

1 **WHEREAS**, there is no vaccine or drug currently available to combat COVID-19; and
2 **WHEREAS**, to reduce the spread of COVID-19, the United States Centers for Disease
3 Control and Prevention ("CDC") and the Florida State Department of Health recommend
4 implementation of community mitigation strategies to increase containment of the virus,
5 including cancellation of large gatherings, social distancing of at least six (6) feet between
6 persons in smaller gatherings, and the wearing of facial coverings; and
7 **WHEREAS**, limitations on gatherings, social distancing, and the wearing of facial
8 coverings to prevent transmission of COVID-19 are especially important for senior citizens and
9 individuals with underlying medical conditions because those populations are at a higher risk of
10 severe illness and death from COVID-19; and
11 **WHEREAS**, Section 125.66(3), Florida Statutes, permits the Palm Beach County
12 Board of County Commissioners (the "Board") to waive the usual notice requirements for
13 enactment of an ordinance upon four-fifths (4/5) vote of the membership of the Board,
14 declaring that an emergency exists and that the immediate enactment of said ordinance is
15 necessary; and
16 **WHEREAS**, immediate enactment of this Emergency Ordinance is necessary to protect
17 the health, safety, and welfare of the County's residents; and
18 **WHEREAS**, the Board has determined that the immediate enactment of this
19 Emergency Ordinance is necessary to reaffirm and reinforce the County Administrator's powers
20 during the current public health emergency; and
21 **WHEREAS**, although the County shares jurisdiction with the state and municipalities
22 over emergency management, the public health emergency created by COVID-19 has not been
23 limited to one municipality and has had and will have countywide impact, thereby making
24 countywide action necessary; and
25 **WHEREAS**, immediate enactment of this Emergency Ordinance is necessary to protect
26 the health, safety, and welfare of the County's residents.
27 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
28 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**
29
30
31

1 **SECTION 1.** Section 9-32 of the Palm Beach County Code of Ordinances is hereby amended
2 to read as follows:

3 **Sec. 9-32. - Authority.**

4 This article is adopted under the authority of Chapter 125, Florida Statutes; Chapter 252,
5 Florida Statutes; ~~and~~ Part II of Chapter 501, Florida Statutes; and Chapter 162, Florida Statutes.

6
7 **SECTION 2.** Section 9-34 of the Palm Beach County Code of Ordinances is hereby amended
8 to read as follows:

9 **Sec. 9-34. - Definitions.**

10 *Average Retail Price:* The term "average retail price" shall mean the average price at which
11 similar merchandise, services, rentals or lodging were being sold or rented during the thirty
12 (30) days immediately preceding the declaration of a local emergency.

13 *Commission:* The term "commission" shall mean the Board of County Commissioners of
14 Palm Beach County.

15 *Consumer Good:* The term "consumer good" shall mean any service, article, product,
16 merchandise, or commodity of any kind or class, which is customarily produced or distributed
17 for sale or rental at retail or provided for consumption by or the use or benefit of individuals,
18 including but not limited to foods; water; ice; clothing; lumber, hardware, chainsaws,
19 generators, and home improvement materials; fuel products; and repairs, services, rentals or
20 lodging.

21 *Emergency:* The term "emergency" shall mean any occurrence, or threat thereof, whether
22 accidental, natural, or caused by man, in war or in peace, which results or may result in
23 substantial injury or harm to the population or substantial damage to or loss of property.

24 *Enforcement Official:* The term "enforcement official" shall mean any police or law
25 enforcement officer, any code compliance official, the personnel of the department of public
26 safety, ~~division of emergency management and the division of consumer affairs,~~ and any other
27 enforcement personnel as authorized by the county administrator ~~appropriate municipal or~~
28 ~~county official.~~

29 *Fuel Product:* The term "fuel product" shall mean home-heating oil, kerosene, propane,
30 natural gas, diesel fuel, methanol, and gasoline.

