

EMERGENCY PROCLAMATION 20-07

AN EMERGENCY PROCLAMATION BY THE MAYOR OF THE CITY OF POMPAÑO BEACH, BROWARD COUNTY, FLORIDA, TO FACILITATE AND ENCOURAGE OUTDOOR RESTAURANT AND RETAIL USES TO FACILITATE AND PROMOTE ECONOMIC AND BUSINESS RECOVERY IN THE CITY, WHILE MAINTAINING FOCUS ON CORE SAFETY PRINCIPLES.

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

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency as a result of COVID-19, and on March 9, 2020, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency as a result of COVID-19; and

WHEREAS, on March 10, 2020, by Executive Order 20-08, Broward County Administrator Bertha Henry declared a state of emergency in Broward County; and

WHEREAS, on March 4, 2020, the City of Pompano Beach declared a State of Local Emergency; and

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

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

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

WHEREAS, on March 30, 2020, Governor DeSantis executed Executive Order 20-89, ordering Miami-Dade County, Broward County, Palm Beach County, and Monroe County to restrict access to businesses and facilities deemed nonessential pursuant to the guidelines established by Miami-Dade County Emergency Order 07-20, as modified by subsequent amendments and orders prior to March 30, 2020 (collectively, the "Miami-Dade Emergency Order 07-20"); and

WHEREAS, on April 1, 2020, Governor DeSantis issued Executive Order 20-91, ordering all persons in Florida to limit their movements and personal interactions outside their homes to only those necessary to obtain or provide essential services or conduct essential activities; and

WHEREAS, Executive Order 20-91, as amended, supersedes any local government orders to the extent they are inconsistent with Executive Order 20-91, as amended, but permits the County to institute additional precautions to prevent the spread of COVID-19 where such precautions are not in conflict with the Governor's orders; and

WHEREAS, on April 29, 2020, Governor DeSantis issued Executive Order 20-112 in response to recommendations set forth in Phase 1 of the plan issued by the Task Force to Re-Open Florida, and adopted a phased approach to remove or decrease the restrictions imposed pursuant to the Executive Order 20-91; and

WHEREAS, in Executive Order 20-112, Governor DeSantis issued a finding that the path to re-opening Florida must promote business operation and economic recovery while maintaining a focus on core safety principles; and

WHEREAS, Section 3.B. of Executive Order 20-112 allows restaurants and food establishments licensed under Chapter 500 or 509, Florida Statutes, to resume on-premise consumption of food and beverages, so long as they adopt appropriate social distancing measures and limit their indoor occupancy to no more than 25 percent of their building occupancy; and

WHEREAS, Section 4 of Executive Order 20-112 allows in-store retail establishments to open storefronts if they operate at no more than 25 percent of their building occupancy and abide by the safety guidelines issued by the CDC and OSHA; and

WHEREAS, outdoor activities with proper social distancing, including outdoor restaurant seating, have been determined to be safer and less likely to lead to the spread of COVID-19 than indoor activities; and

WHEREAS, the City of Pompano Beach, in coordination with the Pompano Beach Community Redevelopment Agency (the "CRA") has established a business operation and economic recovery program in compliance with Executive Order 20-112, which plan is called "Phase I Relaunch / Dine & Shop" (the "Plan") and is attached to this Proclamation as Attachment 1; and

WHEREAS, effective implementation of the Plan necessitates the relaxation of certain City of Pompano Beach Code (the "Code") requirements for the duration of this Proclamation, as amended from time to time, under the terms and conditions set forth in this Proclamation and the Plan, and only to the extent necessary to effectuate this Proclamation; and

WHEREAS, on May 14, 2020, by Executive Order 20-122, Governor DeSantis has authorized the Phase 1 re-opening of Broward County and the Broward County Administrator issued Emergency Order 20-10 providing for a phased re-opening of business activity beginning on Monday, May 18, 2020; and

WHEREAS, the County's Emergency Order 20-10 provides for an increase in the occupancy limitation contained in Executive Order 20-112 from 25 percent to 50 percent and on May 15, 2020, Governor DeSantis announced that the occupancy limitation would be increased effective Monday, May 18, 2020; and

WHEREAS, pursuant to §252.46, Florida Statutes, and Sections 94.01 and 94.03 of the City of Pompano Beach Code of Ordinances, the City has the power to issue Emergency Proclamations with the force of law. The Mayor has expressly been authorized to issue Emergency Proclamations.

