

**PROPOSED**

## ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, CREATING THE BROWARD COUNTY PREVENTIVE HEALTH CARE PROGRAM ORDINANCE; CREATING ARTICLE VII OF CHAPTER 31½ OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") FOR THE PURPOSE OF LEVYING, SUBJECT TO APPROVAL BY REFERENDUM, A HALF-PERCENT (0.5%) HEALTH CARE SURTAX FOR A PERIOD OF 12 YEARS; CREATING A SEGREGATED TRUST FUND INTO WHICH ALL HEALTH CARE SURTAX FUNDS WILL BE DEPOSITED; PROVIDING FOR THE USE OF THE HEALTH CARE SURTAX FUNDS IN ACCORDANCE WITH THE BROWARD COUNTY HEALTH CARE PLAN; CREATING AN ADVISORY BOARD; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Mark D. Bogen)

WHEREAS, heart disease is the leading cause of death for men, women, and people of most racial and ethnic groups in the United States, according to the Centers for Disease Control and Prevention ("CDC");

WHEREAS, the CDC calculates that one person dies every 36 seconds in the United States from cardiovascular disease, and that more than 600,000 people in the United States die from heart disease every year;

WHEREAS, the Florida Department of Health indicates that heart disease accounts for approximately two out of ten deaths in Florida, and that in 2019, the most recent year for which statistics are available, heart disease was the leading cause of death in Broward County, accounting for the deaths of 3,602 Broward County residents;

WHEREAS, heart disease and cardiovascular disease are treatable diseases, particularly when detected early, and the CDC estimates that 80% of cardiovascular disease is preventable;

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1 WHEREAS, cancer is the second leading cause of death in Florida, accounting for  
2 3,391 deaths in Broward County in 2019, according to the Florida Department of Health,  
3 Bureau of Vital Statistics;

4 WHEREAS, according to the Florida Cancer Data System, the top five most  
5 frequently diagnosed cancers—lung, breast, prostate, colorectal, and melanoma—  
6 account for more than half of the cancer diagnoses in Florida;

7 WHEREAS, Broward County already funds certain primary health care services  
8 provided by the North and South Broward Hospital Districts, ~~as well as~~ and also funds a  
9 number of other significant programs such as mental health services, programs to reduce  
10 infant mortality in high-risk areas, reimbursement for emergency hospital services  
11 provided to indigent residents, and HIV/AIDS medical and support services;

12 WHEREAS, it is in the public interest of Broward County to further ensure that  
13 Broward residents, including residents who are indigent or medically poor, have access  
14 to primary care and preventive care to treat and prevent these leading causes of death  
15 and to ensure access to hospital care services when necessary;

16 WHEREAS, Broward County has retained a team of experts from the medical field  
17 and hospital industry to review the current health care needs of County residents,  
18 including residents who qualify as indigent or medically poor, and to assist in the  
19 preparation of the Broward County Health Care Plan (“Health Care Plan”);

20 WHEREAS, Section 212.055(4), Florida Statutes, provides for the levy of an  
21 Indigent Care and Trauma Center Surtax (“Health Care Surtax”) of up to one-half percent  
22 (0.5%) by enactment of an ordinance by a majority of the members of the Broward County  
23 Board of County Commissioners (“Board”), subject to approval by a majority of the  
24 electors of Broward County voting in a referendum election on the Health Care Surtax;

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1 WHEREAS, if the levy of the Health Care Surtax is approved by referendum at the  
2 General Election on November 8, 2022, the Health Care Surtax will be levied for a period  
3 of twelve (12) years, and the proceeds of the Health Care Surtax will be expended as  
4 authorized in Section 212.055(4), Florida Statutes, and in accordance with the Health  
5 Care Plan, as approved by the Board and as amended from time to time; and

6 WHEREAS, the public interest will be served by having the Health Care Plan,  
7 including the allocation of funds, reevaluated from time to time to ensure the Health Care  
8 Plan is meeting its objectives and to ensure the best and most efficient use of the Health  
9 Care Surtax proceeds,

10  
11 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
12 BROWARD COUNTY, FLORIDA:

13  
14 Section 1. Article VII of Chapter 31½ of the Broward County Code of  
15 Ordinances is hereby created to read as follows:

16 [Underlining omitted]