31 *Irreparable or Irreversible:* The term "irreparable or irreversible" shall mean a violation of

1 this article that is not able to be undone. For example, committing an act or omission in
2 violation of an order issued under the authority of this article that imperils or threatens to
3 imperil the life, safety, or welfare of another is irreparable or irreversible in nature.

4
5 **SECTION 3.** Section 9-35 of the Palm Beach County Code of Ordinances is hereby amended
6 to read as follows:

7 **Sec. 9-35. – Declaration of Emergency.**

8 (a) When an emergency has placed the citizens of the county in danger of loss of life or
9 property and a regular or special meeting of the board of county commissioners cannot
10 practically be convened, a state of emergency shall be declared, ~~pursuant to County~~
11 ~~Resolution Number R-89-384,~~ by the ~~chairman~~ mayor of the board of county
12 commissioners, or the ~~vice-chair~~ vice-mayor in the ~~chairman's~~ mayor's absence, or by the
13 county administrator, in the absence of the ~~chairman and vice-chair~~ mayor and vice-mayor.
14 A state of emergency so declared shall continue for seven (7) days, unless extended as
15 necessary, in ~~seventy-two-hour~~ seven (7)-day increments, ~~or for the period of time that a~~
16 ~~state of emergency, as declared by the governor, remains in effect, whichever is longer.~~

17 ...

18 (c) The county administrator or ~~his~~ designee shall implement the provisions of this article in
19 accordance with the authority provided in this article, the adopted comprehensive
20 emergency management plan, and instructions furnished by the board of county
21 commissioners; ~~the county administrator; and the director, department of public safety.~~

22 (d) The county administrator is authorized and empowered during a state of emergency
23 declared pursuant to this article to make, amend, and rescind emergency orders deemed
24 necessary to protect the health, safety, and/or welfare of the people of Palm Beach County,
25 including but not limited to, those necessary for implementation of the comprehensive
26 emergency management plan and any other emergency management purpose in accordance
27 with provisions of applicable law, including, but not limited to, the provisions of Section
28 252.46(1), Florida Statutes.

29 (de) In order to insure the public safety during a state of emergency declared pursuant to this
30 article, the county administrator, in consultation ~~collaboration~~ with the Sheriff of Palm
31 Beach County and municipal representatives ~~municipalities located within the county,~~ may

1 establish a countywide curfew or a specific area curfew, to restrict travel and movement
2 within the county.

3 If a curfew is enacted, the county administrator may exempt, from all or any part of such
4 restrictions, those persons as may be deemed essential to the preservation of public order
5 and immediately necessary to protect the public health, safety, and welfare. The county
6 administrator may also identify in the curfew order other exempt classes of persons as
7 deemed necessary.

8 If a curfew is enacted, the curfew order shall be filed in the office of the clerk of the circuit
9 court and delivered to appropriate news media for publication and radio and television
10 broadcast.

11 (f) Other restrictions including, but not limited to, prohibiting or limiting the gathering of
12 individuals within Palm Beach County, directing the evacuation of any area(s) of Palm
13 Beach County, ordering any or all commercial or business locations or places of public
14 accommodation to close and remain closed until further order, ordering individuals to
15 shelter in place, and limiting the sale, purchase, or possession of alcoholic beverages or
16 flammable substances, may be instituted by the county administrator or his designee. The
17 duration and application of such emergency restrictions shall be tailored to meet the
18 specific crisis and may be modified from time to time.

19 ~~If a curfew is enacted, the county administrator may exempt, from all or any part of such~~
20 ~~restrictions, those persons as may be deemed essential to the preservation of public order~~
21 ~~and immediately necessary to protect the public health, safety, and welfare. The county~~
22 ~~administrator may also identify in the curfew order other exempt classes of persons as~~
23 ~~deemed necessary.~~

24 ~~If a curfew is enacted, the curfew order shall be filed in the office of the clerk of the circuit~~
25 ~~court and delivered to appropriate news media for publication and radio and television~~
26 ~~broadeast.~~

27 (eg) Nothing in this article shall be construed to limit the authority of the commission to
28 declare, limit, or terminate a state of emergency, and take any action authorized by law,
29 when convened in a regular or special meeting.