BE IT PROCLAIMED BY THE MAYOR OF THE CITY OF POMPANO BEACH, FLORIDA, THAT:

SECTION 1. The City of Pompano Beach adopts Broward County's Emergency Order 20-10 in its entirety, including all requirements and procedures contained therein.

SECTION 2. The purpose of this Proclamation is recited in the WHEREAS clauses above and said recital clauses are hereby adopted, incorporated herein by reference and made a part of this Proclamation.

SECTION 3. The Executive Orders issued by Governor Ron DeSantis addressing the state-wide COVID-19 state of emergency and all subsequent Executive Orders of state-wide application based thereon, are incorporated herein by reference and made a part of this Proclamation.

SECTION 4. In an effort to support the Governor's Executive Order 20-112 and to promote business operation and economic recovery while maintaining focus on core safety principles, the "Phase I Relaunch / Dine & Shop," attached to this Proclamation as Attachment 1, and all terms, conditions and requirements set forth in the Plan, are hereby adopted, incorporated herein by reference and made a part of this Proclamation.

SECTION 5. Subject to the terms of this Proclamation and only to the extent described in the Plan, this Proclamation relaxes certain Code requirements as set forth in the Plan and grants temporary permission to (i) utilize the City and CRA rights-of-way without a permit for restaurant or retail use, which uses are otherwise restricted or prohibited on City and CRA rights-of-way; (ii) utilize private parking areas without a permit for restaurant or retail use, which parking areas are otherwise restricted for use for required off street parking spaces only and (iii) utilize public parking areas and public open space with the written consent of the City Manager or CRA Executive Director. Any person who, as described in the Plan, utilizes the City or CRA rights-of-way, private parking areas and public parking areas or public open space for restaurant and retail use as authorized under this Proclamation shall comply with all terms, conditions and requirements of this Proclamation.

SECTION 6. Nothing in this Proclamation shall be construed to authorize the relaxation of any other Code requirements not referenced in the Plan, and all such other Code provisions and laws shall remain in full force and effect. Any use of City and/or CRA rights-of-way, private parking areas, public parking areas or public open space for restaurant and retail use pursuant to this Proclamation shall comply with all applicable fire, life safety, and ADA requirements.

SECTION 7. Permission to utilize the City and CRA rights-of-way, public or private parking areas or public open space for restaurant and retail use without a permit and under the terms, conditions and requirements of this Proclamation and the Plan, is at the sole and absolute discretion of the City and the CRA. Such permission may be withdrawn by the City or CRA at

any time, including upon a finding by the City or CRA of a violation of this Proclamation or the Plan, or if the Governor's Executive Order 20-112 is amended or suspended. Further, notwithstanding any provision of this Proclamation to the contrary, the City reserves the right to restrict or prohibit the use of City or CRA rights-of-way, use of private parking areas, use of public parking areas and use of public open space for restaurant and retail use otherwise permitted by this Proclamation if the City or CRA determines that such use endangers the public health, safety, or welfare, at the City's or CRA's sole and absolute discretion.

SECTION 8. INDEMNIFICATION, DEFEND AND HOLD HARMLESS. Any restaurant or retail use that takes advantage of the use of City or CRA rights-of-way, private parking areas, public parking areas or public open space as provided in the Plan expressly agrees by operation of such restaurant or retail use to indemnify, defend and hold harmless the City of Pompano Beach and the Pompano Beach Community Redevelopment Agency, and its officers and employees, from any and all claims that may result from such use. Each restaurant and retail use shall sign the Indemnification, Defend and Hold Harmless form included in the Plan prior to beginning any outdoor use.

SECTION 9. This Proclamation shall remain in place as long as Broward County's Emergency Order 20-10 is in effect, as may be amended and extended.

SECTION 10. The provisions of this Emergency Order may be enforced within the boundaries of the City of Pompano Beach by the City's law enforcement agency, as well as the City's Code Enforcement Officers. A finding of violation of this Proclamation or any of the requirements of the Plan may be enforced by immediate revocation of the City's or CRA's permission to utilize City or CRA rights-of-way, private parking areas, public parking areas or public open space for restaurant and retail use.

In addition, pursuant to Section 252.50, Fla. Stat., a violation of this Proclamation, and/or any Executive Order of the Governor of the State of Florida or of the Broward County Administrator made pursuant to the emergency powers provided by Chapter 252, Fla. Stat., is a second degree misdemeanor which carries a penalty of up to 60 days imprisonment and/or a \$500 fine.

