coverage is not required by
21 law;

22 (13) Background check and list of all offenses required to be disclosed pursuant
23 to Section 20-176.137 of this division; and

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1 (14) Such other relevant items or information as may be required by the Director
2 that are consistent with the provisions of this division.

3 (b) The application must be executed under penalty of perjury by the individual
4 applicant, by all general partners of a partnership applicant, or by an authorized officer,
5 director, or member of a corporation or limited liability company applicant with authority
6 to bind the corporation or limited liability company.

7 (c) A person operating a locksmith business at more than one (1) location in
8 Broward County, Florida, may file a single application that applies to all locations,
9 provided the application clearly indicates each location and lists a distinct individual in
10 charge of each locksmith business location.

11 (d) The criteria for issuance of a locksmith business registration by ECPD shall
12 be as follows:

13 (1) Compliance by the applicant with all the applicable provisions of this
14 division and any rules, regulations, and standards promulgated thereunder,
15 including that the applicant, its partners, officers, directors, or members, as
16 applicable, have no disqualifying offenses as set forth in
17 Section 20-176.137 of this division;

18 (2) Submission of a complete, sworn application and payment of the applicable
19 application fee; and

20 (3) At least one (1) licensed locksmith per location in the employ of or retained
21 by the locksmith business.

22 (e) If the application is incomplete or ECPD requires more information to
23 process it, then ECPD shall provide written notice to the applicant of the defects or the

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1 additional information required. The applicant shall have thirty (30) days from the date of
2 ECPD's notification to correct the defects or provide the additional information required.
3 If the applicant does not provide a timely written response, the application shall be
4 deemed abandoned and no further action shall be required by ECPD.

5 (f) ECPD shall act on all complete applications within thirty (30) days after
6 receipt of the complete application.

7 (g) If ECPD determines that an applicant does not qualify for registration, then
8 ECPD shall so inform the applicant in writing.

9 (h) Upon determining that the applicant has qualified for registration pursuant
10 to this division, ECPD shall issue a registration certificate in the form prescribed by the
11 Director. Such registration certificate must be prominently displayed by the registered
12 locksmith business to the public in the primary location of the locksmith business. The
13 registration number appearing on the certificate must appear on all advertisements,
14 forms, and commercial motor vehicles of the locksmith business.

15 (i) Locksmith business registrations are nontransferable. The locksmith
16 business must promptly notify ECPD of any change in the location(s) of the locksmith
17 business. In the event of a change in ownership of a locksmith business, a new
18 application and payment of an application fee is required. Provided the new ownership
19 of the locksmith business applies for registration in accordance with this division within
20 thirty (30) days after the change in ownership, the locksmith business may continue to
21 operate pending a determination on the application. For purposes of this section, "change
22 of ownership" includes any change in the ownership or operator of a locksmith business
23 that is owned by one or more individuals or partnerships, and any change in ownership

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1 of ten percent (10%) or more of the outstanding stock of a locksmith business that is a
2 corporation or a limited liability company.

3 **Sec. 20-176.136. Fees; applications; renewals.**

4 (a) The fees for initial applications, renewal applications, and duplicate licenses
5 or registrations shall be established by the County Commission and reviewed periodically
6 for any appropriate changes. All fees collected pursuant to this division shall be used
7 exclusively to accomplish the intent and purpose of this division.

8 (b) A locksmith business may submit a single application for multiple locations
9 of the same locksmith business, but an application fee is required for each business
10 location. The total of all such application fees may be paid in a single payment.

11 (c) Applications, renewal applications, and applications for a duplicate license
12 or registration shall be submitted on forms provided by ECPD.

13 (d) Each license and registration shall be effective for a period of one (1) year,
14 except that the Director may, at the discretion of the Director, extend the license or
15 registration duration for an additional period of up to six (6) additional months for the
16 purpose of enabling renewals to occur at specific times during each year.

17 (e) Prior to the expiration of a license or registration, an applicant may apply for
18 renewal of the license or registration. As a part of the renewal process, the applicant
19 must update the original application and verify the information contained therein on forms
20 prescribed by ECPD. Each renewal application must be submitted prior to the expiration
21 of the current license or registration and shall be accompanied by the applicable renewal
22 fee.