1 **SECTION 4.** Section 9-37 of the Palm Beach County Code of Ordinances is hereby repealed
2 and replaced as follows:

3 **Sec. 9-37. – Enforcement**

4 ~~(a) The county court shall have jurisdiction over all civil citations issued for violations of this~~
5 ~~article.~~

6 ~~(b) This section shall also be enforced by personnel of the department of public safety, the~~
7 ~~emergency management division, consumer affairs division, county and municipal code~~
8 ~~enforcement officials, the police agencies of the various municipalities in the county and~~
9 ~~by the county sheriff's office. When specifically authorized by the director, department of~~
10 ~~public safety, this section may be enforced by other county personnel.~~

11 ~~(c) The consumer affairs division shall maintain a system by which violators are given written~~
12 ~~notice of all violations. The county clerk shall accept designated fines and issue receipts~~
13 ~~therefor.~~

14 ~~(d) The personnel authorized to enforce the provisions of this section shall issue civil citations~~
15 ~~for fines not to exceed two hundred fifty dollars (\$250.00) for the first violation and five~~
16 ~~hundred dollars (\$500.00) for each additional violation. Each incident of a continuing~~
17 ~~violation shall be deemed a separate additional violation.~~

18 ~~(e) Payment shall be made, either by mail or in person, to the violations bureau within the time~~
19 ~~specified upon the citation. If such person follows this procedure, he shall be deemed to~~
20 ~~have admitted to the infraction and to have waived his right to a hearing on the issue of the~~
21 ~~commission of the infraction.~~

22 ~~(f) All fines collected as a result of said citations shall be paid into the county treasury and~~
23 ~~deposited in the fine and forfeiture fund.~~

24 ~~(g) Any person who fails to make payment within the time period specified on the citation~~
25 ~~shall be deemed to have waived his right to pay the civil penalty as set forth in the citation~~
26 ~~and shall appear before the county court.~~

27 ~~(h) Any person who elects to appear before the court to contest the citation shall be deemed to~~
28 ~~waive his right to pay the civil penalty. The court, after a hearing, shall make a finding as~~
29 ~~to whether a violation has occurred and may impose a civil penalty not to exceed five~~
30 ~~hundred dollars (\$500.00) plus court costs.~~

1 ~~(i) If a person fails to pay the civil penalty or fails to appear in court to contest the citation, he~~
2 ~~shall be deemed to have waived his right to contest the citation and, in such case, a default~~
3 ~~judgment shall be entered and the judge shall impose a fine at that time. If the fine is paid,~~
4 ~~the case shall be dismissed. If the fine is not paid, judgment may be entered up to the~~
5 ~~maximum civil penalty of five hundred dollars (\$500.00) plus court costs.~~

6 ~~(j) Any person who refuses to sign and accept a citation issued pursuant to this section shall be~~
7 ~~guilty of a misdemeanor of the second degree, punishable as provided by Florida Statutes,~~
8 ~~§§ 775.082, 775.083, and 775.084.~~

9 ~~(k) Failure to comply with the requirements of sections 9-35(d) and 9-36 shall also constitute a~~
10 ~~violation of county ordinance, including the consumer affairs ordinance of the county (Ord. No.~~
11 ~~77-10, as amended), and upon conviction, shall be deemed a misdemeanor of the second degree~~
12 ~~and shall be punishable by a fine not to exceed five hundred dollars (\$500.00) per violation, or~~
13 ~~imprisonment not exceeding sixty (60) days, or both such fine and imprisonment, pursuant to~~
14 ~~section 125.69(1), Florida Statutes. Each incident of continuing violation and each day of~~
15 ~~noncompliance shall be considered a separate offense. In addition to the sanctions contained~~
16 ~~herein, the county may bring an action in the circuit court to enforce this article. The court in~~
17 ~~such an action shall have right to grant such relief as the court finds necessary to redress injury~~
18 ~~to persons resulting from a violation of this article and the county shall take any other~~
19 ~~appropriate legal action, including but not limited to, cease and desist orders, other~~
20 ~~administrative action and requests for temporary and permanent injunctions to enforce the~~
21 ~~provisions of this article. It is the purpose of this section to provide additional cumulative~~
22 ~~remedies.~~