SECTION 5. This Proclamation is effective at 12:01 a.m. on Tuesday, May 19, 2020.

PROCLAIMED at 2:30pm hours this the 18th day of May 2020.



REX HARDIN



ASCELETA HAMMOND

MEB:jrm
5/18/2020
L:proclamation/2020-211

ATTACHMENT 1



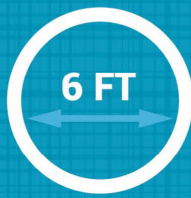
Pompano Beach

**ECONOMIC
RESPONSE TEAM**

COVID-19

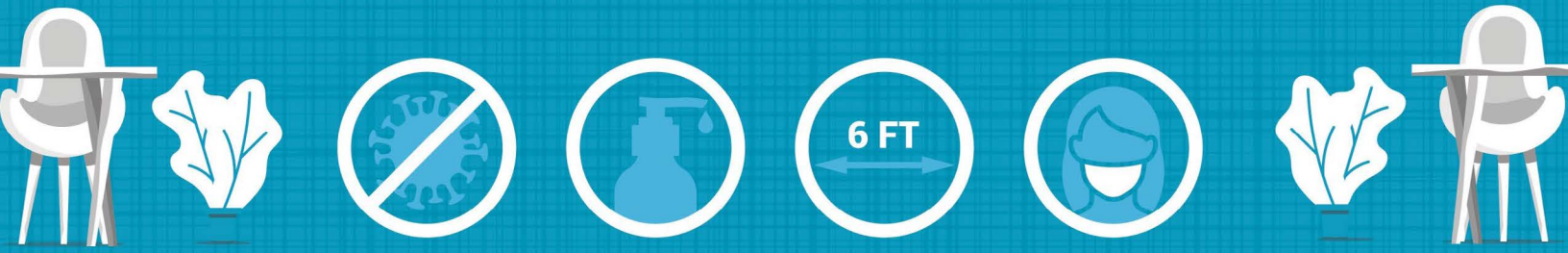
PHASE 1 **RELAUNCH**

DINE & SHOP



The City of Pompano Beach and Community Redevelopment Agency (CRA) are helping businesses get back up and running, provide social distancing, and enjoy some fresh air. The City of Pompano Beach has established this program to ensure businesses have the greatest ability to operate successfully during the COVID-19 economic recovery. This program includes leveraging available private and public space to be used as expanded areas for restaurant and retail activity while maintaining public safety requirements.

Restaurants will be allowed to utilize additional supplemental outdoor customer service areas, provided the dining areas comply with public safety standards. The City is currently suspending all outdoor application requirements for restaurants and retail businesses to expand operating space into portions of privately owned and public rights-of-way. Please note, certain written approvals and building permits are required, as noted in this brochure.



PROGRAM

In concert with the Governor's Executive Order, and Broward County orders, the City of Pompano Beach has enacted Emergency Proclamation # 20-07, which created guidelines to temporarily allow restaurants and retail businesses to expand their business footprint onto public rights-of-way or in privately owned parking lots without meeting certain City Code and application requirements. All capacity restrictions included with the State, County, and Local Orders will apply.

Temporary Outdoor Areas on Private Property:

Restaurants and retail establishments with access to private sidewalks or private parking may utilize these areas for outdoor dining and retail merchandise display areas, in accordance with the public safety standards outlined within this brochure. Written consent from the landlord is required.

Temporary Outdoor Areas on Public Property:

Restaurants and retail establishments with access to public sidewalks or on-street parking may utilize these areas for outdoor dining and retail merchandise display areas, in accordance with the public safety standards outlined within this brochure, including the supplemental standards for business uses in the public right-of-way. Written consent from the landlord is required. Some instances require written approval from the City Manager or CRA Director, see below.

Public Safety Standards

In the interest of public safety, the following requirements will be applicable to all restaurants and retail businesses in the City of Pompano Beach that utilize any City rights-of-way for outdoor seating or display.