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1 (f) In the event of loss, destruction, or mutilation of the license or registration,
2 the individual or business to whom it was issued may obtain a duplicate copy upon
3 payment of the applicable fee and satisfactory proof of the loss, destruction, or mutilation.

4 (g) Upon receipt of the completed application form and fee, and after
5 determining that there is no reason why the application should not be approved, ECPD
6 shall approve the application and notify the applicant of the approval.

7 **Sec. 20-176.137. Background screening; disclosure of convictions; disqualifying**
8 **offenses.**

9 (a) Each individual applying for a locksmith license or a locksmith apprentice
10 license, and each owner, general partner, officer, director, or member of a locksmith
11 business applying for registration, must be fingerprinted and the fingerprints submitted to
12 the Florida Department of Law Enforcement (FDLE) for a state criminal background
13 history record check and to the Federal Bureau of Investigation for a national criminal
14 history record check. Prior to submitting a request for a criminal history record check
15 pursuant to this section, ECPD shall notify each applicant to be fingerprinted that their
16 fingerprints will be sent to the FDLE for a state criminal history record check and to the
17 Federal Bureau of Investigation for a national criminal history record check. The
18 notification shall also state that the applicant has a right to: obtain a copy of their criminal
19 history records; challenge the completeness and accuracy of the criminal history records
20 pursuant to state and federal law; and request a correction, change, or update to the
21 criminal history records pursuant to state and federal law. ECPD may perform
22 fingerprinting directly and/or may refer applicants to FDLE-approved fingerprint services.

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1 (b) Each individual applying for a locksmith license and each owner, general
2 partner, officer, director, or member of a locksmith business applying for registration must
3 fully and accurately disclose in the application any criminal history, as provided in this
4 section. As used herein, conviction means any judicial determination of conviction,
5 conviction by plea of guilty or nolo contendere, or conviction by jury verdict, regardless of
6 whether adjudication was withheld.

7 (c) Each applicant must disclose in the initial application and each renewal
8 application:

9 (1) All convictions, in any jurisdiction, regardless of whether adjudication was
10 withheld, of any felonies, misdemeanors, or ordinance violations (excluding
11 noncriminal traffic violations) for robbery, burglary, larceny, theft,
12 possession of stolen goods, possession of a stolen car, breaking and
13 entering, or any other crime related to locksmithing, for the individual
14 applicant, and for each owner, general partner, officer, director, and/or
15 member of an applicant that is not an individual; and

16 (2) All convictions, in any jurisdiction, regardless of whether adjudication has
17 been withheld, of any felony involving moral turpitude relating to sex, the
18 use of a deadly weapon, homicide, violence against a law enforcement
19 officer, or as a habitual violent felony offender.

20 (d) No applicant for licensure as a locksmith or applicant for registration of a
21 locksmith business may be granted a locksmith license or a locksmith business
22 registration, or granted the renewal of any such license or registration, if the license
23 applicant, or the registration applicant or any owner, officer, director, general partner, or

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1 member of the registration applicant, meets any of the following disqualifying criteria
2 (each a “disqualifying offense”):

3 (1) Been convicted within the last seven (7) years of a felony, or been released
4 from incarceration from a prison within the last six (6) months as a result of
5 a felony conviction as shown on any publicly-accessible website made
6 available by any state or federal Department of Corrections or similar
7 governmental agency unless their civil or residency rights have been
8 restored;

9 (2) Been convicted of any criminal offense involving moral turpitude relating to
10 sex crimes; the use of a deadly weapon; homicide; violent offense against
11 a law enforcement officer under Section 775.0823, Florida Statutes; sexual
12 misconduct with certain developmentally disabled clients and reporting of
13 such sexual misconduct under Section 393.135, Florida Statutes; sexual
14 misconduct with certain mental health patients and reporting of such sexual
15 misconduct under Section 394.4593, Florida Statutes; manslaughter,
16 aggravated manslaughter of an elderly person or disabled adult, or
17 aggravated manslaughter of a child under Section 782.07, Florida Statutes;
18 vehicular homicide under Section 782.071, Florida Statutes; killing of an
19 unborn child by injury to the mother under Section 782.09, Florida Statutes;
20 kidnapping under Section 787.01, Florida Statutes; false imprisonment
21 under Section 787.02, Florida Statutes; sexual battery under
22 Section 794.011, Florida Statutes; unlawful sexual activity with certain
23 minors under Section 794.05, Florida Statutes; lewd or lascivious offenses

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1 committed upon or in the presence of an elderly person or disabled adult
2 under Section 825.1025, Florida Statutes; sexual performance by a child
3 under Section 827.071, Florida Statutes; sexual misconduct with certain
4 forensic clients and reporting of such sexual misconduct under
5 Section 916.1075, Florida Statutes; inflicting cruel or inhuman treatment on
6 an inmate resulting in great bodily harm under Section 944.35(3),
7 Florida Statutes; sexual misconduct in juvenile justice programs under
8 Section 985.701, Florida Statutes; theft, robbery, or related crimes under
9 Chapter 812, Florida Statutes; offenses involving abuse and exploitation of
10 elderly persons under Chapter 825, Florida Statutes; burglary and trespass
11 offenses under Chapter 810, Florida Statutes; or been adjudicated a
12 habitual violent felony offender under Section 775.084, Florida Statutes; or

- 13 (3) Been convicted of an offense involving moral turpitude (unrelated to sex
14 crimes) when, in the discretion of the ECPD Director, approval of such
15 registration would constitute a threat to the health, welfare, or safety of the
16 public or property.

17 **Sec. 20-176.138. Cost estimates; quotations; invoices.**

18 (a) In response to a customer inquiry or request for services, the locksmith or
19 locksmith business must provide a cost estimate to the customer. The cost estimate may
20 be verbal and may be a price range (for example, between \$50.00 and \$75.00).

21 (b) Prior to performing any locksmith services, the locksmith must provide a
22 written quotation to the customer specifying the total cost to the customer of the goods or
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1 services to be provided. The locksmith must obtain the customer's signature on the
2 written quotation prior to commencing locksmith services.

3 (c) If, after commencing locksmith services, the locksmith determines that the
4 work required to be provided will exceed the cost of the written quotation signed by the
5 customer, the locksmith must perform one of the following, as elected by the customer:

6 (1) Restore the subject of the locksmith services to the same status or condition
7 it was in prior to any work by the locksmith, and not charge the customer
8 any amount whatsoever; or

9 (2) Provide the customer with an updated written quotation, obtain the
10 customer's signature on the updated written quotation, and complete the
11 locksmith services as stated on the updated written quotation approved by
12 the customer.

13 (d) After completing locksmith services, the locksmith must provide a written
14 invoice to the customer. The amount of the written invoice may not exceed the amount
15 stated on the written quotation or updated written quotation that was signed by the
16 customer.

17 **Sec. 20-176.139. Recordkeeping.**

18 Every locksmith business required to be registered hereunder must:

19 (a) Maintain complete records of all locksmith services provided during the
20 immediately preceding six (6) months, including records of the following for each separate
21 job:

22 (1) Cost estimate;

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1 (2) Record of the locksmith services provided, including the type of lock being
2 serviced and the vehicle identification number, if applicable;

3 (3) Invoices for services rendered; and

4 (4) Records of payments for services rendered.

5 (b) The locksmith business must grant ECPD access to these records for
6 inspection or copying during regular business hours upon five (5) days' prior written
7 notice. If a locksmith business fails to provide ECPD with access to the records as
8 required herein, ECPD may institute proceedings to suspend or revoke the registration of
9 the locksmith business. All records and information inspected and not copied shall be
10 confidential, except that records may be copied or made public for the purpose of
11 registration suspension or revocation proceedings.

12 **Sec. 20-176.140. Prohibited practices.**

13 It shall be a prohibited practice for a locksmith or locksmith business to:

14 (a) Perform locksmith services that include opening services on a residential
15 property without first:

16 (1) Obtaining and recording the name and driver's license number or other
17 valid, unexpired government-issued identification of the person requesting
18 the locksmith services; and

19 (2) Confirming the name on the driver's license or other government-issued
20 identification matches the property owner listed on the records at the
21 Broward County Property Appraiser's Office, or otherwise obtaining written
22 confirmation from the property owner listed on the records at the Broward
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1 County Property Appraiser's Office that the customer requesting the
2 locksmith services is authorized to obtain the requested services.