23 ~~(a) The Sheriff of Palm Beach County, other law enforcement agencies including municipal~~
24 ~~law enforcement agencies, county and municipal code enforcement officers, public~~
25 ~~safety personnel, and any other enforcement personnel as authorized by the county~~
26 ~~administrator, are authorized to enforce the provisions of this article, including, but not~~
27 ~~limited to, any rules or orders issued pursuant to Section 9-35.~~

28 ~~(b) Any person violating any provision within Chapter 252, Florida Statutes, any rule or~~
29 ~~order made pursuant to the authority provided therein, or any rule or order made~~
30 ~~pursuant to the authority provided under this article, including, but not limited to, any~~

1 rules or orders issued pursuant to Section 9-35, is guilty of a misdemeanor of the second
2 degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes.

3 (c) Violations of any rule or order made pursuant to the authority provided under this
4 article, including, but not limited to, any rules or orders issued pursuant to Section 9-35,
5 may also be enforced through the issuance of civil citations as follows.

6 1. The county court shall have jurisdiction over all civil citations issued pursuant to
7 this article.

8 2. The county shall maintain a system by which violators are given written notice
9 of all violations. The county clerk shall accept designated fines and issue
10 receipts therefor.

11 3. Authorized enforcement personnel who have reasonable cause to believe that a
12 person has committed an act in violation of this article, shall issue civil citations
13 for fines not to exceed two hundred fifty dollars (\$250.00) for the first violation
14 and five hundred dollars (\$500.00) for each additional violation. If the person
15 who has committed the violation does not contest the citation, the fines shall not
16 exceed one hundred twenty five dollars (\$125.00) for the first violation and two
17 hundred fifty dollars (\$250.00) for each additional violation.

18 4. Payment shall be made, either by mail or in person, to the violations bureau to
19 the location and within the time specified upon the citation. If such person
20 follows this procedure, the person shall be deemed to have admitted to the
21 infraction and to have waived their right to a hearing on the issue of the
22 commission of the infraction.

23 5. All fines collected by the county as a result of said citations shall be paid into
24 the county treasury and deposited in the fine and forfeiture fund. All fines
25 collected by a municipality as a result of said citations shall be paid into the
26 respective municipal treasury.

27 6. Any person who fails to make payment within the time period specified on the
28 citation shall be deemed to have waived the right to pay the civil penalty as set
29 forth in the citation and shall appear before the county court.

30 7. Any person who elects to appear before the court to contest the citation shall be
31 deemed to waive the right to pay the civil penalty. The court, after a hearing,

1 shall make a finding as to whether a violation has occurred and may impose a
2 civil penalty not to exceed five hundred dollars (\$500.00) plus court costs.

3 8. If a person fails to pay the civil penalty or fails to appear in court to contest the
4 citation, he shall be deemed to have waived his right to contest the citation and,
5 in such case, a default judgment shall be entered and the judge may impose a
6 penalty up to the maximum civil penalty of five hundred dollars (\$500.00) plus
7 court costs.

8 9. Any person who refuses to sign and accept a citation issued pursuant to this
9 section shall be guilty of a misdemeanor of the second degree, punishable as
10 provided by Florida Statutes, §§ 775.082 or 775.083.

11 (d) Violations of any rule or order made pursuant to the authority provided under this
12 article, including, but not limited to, any rules or orders issued pursuant to Section 9-35,
13 may also be enforced by authorized enforcement personnel pursuant to the terms and
14 procedures in F.S. Ch. 162, Local Government Code Enforcement Boards Act, and
15 Article 10 of the Palm Beach County Unified Land Development Code, all as may be
16 amended or recodified from time to time. Pursuant to § 162.09(2)(d), Fla. Stat., a code
17 enforcement board or Palm Beach County Special Master may impose fines that shall
18 not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per
19 violation for a repeat violation, and up to \$15,000 per violation if the code enforcement
20 board or Palm Beach County Special Master finds the violation to be irreparable or
21 irreversible in nature. In determining the amount of the fine, the code enforcement
22 board or Palm Beach County Special Master shall consider (1) the gravity of the
23 violation; (2) any actions taken by the violator to correct the violation; and (3) any
24 previous violations committed by the violator.

