

PROPOSED

ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, CREATING THE BROWARD COUNTY HEALTH CARE PLAN
3 ORDINANCE; CREATING ARTICLE VII OF CHAPTER 31½ OF THE BROWARD
4 COUNTY CODE OF ORDINANCES (“CODE”) FOR THE PURPOSE OF LEVYING,
5 SUBJECT TO APPROVAL BY REFERENDUM, A QUARTER-PERCENT (0.25%)
6 HEALTH CARE SURTAX FOR A PERIOD OF TEN YEARS; CREATING A
7 SEGREGATED TRUST FUND INTO WHICH ALL HEALTH CARE SURTAX FUNDS
8 WILL BE DEPOSITED; ESTABLISHING AN OVERSIGHT ADVISORY BOARD;
9 PROVIDING FOR THE USE OF THE HEALTH CARE SURTAX FUNDS IN
10 ACCORDANCE WITH THE BROWARD COUNTY HEALTH CARE PLAN; AND
11 PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE
12 DATE.

13 (Sponsored by Commissioner Mark D. Bogen)

14

15 WHEREAS, heart disease is the leading cause of death in the United States
16 according to the Centers for Disease Control and Prevention (“CDC”);

17 WHEREAS, a 2023 report from the American Heart Association found that 52.4%
18 of men and 44.8% of women have cardiovascular disease, which includes coronary heart
19 disease, heart failure, stroke, and hypertension;

20 WHEREAS, the CDC calculates that one person dies every 33 seconds in the
21 United States from cardiovascular disease and that about 695,000 people in the United
22 States die from heart disease every year;

23 WHEREAS, the Florida Department of Health indicates that in 2022, the most
24 recent year for which statistics are available, heart disease was the leading cause of death
25 in Florida and in Broward County, accounting for approximately two out of ten deaths in
26 Florida and for 3,735 deaths in Broward County;

27 WHEREAS, a recent study published in the American Journal of Managed Care,
28 "Heart Health Outcomes Linked to Low Socioeconomic Status," indicates that the rate of
29 heart disease among persons living in areas of low socioeconomic status is more than
30 twice the rate for persons living in areas of high socioeconomic status;

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

34 WHEREAS, the Florida Department of Health indicates that in 2022, cancer was
35 the second leading cause of death in Florida, accounting for just under two out of ten
36 deaths in Florida and for 3,481 deaths in Broward County;

37 WHEREAS, Broward County already funds certain primary health care services
38 provided by the North Broward Hospital District and the South Broward Hospital District
39 and also funds a number of other significant programs such as mental health services,
40 programs to reduce infant mortality in high-risk areas, reimbursement for emergency
41 hospital services provided to indigent residents, and HIV/AIDS medical and support
42 services;

43 WHEREAS, it is in the public interest of Broward County to provide programs for
44 qualified Broward County residents, including residents who are indigent or medically
45 poor, to receive primary care, preventive care, and hospital care services to prevent and
46 treat these leading causes of death;

47 WHEREAS, public and private insurance plans are required to cover certain
48 preventive cancer screenings, such as mammograms, pap smears, and colonoscopies,
49 without imposing cost-sharing on the patient; but those same insurance plans typically do
50 not cover preventive cardiac screening tests (e.g., calcium scoring (“CAC”) or a coronary
51 CT angiography (“CCTA”)) at no additional cost to the patient;

52 WHEREAS, as a result, many Broward County residents with public or private
53 insurance have medical needs that are not covered by their insurance programs, or have
54 insufficient third-party insurance coverage to address these serious health risks;

55 WHEREAS, with the assistance of medical and other experts, Broward County has
56 developed a proposed Broward County Health Care Plan (“Health Care Plan”) that would
57 enable qualified Broward County residents, including those who qualify as indigent or
58 medically poor, to receive primary care, preventive care, and hospital care services, with
59 an emphasis on preventing and treating heart disease and cancer, the two leading causes
60 of death in Broward County;

61 WHEREAS, Section 212.055(4), Florida Statutes, authorizes the levy of an
62 Indigent Care and Trauma Center Surtax (“Health Care Surtax”) by enactment of an
63 ordinance by a majority of the members of the Broward County Board of County
64 Commissioners (“County Commission”), subject to approval by a majority of the electors
65 of Broward County voting in a referendum election on the levy of the Health Care Surtax;

66 WHEREAS, if the levy of the Health Care Surtax is approved by referendum at the
67 General Election on November 5, 2024, the Health Care Surtax in the amount of 0.25%
68 will be levied for a period of ten (10) years, and the proceeds of the Health Care Surtax
69 will be expended as authorized in Section 212.055(4), Florida Statutes, and in accordance
70 with the Health Care Plan, as approved by the County Commission and as amended from
71 time to time; and

72 WHEREAS, the public interest will be served by having the Health Care Plan,
73 including the allocation of revenue generated by the Health Care Surtax, reevaluated and
74 adjusted from time to time to ensure the Health Care Plan is meeting its objectives and
75 to ensure the best and most efficient use of the Health Care Surtax proceeds,

76 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
77 BROWARD COUNTY, FLORIDA:

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

80 [Underlining omitted]

81 **ARTICLE VII. BROWARD COUNTY HEALTH CARE PLAN ORDINANCE**

82 **Sec. 31½-120. Short Title.**

83 This article shall be known and may be cited as the “Broward County Health Care
84 Plan Ordinance.”

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

86 Pursuant to Section 212.055(4), Florida Statutes, and subject to approval by a
87 majority of the qualified electors of Broward County voting in a referendum at the General
88 Election on November 5, 2024, there is hereby levied, commencing on January 1, 2025,

89 and continuing through December 31, 2034, a one-quarter of one percent (0.25%)
90 Indigent Care and Trauma Center Surtax (“Health Care Surtax”) on all transactions
91 taxable pursuant to Section 212.054(2), Florida Statutes. The Health Care Surtax shall
92 be collected, enforced, administered, and disbursed as provided in Chapter 212, Florida
93 Statutes, as amended, and the Broward County Health Care Plan (including as amended,
94 the “Health Care Plan”). The Health Care Plan as initially approved by the Broward County
95 Board of County Commissioners (“County Commission”) at its meeting of May 7, 2024, is
96 attached as Exhibit A to the record copy of this Ordinance and is incorporated into this
97 Ordinance.

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

99 There is hereby created the Broward County Health Care Trust Fund (“Trust
100 Fund”) into which all Health Care Surtax proceeds shall be deposited. The County
101 Administrator is authorized to establish accounts and subaccounts within the Trust Fund
102 as may be necessary or useful for administering the Health Care Surtax proceeds in
103 compliance with all legal requirements. The County Administrator is authorized and
104 directed to take such additional steps as necessary or useful under generally accepted
105 governmental accounting principles to invest the funds consistent with applicable law,
106 ensure that balances in the accounts and subaccounts at the end of each fiscal year carry
107 forward to the subsequent fiscal year, and disburse the funds in accordance with the
108 Health Care Plan. Cash and investments required to be accounted for in the Trust Fund
109 may not be commingled with any other funds.

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

111 (a) Health Care Surtax proceeds shall be collected, allocated, disbursed, and
112 expended to fund legally permissible services for qualified residents in accordance with
113 both applicable law and the Health Care Plan, as approved and updated by the County
114 Commission from time to time, including the following:

115 (1) a broad range of health care services, including primary care, preventive
116 care, and hospital care services, for Broward County residents qualified as
117 indigent or certified as medically poor;

118 (2) a Level I trauma center; and

119 (3) innovative health care programs that provide cost-effective alternatives to
120 traditional methods of service delivery and funding for qualified Broward
121 County residents.

122 (b) From time to time, the County Commission may amend the Health Care
123 Plan. Any such amendment shall be effective as of the date of approval by the County
124 Commission unless the amendment expressly provides otherwise.

125 (c) As part of the annual budget process for Broward County, the County
126 Administrator shall submit a proposed budget to the County Commission setting forth the
127 proposed utilization of Health Care Surtax proceeds for the next fiscal year.

128 (d) No later than ninety (90) days prior to the start of each fiscal year during
129 which the Health Care Surtax is levied, the County Administrator shall submit the
130 proposed utilization of Health Care Surtax proceeds for the upcoming fiscal year to the
131 Health Care Surtax Oversight Advisory Board, as established in Section 31½-126, for its
132 review and comment. No later than ninety (90) days after the end of each fiscal year

133 during which the Health Care Surtax is levied, the County Administrator shall submit the
134 actual utilization of Health Care Surtax proceeds during the preceding fiscal year to the
135 Health Care Surtax Oversight Advisory Board for its review and comment.

136 (e) On at least an annual basis during years in which the Health Care Surtax is
137 levied, Broward County shall obtain a review of the Health Care Plan by one or more
138 industry experts who shall provide nonbinding recommendations for modifications to the
139 Health Care Plan for consideration by the County Commission.

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

141 Broward County shall retain an independent certified public accountant to perform
142 and complete a biennial audit of all programs funded by the Health Care Surtax and of all
143 Health Care Surtax proceeds received, maintained, and expended. The report shall be
144 provided to the County Commission, to the Health Care Surtax Oversight Advisory Board,
145 to the chair of the Legislative Delegation of Broward County, and to such other persons
146 or entities as may be provided under applicable law.

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

148 (a) The County Administrator shall establish a department, division, or office for
149 administration of the Health Care Surtax and implementation of the Health Care Plan.
150 The County Administrator shall ensure the personnel assigned include persons with
151 appropriate experience and expertise including without limitation in the fields of medicine,
152 diagnostic testing, and public health administration.

153 (b) The County Administrator and assigned personnel shall implement the
154 Health Care Plan in accordance with the annual budget for Health Care Surtax proceeds

155 approved by the County Commission as part of the annual budget process for Broward
156 County.

157 (c) Goods and services procured by Broward County as part of the Health Care
158 Plan are exempt from the Broward County Procurement Code, pursuant to
159 Section 21.5(b)(6), provided that any procurement or contract in excess of \$1,000,000
160 must be approved by the County Commission. Subject to the foregoing, the County
161 Administrator may direct that, to the full extent permissible under applicable law, any
162 goods and services procured as part of the Health Care Plan be purchased competitively
163 or noncompetitively, as the County Administrator determines is in the best interest of the
164 County, and the County Administrator is authorized to negotiate and execute contracts
165 necessary to effectuate the Health Care Plan, subject to review and approval as to legal
166 sufficiency by the Office of the County Attorney.

167 **Sec. 31½-126. Health Care Surtax Oversight Advisory Board.**

168 There is hereby established a Health Care Surtax Oversight Advisory Board
169 (“Advisory Board”). The Advisory Board shall be responsible for making nonbinding
170 recommendations to the County Administrator and to the County Commission regarding
171 the administration and operation of the Health Care Plan. To provide review and
172 accountability regarding the allocation and utilization of Health Care Surtax proceeds, the
173 Advisory Board shall also review the proposed and actual expenditures of Health Care
174 Surtax proceeds as submitted by the County Administrator pursuant to Section 31½-
175 123(d) and provide nonbinding recommendations to the County Administrator and to the
176 County Commission. Unless expressly stated otherwise herein or as otherwise required

177 by applicable law, the Advisory Board shall be subject to Section 1-233, Broward County
178 Code of Ordinances (“Code”).

179 (a) *Composition.* The Advisory Board shall be composed of the following
180 members appointed by the County Commission after nomination:

181 (1) Up to nine (9) members who have significant experience or expertise in the
182 field(s) of medicine, public health, finance, accounting, or public
183 administration, with each Broward County Commissioner nominating one
184 (1) member in this category;

185 (2) One (1) member with significant experience or expertise in identifying the
186 medical needs and gaps in the provision of medical care to qualified
187 residents of Broward County and assessing the community health of
188 Broward County, nominated by the Broward Regional Health Planning
189 Council, Inc.; and

190 (3) One (1) Broward County Commissioner nominated by the County
191 Commission.

192 (b) *Conflict of Interests.* No member of the Advisory Board may have an
193 ownership or financial interest in any entity that is a recipient of Health Care Surtax
194 proceeds, except that a member nominated under Section 31½-126(a)(1) may be
195 employed by an entity that is a recipient of Health Care Surtax proceeds, subject to the
196 process for waiving conflicts for advisory board members in Section 112.313(12), Florida
197 Statutes.

198 (c) *Method of Appointment.* Nominations shall be made to the County
199 Commission as vacancies arise.

200 (d) *Term of Members.* Advisory Board members shall serve nonfixed terms as
201 provided in Section 1-233(a)(2) of the Code.

202 (e) *Compensation.* Members of the Advisory Board shall not receive any
203 compensation for their service on the Advisory Board. Reimbursement for travel and other
204 reasonable expenses directly related to service on the Advisory Board is permissible and
205 does not constitute compensation.

206 (f) *Advisory Board Meetings.* The Advisory Board shall meet at least quarterly.
207 The members shall elect a Chair to preside over Advisory Board meetings. The Advisory
208 Board shall establish its own rules of procedure for conducting its meetings.

209 (g) *Staffing.* The Director responsible for the operation of the department,
210 division, or office created pursuant to Section 31½-125 for the administration of the Health
211 Care Surtax shall serve as the Executive Administrator for the Advisory Board. The
212 County Administrator shall provide sufficient additional staff to enable the Advisory Board
213 to efficiently perform its functions. The Office of the County Attorney shall provide legal
214 services to the Advisory Board.

215 (h) *Sunset.* The Advisory Board shall automatically sunset one (1) year after
216 the earlier of the expiration or the repeal of the Health Care Surtax.

217 **Sec. 31½-127. Automatic Repeal.**

218 If a one percent (1%) Local Government Infrastructure Surtax (“Infrastructure
219 Surtax”) under Section 212.055(2), Florida Statutes, as amended, is approved by
220 referendum, this article shall be automatically repealed, effective the December 31 that
221 immediately precedes the commencement date of the Infrastructure Surtax levy.

222 Section 2. The County Commission may amend, revise, or repeal this Health
223 Care Plan Ordinance in the manner provided by law. However, no amendment, revision,
224 or repeal of the Health Care Plan Ordinance, or reduction in the rate of the Health Care
225 Surtax, may take effect if it would materially impair the contract rights of the owners of
226 any bonds, notes, or other instruments of indebtedness payable in whole or in part,
227 directly or indirectly, from the proceeds of the Health Care Surtax.

228 Section 3. Severability.

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

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

236 It is the intention of the Board of County Commissioners that the provisions of this
237 Ordinance become part of the Broward County Code of Ordinances as of the effective
238 date. The sections of this Ordinance may be renumbered or relettered and the word
239 “ordinance” may be changed to “section,” “article,” or such other appropriate word or
240 phrase to the extent necessary to accomplish such intention.

241 Section 5. Effective Date.

242 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/ Brandon R. Butterworth 04/03/2024
Brandon R. Butterworth (date)
Assistant County Attorney

By: /s/ René D. Harrod 04/03/2024
René D. Harrod (date)
Chief Deputy County Attorney

RDH
Health Care Plan Ord
04/03/2024
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.