3 (b) Perform locksmith services that include opening services on a motor vehicle
4 without first:

5 (1) Obtaining and recording the name and driver's license number or other
6 valid, unexpired government-issued identification of the person requesting
7 opening;

8 (2) Obtaining and recording the registration number, license plate number, or
9 vehicle identification number of the motor vehicle upon which locksmith
10 work is to be performed; and

11 (3) Confirming the name on the customer's driver's license or other
12 government-issued identification matches the name on the motor vehicle
13 registration, or otherwise confirming the customer is the owner of or
14 otherwise authorized to possess the motor vehicle.

15 (c) Perform locksmith services that include opening services for any person of
16 a safe, vault, safe deposit box, or other safeguarding device on a residential, commercial,
17 industrial, or agricultural structure, without first obtaining and recording the following:

18 (1) The address of the residential, commercial, industrial, or agricultural
19 structure or any other address at which the safe, vault, safe deposit box, or
20 other safeguarding device is located, and the signature of the person for
21 whom the locksmith services are to be performed; and

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1 (2) The name, address, telephone number, and driver's license number (or
2 other valid, unexpired government-issued identification number) of the
3 person requesting the locksmith services.

4 (d) Fail to provide an invoice for the sale of any locksmith services valued at
5 fifty dollars (\$50.00) or greater, or to include all of the following information in each such
6 invoice:

7 (1) Invoice number;

8 (2) Name, address, registration number, and telephone number of the
9 locksmith business;

10 (3) Name and license number of the licensed locksmith who completed and/or
11 supervised the locksmith services, and the name and license number of the
12 licensed apprentice locksmith, if any, who performed any part of the
13 locksmith services;

14 (4) the name, address, telephone number, and signature of the customer;

15 (5) the amount of goods or services and amount of tax;

16 (6) the date of the sales transaction;

17 (7) A brief description of the goods or services; and

18 (8) Any terms and conditions, if applicable.

19 (e) Operate a locksmith business without at least one (1) licensed locksmith in
20 its employ or retention.

21 (f) Aid or abet a person providing locksmith services who is not registered as
22 a locksmith business or licensed as a locksmith or apprentice locksmith.

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1 (g) Conduct a locksmith business as an individual, partnership, corporation, or
2 limited liability company unless the locksmith business holds a valid registration issued to
3 the same individual, partnership, corporation, or limited liability company.

4 (h) Fail to maintain records containing the name, address, commencement
5 date of employment or retention, and position of each employee or other personnel
6 (including independent contractors retained to provide locksmith services), proof of
7 locksmith license, and the last date of employment or retention for any individual that is
8 terminated or otherwise leaves the employ or retention of the locksmith business. The
9 records, together with usual payroll records, shall be available for inspection by ECPD
10 and copies thereof and information pertaining thereto or contained therein shall be
11 submitted to ECPD upon written request.

12 (i) Fail to include the name and the valid, current registration number of the
13 locksmith business in all advertisements.

14 (j) Utilize a rotating voice over the internet protocol (VOIP) telephone number,
15 or utilize a telephone number that is not registered to a single physical business location.

16 (k) Make or authorize any written or oral statements that are deceptive,
17 fraudulent, misleading, or false as to quality, quantity, characteristics, workmanship,
18 nature, or origin or source of any goods or services in order to influence, persuade, or
19 induce patronage of a customer, or perform any other act that constitutes fraud or
20 misrepresentation.

21 (l) Represent that services have been rendered when they have not been
22 rendered or bill for services that have not been rendered.

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1 (m) Perform or charge for locksmith services that were not stated in a written
2 quotation signed by the customer.

3 (n) Represent that certain parts or services are necessary when such parts or
4 services are not necessary.

5 (o) Operate a locksmith business without a minimum combined liability
6 insurance of fifty thousand dollars (\$50,000.00) or workers' compensation insurance, if
7 applicable.

8 (p) Duplicate a key that is a restricted key or a key that states specifically it is
9 not to be duplicated, unless the locksmith business obtains written authorization to
10 duplicate said key for each transaction and maintains said authorization on file. The
11 duplication authorization must be retained by the locksmith business for at least six (6)
12 months and must include the following information: name, address, telephone number,
13 driver's license or other government-issued identification, and the signature of the person
14 authorized to request the duplication; the date of the request; a description of the key;
15 and the specific quantity of keys to be duplicated.

16 (q) Fail to provide a customer with all duplicated keys, including keys made in
17 error and keys with duplicating errors.

18 (r) Fail to post in a conspicuous place near the key duplication machine a sign
19 that is written in a legible manner in English, Spanish, and Creole, that the Broward
20 County Locksmith Act entitles the customer to all duplicated keys, including keys made
21 in error and keys with duplicating errors.

22 (s) Make use of the title "licensed locksmith," "certified locksmith," or "certified
23 master locksmith," or any words, letters, or abbreviations that would denote such

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1 certification or licensure when the individual has not obtained such licensure or
2 certification.

3 (t) Dispatch to a customer's residence or place of business any person to
4 perform locksmith services that is not a licensed locksmith or a licensed apprentice
5 locksmith.

6 **Sec. 20-176.141. Denial, revocation, and suspension of business registration,**
7 **locksmith license, or apprentice locksmith license.**

8 (a) ECPD may deny, revoke, or suspend a business registration, locksmith
9 license, or apprentice license issued pursuant to the provisions of this division if ECPD
10 determines that the applicant:

- 11 (1) Violated any provision of this division;
- 12 (2) Engaged in a prohibited practice as prescribed in this division;
- 13 (3) Aided or abetted a person to evade or avoid provisions of this division;
- 14 (4) Misrepresented or concealed a fact on the application, renewal application,
15 or replacement application for registration or license;
- 16 (5) Violated any condition, limitation, or restriction of a registration or license
17 imposed by ECPD;
- 18 (6) Was enjoined by a court of competent jurisdiction from engaging in the trade
19 or business of locksmithing or was enjoined by a court of competent
20 jurisdiction with respect to any of the requirements of this division;
- 21 (7) Failed to comply with the terms of a cease and desist order, notice to correct
22 a violation, or any other lawful order of ECPD;
- 23 (8) Was convicted of a violation of this division; or

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1 (9) Was convicted of any of the disqualifying offenses stated in
2 Section 20-176.137 of this division.

3 (b) Unless ECPD provides written notice of immediate revocation or
4 suspension as set forth herein, any revocation or suspension of a license or registration
5 by ECPD shall be effective ten (10) days after the date of the notice, except if the
6 revocation or suspension is appealed pursuant to this division. If appealed within said
7 ten (10) days, the revocation or suspension shall be effective upon the rendition of the
8 hearing officer's order. However, if in the Director's sole discretion, the Director finds that
9 permitting the locksmith or locksmith business to continue providing services would
10 present a danger to public health, safety, or welfare, then the Director may make the
11 revocation or suspension effective immediately. Written notice of immediate revocation
12 or suspension shall be provided in the notice of revocation or suspension.

13 **Sec. 20-176.142. Appeal; review.**

14 (a) Any individual or business dissatisfied or aggrieved with the decision of
15 ECPD to deny an application for license or registration, or renewal of same, or to suspend
16 or revoke a license or registration, may appeal in writing to ECPD within ten (10) days
17 after the denial or the effective date of the suspension or revocation. No later than
18 thirty (30) days after receipt of a notice of the appeal, ECPD shall schedule a hearing
19 regarding the appeal, unless a hearing is waived in writing by the appellant. The appellant
20 shall be provided a notice of hearing, which must include (a) a statement of the time and
21 place for the hearing; and (b) a reference to the facts and relevant section of this division
22 upon which the denial, revocation, or suspension is based.

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1 (b) The appeal shall be adjudicated by a hearing officer, which position is
2 hereby created for such purposes.

3 (1) The hearing officer shall be selected by the County Attorney from a list of
4 candidates approved by the County Commission and must be a member in
5 good standing with The Florida Bar, engaged in the practice of law in
6 Broward County.

7 (2) Upon receipt of a timely request for a hearing before a hearing officer, the
8 matter shall be set on the next regularly scheduled hearing date or as soon
9 thereafter as reasonably possible.

10 (3) ECPD shall serve a notice of hearing to the appellant, which notice shall
11 include, but not be limited to, the following:

12 a. Place, date, and time of the hearing.

13 b. Right of the appellant to be represented by an attorney, at that
14 appellant's option and cost.

15 c. Right of the individual or business requesting the hearing to present
16 witnesses and evidence and conduct cross examination.

17 d. A conspicuous statement reflecting the requirements of Chapter 286,
18 Florida Statutes, that appellant will need to ensure that a verbatim
19 record of the proceedings is made.

20 (4) All hearings shall be open to the public. All testimony shall be under oath,
21 minutes shall be taken, and the proceedings shall be recorded.

22 (5) ECPD shall provide clerical and administrative personnel as may be
23 reasonably required by each hearing officer.

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1 (6) Each case before a hearing officer shall be presented and prosecuted by
2 personnel designated by the Director or the County Attorney.

3 (7) Formal rules of evidence do not apply, but fundamental principles of due
4 process shall be observed and govern the proceedings. All evidence of a
5 type commonly relied upon by reasonably prudent persons in the conduct
6 of their affairs shall be admissible whether or not such evidence would be
7 admissible in a State of Florida court.

8 (8) Each party shall have the right to call and examine witnesses, to introduce
9 exhibits, and to cross examine opposing witnesses on any relevant matter.

10 (9) The hearing officer shall make findings of fact based on evidence presented
11 and issue an order.

12 (10) If ECPD's decision is upheld, the appellant will be required to pay for the
13 reasonable costs of the administrative hearing.

14 (11) The hearing officer shall have the power to:

15 a. Hold hearings, conduct investigations, provide for the administration
16 of oaths, and take testimony under oath;

17 b. Determine whether the appellant was properly notified of the hearing;

18 c. Determine whether the denial, suspension, or revocation of the
19 license or registration, or renewal of same, was proper.

20 d. Subpoena persons and evidence for the purpose of discovery in a
21 pending action, and subpoena evidence, alleged violators, and
22 witnesses to its hearings. A subpoena may be served by any person
23

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1 authorized by law to serve process. Service shall be made as
2 provided by law. Witness fees shall be paid as provided by law.

3 (12) The appellant or the County may seek review of a decision of a hearing
4 officer as provided by the Florida Rules of Appellate Procedure.

5 (13) The same hearing officer may, at the same hearing, adjudicate violations of
6 this division and resulting fines as well as denial, suspension, or revocation
7 of a license or registration under this division. In such a case, the provisions
8 of Chapter 8½ of this Code shall apply to the violations and fines, while the
9 provisions of this division shall apply to the denial, suspension, or revocation
10 of the license or registration. In the event of a conflict between Chapter 8½
11 and this division, this division shall prevail.

12 **Sec. 20-176.143. Exclusions.**

13 (a) This division shall not apply to the following individuals and entities,
14 provided these individuals and entities do not hold themselves out to the public as
15 locksmiths or locksmith businesses:

16 (1) Any individual or entity, or the agent or employee of such individual or entity,
17 who is the manufacturer of a product other than locks and keys and who
18 installs, repairs, opens, or modifies locks for that product; or who makes
19 keys for the locks of that product as a normal incident to that product's
20 marketing.

21 (2) Tow truck operators or repossessioners who do not originate keys for locks
22 and whose locksmith services are limited to gaining access to motor
23 vehicles in the normal course of their duties; except that tow truck operators
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1 must comply with the provisions of Division 2 of this article. Tow truck
2 operators and repossessioners may possess tools exclusively designed to
3 open motor vehicles.

4 (3) Any individual or entity, or an agent or employee of such individual or entity,
5 whose activities are limited to making a duplicate key from an existing key
6 with a key duplication machine; however, the customer must be provided
7 with all such duplicated keys, including any keys made in error or keys with
8 duplicating errors. Any business wishing to qualify for this exception must
9 post a sign with the language and meeting the requirements of
10 Section 20-176.140(s) of this division.

11 (4) Members of law enforcement, fire rescue, and other emergency
12 government service agencies providing opening services in the line of duty.

13 (5) Sales representatives of key and lock manufacturers who make bona fide
14 sales demonstrations to locksmiths or locksmith businesses.

15 (6) Members of the building trades, such as carpenters, construction workers,
16 and contractors, who install or remove complete locks, locking devices, or
17 access control devices during the normal course of residential or
18 commercial new construction.

19 (7) Any individual or entity, or an agent or employee of such individual or entity,
20 whose activities are limited to installing, maintaining, repairing, altering,
21 adding, or changing any system electrically energized, in whole or in part,
22 for the detection, prevention, or control of burglary, fire, noxious gases, or
23 liquid or atomic radiation.

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- 1 (8) Any individual who performs locksmith services solely for that individual or
2 that individual's immediate family members and without compensation.
- 3 (9) Any individual who performs locksmith work or services on nonresidential
4 public facilities, equipment, or vehicles arising out of the individual's job
5 duties as a public employee for a public employer.
- 6 (10) Any retail establishment for which the only locksmith services provided are
7 rekeying or recombination services, provided that:
- 8 a. All such rekeying or recombination takes place on the premises of
9 the retail establishment;
 - 10 b. All rekeying or recombination services are limited to locks purchased
11 on the retail establishment premises;
 - 12 c. All agents and employees of the retail establishment performing
13 rekeying or recombination services are trained by the manufacturer
14 of the locks to perform these services, and the manufacturer issues
15 written evidence to the retail establishment demonstrating that said
16 agents and employees have been adequately trained;
 - 17 d. Neither the retail establishment nor any agent or employee of the
18 retail establishment advertises or represents himself to be a
19 locksmith;
 - 20 e. Neither the retail establishment nor any agent or employee of the
21 retail establishment designs or implements a master key system;
- 22
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- 1 f. Neither the retail establishment nor any agent or employee of the
2 retail establishment rekeys, changes the combination of, alters, or
3 installs any automotive locks;
- 4 g. The retail establishment carries minimum combined liability
5 insurance of one million dollars (\$1,000,000.00);
- 6 h. The retail establishment, in the ordinary course of business,
7 performs criminal background investigations of all employees
8 performing services, and does not employ any individual who does
9 not meet the requirements set forth in Section 20-176.137 of this
10 division;
- 11 i. The retail establishment does not have on its premises any locksmith
12 tool other than key duplication machines, key blanks, and pin kits;
13 and
- 14 j. Documentation evidencing compliance with the aforementioned
15 requirements of training and criminal background investigations is
16 kept on the premises of the retail establishment and is available for
17 inspection and copying to authorized County employees and agents
18 as well as to all law enforcement personnel during normal business
19 hours.

20 (b) This division shall apply to all locksmiths and locksmith businesses,
21 including locksmiths and locksmith businesses that perform work on motor vehicles.
22 However, this division shall not apply to motor vehicle repair shops, mechanics, and
23 technicians who service, install, repair, or rebuild automotive locks, provided that they do

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1 not hold themselves out to the public as locksmiths or locksmith businesses, and provided
2 they comply with the provisions of Division 4 of this article.

3 **Sec. 20-176.144. Enforcement and penalties.**

4 (a) It shall be the duty and responsibility of all law enforcement officials to assist
5 in the enforcement of this division and the Code to the extent that it is within their
6 jurisdiction to do so.

7 (b) ECPD shall maintain a system by which licensees and registered locksmith
8 businesses are given written notice of violations.

9 (c) Each registered locksmith business must permit ECPD personnel to enter
10 the business premises of the locksmith business to ascertain whether the registration is
11 current and confirm the employees or independent contractors of the locksmith business
12 are licensed as required under this division. If ECPD personnel are refused entry or
13 access to the business premises as stated above, ECPD may obtain an inspection
14 warrant pursuant to Sections 933.20 through 933.30, Florida Statutes, to ascertain
15 compliance with this division.

16 (d) In addition to fines as provided in Section 8½-16 of this Code, ECPD is
17 authorized to enforce the provisions of this division by suspension or revocation of a
18 license or registration, upon notice and hearing as provided in this section, unless the
19 licensee or registrant waives such notice and hearing. Licenses and registrations are
20 subject to denial, suspension, or revocation if:

- 21 (1) The licensee or registrant failed to comply with or violated a provision of this
22 division;
- 23 (2) The licensee failed to pay fines for violations of this ordinance; or

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1 (3) The license or registration was obtained by an application in which any
2 material fact was omitted or falsely stated.