17 **ARTICLE VII. BROWARD COUNTY HEALTH CARE ORDINANCE**

18 **Sec. 31½-120. Short title.**

19 This article shall be known and may be cited as the “Broward County Health Care  
20 Ordinance.”

21 **Sec. 31½-121. Levy of Health Care Surtax.**

22 Pursuant to Section 212.055(4), Florida Statutes, and subject to approval by a  
23 majority of the qualified electors of Broward County voting in a referendum at the General  
24 Election on November 8, 2022, there is hereby levied, commencing at 12:01 a.m. on

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1 January 1, 2023, and expiring at 11:59 p.m. on December 31, 2034, a one-half of one  
2 percent (0.5%) Indigent Care and Trauma Center Surtax (“Health Care Surtax”) on all  
3 transactions taxable pursuant to Section 212.054(2), Florida Statutes, including the first  
4 five thousand dollars (\$5,000) of the sales amount of any items of tangible personal  
5 property, subject to certain exceptions as further provided by Florida law. The Health Care  
6 Surtax shall be administered, collected, enforced, and disbursed as provided in  
7 Chapter 212, Florida Statutes, as amended, and the Broward County Health Care Plan  
8 (including as amended, the “Health Care Plan”). The Health Care Plan was initially  
9 approved by the Broward County Board of County Commissioners (“Board”) at its meeting  
10 of [INSERT APPLICABLE DATE].

11 **Sec. 31½-122. Health Care Trust Fund.**

12 There is hereby created the Broward County Health Care Trust Fund (“Trust  
13 Fund”) into which all Health Care Surtax proceeds received by Broward County shall be  
14 deposited. The Broward County Administrator is authorized to establish accounts and  
15 subaccounts within the Trust Fund as may be necessary or useful for administering the  
16 Health Care Surtax proceeds in compliance with all legal requirements. The Broward  
17 County Administrator is authorized and directed to take such additional steps as  
18 necessary or useful under generally accepted governmental accounting principles to  
19 invest the funds consistent with applicable law, ensure that balances in the accounts and  
20 subaccounts at the end of each fiscal year carry forward to the subsequent fiscal year,  
21 and disburse the funds in accordance with the Health Care Plan. The designation and  
22 establishment of the Trust Fund, and the various accounts and subaccounts therein, shall  
23 be in keeping with generally accepted governmental accounting principles. Cash and  
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1 investments required to be accounted for in the Trust Fund may not be commingled with  
2 any other funds.

3 **Sec. 31½-123. Use of Health Care Surtax proceeds.**

4 (a) Health Care Surtax proceeds shall be collected, allocated, disbursed, and  
5 expended to fund, in whole or in part, ~~the following~~ legally permissible services in  
6 accordance with the Health Care Plan including: ~~(a)~~ (1) a broad range of health care  
7 services, including primary care, preventive care, and hospital care services, for Broward  
8 County residents qualified as indigent or certified as medically poor; ~~(b)~~ (2) a Level I  
9 trauma center; and ~~(c)~~ (3) innovative health care programs that provide cost-effective  
10 alternatives to traditional methods of service delivery and funding for qualified Broward  
11 County residents.

12 (b) On at least an annual basis, Broward County shall obtain a review of the  
13 Health Care Plan by one or more industry experts, who shall provide nonbinding  
14 recommendations for modifications to the Health Care Plan for consideration by the  
15 Board. From time to time, the Board may amend the Health Care Plan, and any such  
16 amendment shall be effective as of the date of adoption unless the amendment provides  
17 otherwise.

18 (c) No later than ninety (90) days prior to the start of each fiscal year during  
19 which the Health Care Surtax is levied, the County Administrator shall submit the  
20 proposed utilization of Health Care Surtax proceeds for the upcoming fiscal year to the  
21 Health Care Surtax Advisory Board, as established in Section 31½-126, for its review and  
22 comment. No later than ninety (90) days after the end of each fiscal year during which the  
23 Health Care Surtax is levied, the County Administrator shall submit the actual utilization

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1 of Health Care Surtax proceeds during the preceding fiscal year to the Health Care Surtax  
2 Advisory Board for its review and comment.

3 **Sec. 31½-124. Biennial Audit of Health Care Surtax Fund.**

4 Broward County shall retain an independent certified public accountant to perform  
5 and complete a biennial audit of all programs funded by the Health Care Surtax and of all  
6 Health Care Surtax proceeds received, maintained, and expended. The report shall be  
7 provided to the Board and to the chair of the Legislative Delegation of Broward County.

8 **Sec. 31½-125. Health Care Surtax Administration.**

9 The County Administrator shall establish a department, division, or office for  
10 administration of the Health Care Surtax and implementation of the Health Care Plan.  
11 The County Administrator shall ensure the personnel assigned include persons with  
12 appropriate experience and expertise, including without limitation in the fields of medicine,  
13 diagnostic testing, and public health administration.