25 (e) The provisions of this article, including, but not limited to, any rules or orders issued
26 pursuant to Section 9-35, may also be enforced by the county administrator ordering the
27 closure of any noncompliant establishment, including, but not limited to, any
28 commercial business location, place of public accommodation, or any other
29 noncompliant physical location, for a duration of time that is tailored to protect the
30 health, safety, and welfare of the people of Palm Beach County under the circumstances
31 presented by the specific emergency.

1 (f) Each violation of any rule or order made pursuant to the authority provided under this
2 article, including, but not limited to, any rules or orders issued pursuant to Section 9-35,
3 shall constitute a separate offense and shall be punishable as such.

4 (g) Nothing herein shall limit any other enforcement mechanisms authorized by law,
5 including, but not limited to, the right to seek injunctive or any other equitable relief.
6

7 **SECTION 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

8 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
9 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
10 renumbered or relettered to accomplish such, and the word "Ordinance" may be changed to
11 "section", "article", or any other appropriate word.
12

13 **SECTION 6. SAVINGS CLAUSE:**

14 Notwithstanding anything to the contrary, all provisions of Palm Beach County Code Chapter
15 9, codifying Palm Beach County Ordinances No. 92-37, 98-23, 05-043, and 2011-020, are
16 specifically preserved and remain in full force and effect for the limited purpose of enforcing
17 any alleged violations of said Code which occurred prior to its repeal or amendment.
18

19 **SECTION 7. SEVERABILITY:**

20 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
21 held by a court to be unconstitutional, inoperative, or void, such holding shall not affect the
22 remainder of this Ordinance.
23

24 **SECTION 8. REPEAL OF LAWS IN CONFLICT:**

25 All local ordinances in conflict with any provision of this Ordinance are hereby repealed to the
26 extent of such conflict.
27

28 **SECTION 9. ENFORCEMENT:**

29 This Ordinance is enforceable by all means provided by law. Additionally, the County may
30 choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm
31 Beach County.

1 **SECTION 10. PENALTY:**

2 Any violation of any portion of this Ordinance shall be punishable as provided by law.

3

4 **SECTION 11. CAPTIONS:**

5 The captions, section headings, and section designations used in this Ordinance are for
6 convenience only and shall have no effect on the interpretation of the provisions of this
7 Ordinance.

8

9 **SECTION 12. EFFECTIVE DATE:**



10 Pursuant to Section 125.66(3), Florida Statutes, this Emergency Ordinance shall be transmitted
11 by the clerk of the board of county commissioners by e-mail to the Department of State. It
12 shall be deemed to be filed and shall take effect when a copy has been accepted and confirmed
13 by the department by e-mail.

14

15 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach

16 County, Florida, on this the 28th day of July, 2020.

17

18 SHARON R. BOCK, CLERK
19
20 By: 
21 Deputy Clerk


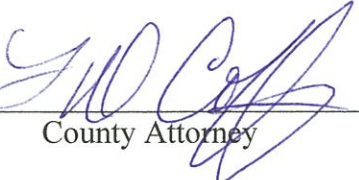
PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: 
Dave Kerner, Mayor

22

23 APPROVED AS TO FORM AND
24 LEGAL SUFFICIENCY

25

26 By: 
27 County Attorney

28

29

30 Filed with the Department of State on the 28th day of July, 2020



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 28, 2020

Honorable Sharon R. Bock
Clerk and Comptroller
Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401

Attention: Mr. Timothy Montiglio

Dear Ms. Bock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2020-013, which was filed in this office on July 28, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb