

PROPOSED

ORDINANCE NO. 2020-

AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE EMERGENCY POWERS OF THE COUNTY ADMINISTRATOR; AMENDING ARTICLE IV OF CHAPTER 8 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, COVID-19, a respiratory virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the health and safety of the people of Broward County;

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

WHEREAS, on March 9, 2020, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency as a result of COVID-19;

WHEREAS, on March 10, 2020, the Broward County Administrator declared a Local State of Emergency;

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

WHEREAS, on March 13, 2020, President Trump declared a national emergency concerning COVID-19;

WHEREAS, on March 20, 2020, Governor DeSantis issued Executive Order 20-70, which closed various establishments in Broward County and vested in the County Administrator the power to enforce, relax, modify, or remove those closures, as warranted;

1 WHEREAS, on March 22, 2020, the County Administrator, pursuant to her
2 emergency management powers under state law and local ordinance, directed the
3 closure of all nonessential businesses in Broward County, subject to certain conditions
4 and limitations;

5 WHEREAS, there is no vaccine or drug currently available to combat COVID-19;

6 WHEREAS, to reduce the spread of COVID-19, the United States Centers for
7 Disease Control and Prevention ("CDC") and the Florida State Department of Health
8 recommend implementation of community mitigation strategies to increase containment
9 of the virus, including cancellation of large gatherings and social distancing of at least six
10 (6) feet between persons in smaller gatherings;

11 WHEREAS, limitations on gatherings and the use of social distancing to prevent
12 transmission of COVID-19 are especially important for people who are over sixty (60)
13 years old and people with chronic health conditions because those populations are at a
14 higher risk of severe illness and death from COVID-19;

15 WHEREAS, Section 125.66(3), Florida Statutes, permits the Broward County
16 Board of County Commissioners (the "Board") to waive the usual notice requirements for
17 enactment of an ordinance upon four-fifths (4/5) vote of the membership of the Board that
18 an emergency exists and that the immediate enactment of said ordinance is necessary;

19 WHEREAS, the Board has determined that the immediate enactment of this
20 Emergency Ordinance is necessary to reinforce the County Administrator's powers during
21 the current public health emergency;

22 WHEREAS, although the County shares jurisdiction with the state and
23 municipalities over emergency management, the public health emergency created by
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 COVID-19 will not be limited to one municipality and will have countywide impact, thereby
2 making countywide action necessary; and

3 WHEREAS, immediate enactment of this Emergency Ordinance is necessary to
4 protect the health, welfare, and safety of the County's residents,

5 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
6 BROWARD COUNTY, FLORIDA:

7 Section 1. Section 8-53 of the Broward County Code of Ordinances is hereby
8 amended to read as follows:

9 **Sec. 8-53. Declaration of emergency.**

10 . . .

11 (b) A declaration of emergency shall activate the applicable Broward County
12 emergency management plans and shall constitute authority for the following in lieu of
13 the procedures and formalities otherwise required by the county by law pertaining to:

14 . . .

15 (8) Appropriation and expenditure of public funds;

16 (9) Cancellation of any meeting of any board, committee, or commission
17 established under the Broward County Charter, the Broward County Code
18 of Ordinances, or the Broward County Administrative Code, but the County
19 Administrator shall provide notice of such cancellation as might be required
20 under state law.

21 . . .

22 Section 2. Section 8-56 of the Broward County Code of Ordinances is hereby
23 created to read as follows:

24 [underlining omitted]

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1 **Sec. 8-56. Supplemental emergency powers.**

2 (a) When necessary to protect the health, safety, and welfare of the County's
3 residents and visitors, upon declaration of local state of emergency issued by either the
4 County Administrator pursuant to Section 8-53 of the Broward County Code of
5 Ordinances, or the Mayor pursuant to Section 2.04.G. of the Broward County Charter, the
6 County Administrator is authorized to:

- 7 (1) Impose a general curfew applicable to Broward County, in whole or in part,
8 during hours the County Administrator deems necessary, and modify said
9 curfew from time to time as the County Administrator deems appropriate;
- 10 (2) Direct the evacuation of any area(s) of Broward County in which individuals
11 are deemed to be in imminent danger;
- 12 (3) Prohibit or limit gatherings of individuals within Broward County;
- 13 (4) Order any or all commercial or business locations or places of public
14 accommodation to close and remain closed until further order; and
- 15 (5) Order individuals to shelter in place.

16 (b) Violations.

17 (1) Violations of any order promulgated pursuant to this section shall be
18 prosecuted in the same manner as misdemeanors are prosecuted pursuant
19 to Section 125.69, Florida Statutes, punishable by imprisonment in the
20 county jail not to exceed sixty (60) days, a Five Hundred Dollar (\$500.00)
21 fine, or both.

22 (2) The County may issue citations for violations of this section through its
23 designated code inspectors. Such citations shall be enforced as provided
24 in Section 8½ of the Broward County Code of Ordinances. A fine of One

1 Thousand Dollars (\$1,000.00) per day per violation shall be imposed for any
2 act found to be in violation of this section, except that a violation found to
3 be a knowing violation and to be irreparable or irreversible in nature shall
4 be subject to a fine of up to Fifteen Thousand Dollars (\$15,000.00) per
5 violation.

6 (3) Nothing herein shall limit the County's right to seek injunctive and other
7 equitable relief to ensure compliance with any order made pursuant to this
8 part.

9 (c) The County Administrator shall determine the scope and duration of any
10 measure taken pursuant to this section, but in no event shall the scope and duration of
11 any such measure exceed the duration of the applicable emergency declaration. In
12 exercising the powers under this section, the County Administrator should, to the fullest
13 extent practicable under the circumstances, coordinate and consult with federal, state,
14 and local governmental entities, and no power under this section shall be exercised if it
15 would frustrate the emergency response of any federal or state entity.

16 (d) Any order made pursuant to this section shall be enforceable, including by
17 injunction or other equitable relief, by municipalities countywide. The criminal penalties
18 established under this section may be enforced by the Broward County Sheriff or
19 municipal law enforcement, as applicable.

20 Section 3. Severability.

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

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1 determination will not affect the applicability of this Ordinance to any other individual,
2 group, entity, property, or circumstance.

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

4 It is the intention of the Board of County Commissioners that the provisions of this
5 Ordinance become part of the Broward County Code of Ordinances as of the effective
6 date. The sections of this Ordinance may be renumbered or relettered and the word
7 "ordinance" may be changed to "section," "article," or such other appropriate word or
8 phrase to the extent necessary in order to accomplish such intention.

9 Section 5. Effective Date.

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

11 ENACTED

PROPOSED

12 FILED WITH THE DEPARTMENT OF STATE

13 EFFECTIVE

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

16 By /s/ Joseph K. Jarone 03/26/2020
17 Joseph K. Jarone (date)
Assistant County Attorney

18
19 By /s/ René Harrod 03/26/2020
20 René Harrod (date)
Deputy County Attorney

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23 JKJ/jl
24 Emergency Ordinance
03/26/2020
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