14 **Sec. 31½-126. Health Care Surtax Advisory Board.**

15 There is hereby established a Health Care Surtax Advisory Board (“Advisory  
16 Board”). The Advisory Board shall be responsible for making nonbinding  
17 recommendations to the County Administrator regarding the administration and operation  
18 of the Health Care Plan. To provide review and accountability regarding the allocation  
19 and utilization of Health Care Surtax proceeds, the Advisory Board shall also review the  
20 proposed and actual expenditures of Health Care Surtax proceeds as submitted by the  
21 County Administrator and provide nonbinding recommendations to the County  
22 Administrator and to the Board. Unless expressly stated otherwise herein or as otherwise  
23 required by applicable law, the Advisory Board shall operate in accordance with  
24 Section 1-233, Broward County Code of Ordinances.

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1 (a) Composition. The Advisory Board shall be composed of the following  
2 members:

3 (1) Up to eighteen (18) members who have significant experience or expertise  
4 in the field(s) of medicine, public health, finance, accounting, or public  
5 administration. Each County Commissioner shall nominate up to two (2)  
6 members in this category;

7 (2) The Director (or equivalent position) and up to two (2) other County  
8 personnel primarily responsible for the operation of the department,  
9 division, or office created pursuant to Section 31½-125 for the  
10 administration of the Health Care Surtax and implementation of the Health  
11 Care Plan; and

12 (3) The Mayor or another County Commissioner designated by the Mayor.

13 (b) Other than the Mayor or County Commissioner under (a)(3) above, no  
14 member of the Advisory Board shall, at any time during their term, (i) be an elected official;  
15 or (ii) have an ownership or financial interest in any entity that has a contractual  
16 relationship with Broward County or that is a recipient of Health Care Surtax proceeds,  
17 except that a member nominated under (a)(1) above may be employed by an entity that  
18 is a recipient of Health Care Surtax proceeds.

19 (c) Method of Appointment. Nominations shall be made to the Board of County  
20 Commissioners as vacancies arise.

21 (d) Term of Members. Advisory Board members shall serve terms of two (2)  
22 years and may be reappointed for successive terms. Any Advisory Board member  
23 appointed to replace an Advisory Board member who has been removed or has resigned  
24 shall serve for the balance of the term of such member.

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1 (1) Resignation or Removal. A member of the Advisory Board shall be removed  
2 by the Board if the member no longer meets the applicable requirements  
3 for membership. A member may also be removed by the Board for good  
4 cause as determined by majority vote of the Board.

5 (2) Effective Date of Resignation or Removal. The effective date of resignation  
6 or removal shall be the earlier of the date provided in the member's  
7 resignation; the first date of disqualification for membership; or the date the  
8 action to remove is taken by the Board.

9 (e) Compensation. Members of the Advisory Board shall not receive any  
10 compensation for their service on such board. Reimbursement for travel and other  
11 reasonable expenses directly related to service on the Advisory Board is permissible and  
12 does not constitute compensation.

13 (f) Advisory Board Meetings. The Advisory Board shall meet at least quarterly.  
14 The members shall elect a chairperson to preside over Advisory Board meetings. The  
15 Advisory Board shall establish its own rules of procedure for conducting its meetings.

16 (g) Staffing. The County Administrator shall provide sufficient staff to enable  
17 the Advisory Board to efficiently perform its functions. The Office of the County Attorney  
18 shall provide legal services to the Advisory Board.

19 Section 2. The Board may amend, revise, or repeal this Health Care Ordinance  
20 in the manner provided by law. However, no repeal, amendment, or revision of the Health  
21 Care Ordinance, or reduction in the rate of the Health Care Surtax, may take effect if it  
22 would materially impair the contract rights of the owners of any bonds, notes, or other  
23 instruments of indebtedness payable in whole or in part, directly or indirectly, from the  
24 proceeds of the Health Care Surtax.

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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 Board of County Commissioners 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” may be changed to “section,” “article,” or such other appropriate word or phrase to the 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.

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

By /s/ Matthew S. Haber 01/14/2022  
Matthew S. Haber (date)  
Assistant County Attorney

By /s/ René D. Harrod 01/14/2022  
René D. Harrod (date)  
Chief Deputy County Attorney

MSH/jl  
Indigent Surtax Ord  
01/14/2022  
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