3 (e) In addition to the foregoing, a license or registration issued pursuant to this
4 division may be suspended, after a hearing pursuant to the provisions of this section, if
5 ECPD learns that the licensee, or a registrant's owner, officer, director, general partner,
6 or member, or any other person owning, holding, or controlling a majority interest of a
7 registrant, has pled nolo contendere, guilty, or been convicted of a felony or of any
8 criminal offense involving motor vehicles. In addition, ECPD may initiate a hearing as
9 hereinafter specified to consider revocation of such license or registration.

10 (f) All hearings required by this section for proposed suspension or revocation
11 of licenses or registrations shall be preceded by a minimum of twenty (20) days' written
12 notice. Said notice shall specify the Director's proposed action and the grounds upon
13 which the action is predicated. The licensee or registrant may be represented by legal
14 counsel and shall be entitled to present a defense to the proposed action. Failure to
15 appear at a duly noticed hearing shall be deemed a waiver of the right to hearing and an
16 admission of the acts specified in the notice. Failure to claim certified mail, sent to the
17 current address on file with ECPD, notifying the licensee or registrant of the hearing shall
18 be construed as failure to appear at a duly noticed hearing.

19 (g) The hearing shall be conducted before a hearing officer in accordance with
20 the procedures provided in Chapter 8½ of this Code. For purposes of Chapter 8½, the
21 Director may designate personnel to serve as code inspectors.

22 (h) The decision of the hearing officer may be appealed to a court of
23 appropriate jurisdiction in accordance with the Florida Rules of Appellate Procedure.

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1 (i) Whenever any person has engaged in any act or practice that constitutes a
2 violation of any provision of this division or the Code, the State Attorney or the Office of
3 the County Attorney may make application to the Seventeenth Judicial Circuit for an order
4 enjoining such acts or practices and for an order granting permanent injunction,
5 restraining order, or other order enjoining such acts or practices; said orders to be granted
6 without bond.

7 **Sec. 20-176.145. Criminal penalties.**

8 In addition to any other judicial or administrative remedies or penalties provided by
9 law, rule, regulation, or ordinance, if any person intentionally violates or fails or refuses to
10 obey or comply with any of the provisions of this division, any lawful order of the Director,
11 any cease and desist order of the Director, or any notice to correct a violation of the
12 Director, such person, upon conviction of any such offense, shall be punished by a fine
13 not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60)
14 days in the county jail, or both, at the discretion of the court. Each day or portion thereof
15 of a continuing violation shall be deemed a separate offense.

16
17 Section 2. Section 8½-16 of the Broward County Code of Ordinances is hereby
18 amended to read as follows:

19 **Sec. 8½-16. Schedule of civil penalties.**

20 ...

21 (dd) *Violations of Division 8 of Article VII of Chapter 20, Relating to Locksmiths*
22 *and Locksmith Businesses:*

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		<i>Fine</i>			
	<i>Violation</i>	<i>First Violation</i>	<i>Second Violation</i>	<i>Third Violation</i>	<i>Subsequent Violations</i>
(1)	<u>Any violation of Section 20-176.132, Locksmith License Required, Section 20-176.139, Recordkeeping, or Section 20-176.140, Prohibited Practices</u>	<u>\$250</u>	<u>\$500</u>	<u>\$750</u>	<u>\$1,000</u>

Section 3. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 4. Inclusion in the Broward County Code of Ordinances.

It is the intention of the County Commission that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance"

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1 may be changed to "section," "article," or such other appropriate word or phrase to the
2 extent necessary in order to accomplish such intention.

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Section 5. Effective Date.

This Ordinance is effective as of the date provided by law.

PROPOSED

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Scott Andron 09/02/2020
Scott Andron (date)
Assistant County Attorney

By /s/ Mark A. Journey 09/02/2020
Mark A. Journey (date)
Senior Assistant County Attorney

By /s/ René D. Harrod 09/02/2020
René D. Harrod (date)
Deputy County Attorney

RDH/dp
Locksmith Ordinance
09/02/2020
#529032.1

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