Temporary Outdoor Seating and Retail Merchandise Display shall:

- Follow all provisions included in the City of Pompano Beach Emergency Proclamation # 20-07
- Be located on a hard, bonded and dustless surface.
- Any tents over 120 square feet require a Building Permit Application from the City of Pompano Beach.
- Provide five feet clearance for all walkways.
- No business, dining area, or merchandise display area entrance or exit can be blocked.
- Not exceed the currently allowed occupancy for the business.
- Shall be configured and maintained in a way that is in compliance with all Social Distancing guidelines as required by Federal, State, County and CDC requirements. Including but not limited to, six foot separation between patrons, staff to wear masks, and sanitize all seating areas between each use.
- No parking for disabled persons may be repurposed for restaurant or retail use.
- Retail establishments shall monitor the outdoor merchandise display areas so as to limit the number of patrons to not exceed the number of permitted people in one area per the Federal, State, County and CDC requirements.
- Provide temporary buffers (if proposed in parking areas, parking bays or parking lots) by way of potted plants, traffic cones, or otherwise distinguish between the parking area and temporary outdoor seating or merchandise display.
- No goods for sale nor food related items may be stored or remain outdoors overnight. Tables, chairs and any other furniture utilized for outdoor dining shall be gathered and secured each night in a manner to prevent their scattering about during any inclement weather and wind overnight and otherwise when not in use.
- Be directly in front of the tenant space containing the eating or drinking establishment or retail establishment, unless the owner of the property agrees in writing to an extension of the outdoor seating area to areas of adjoining tenants.
- If alcoholic beverages will be served outdoors, the business must have proof that the extended outdoor areas are included with their license from the State of Florida.
- No sound production or reproduction machine or device (including, but not limited to musical instruments, loud-speakers, and sound amplifiers) shall be used, operated, or played in the outdoor area at a volume that is any louder than necessary for the convenient hearing of persons within the outdoor area, and that would disturb the peace, quiet, or comfort of adjoining properties.
- Hours of operation of the outdoor seating area and outdoor merchandise display area shall be the same as those for the eating or drinking establishment or retail store.
- Except in the Atlantic Overlay District, the number of outdoor seats shall not exceed the number of indoor seats.
- Maintain a clear distance of at least five feet from any alley, crosswalk, fire hydrant, or similar public or emergency access feature in or near the sidewalk. A greater clear distance may be required where necessary to ensure use of the public or emergency access feature.
- Dining or display areas cannot block access for Police and Fire Rescue vehicles.
- Must be kept clean and all garbage and debris associated with the outdoor use area must be contained to the area and removed for disposal.
- Any use of City and/or CRA rights-of-way, private parking areas, public parking areas or public open space for restaurant and retail use pursuant to this program shall comply with all applicable fire, life safety, and ADA requirements. Outdoor activity cannot create a hazardous condition.
- Hand washing or hand sanitizing stations shall be easily accessible.



Outdoor Kitchens:

- Outdoor kitchens are permitted only with written consent of the CRA Director or City Manager. Please call 954.786.4048 to receive approval.
- Restaurants that own or lease a building for operation of the restaurant can augment the operation of the restaurant by use of a temporary movable kitchen.
- Proof of ownership or leasehold interest in a building that houses or will house the restaurant is required in order to take advantage of this permission to utilize a temporary movable kitchen.
- To the extent possible, the outdoor kitchen structure shall be located adjacent to the building that houses the restaurant. If adjacency is not possible, the outdoor kitchen structure shall be located in as close proximity as possible to the building that houses the restaurant.
- All outdoor kitchens shall comply with all Department of Health regulations regarding mobile kitchens, as well as all other requirements of the Plan.

Supplemental standards for outdoor dining or retail merchandise display in the public right-of-way or open spaces:

- Outdoor uses are only permitted on property or rights-of-way owned by City of Pompano Beach or CRA. State and County roads are excluded from this program.
- No vehicular travel lane in the right-of-way may be obstructed unless authorized as part of an approved Road Closure and/or Special Event application.
- The City reserves the right to restrict or prohibit the use of City or CRA rights-of-way, use of private parking areas, use of public parking areas and use of public open space for restaurant and retail use otherwise permitted by this Proclamation if the City or CRA determines that such use endangers the public health, safety, or welfare, at the City's or CRA's sole and absolute discretion.
- Lounge seating or portable bars are prohibited in the City and CRA rights-of-way.
- The below listed activities require City Manager review and approval prior to commencing business activity in publicly owned spaces. Please call 954-786-4048 for more information.
 - Use of parking areas that contain parking meters.
 - Utilization of a public open space or public parking lot within the City and CRA.
 - Outdoor kitchens.

TIMEFRAMES:

These temporary provisions are valid only during the Declared Emergency Proclamation #20-07 by the City of Pompano Beach. The City will follow the occupancy allowances for restaurants as set by any Governor Executive Orders and any Broward County Orders.



Please call or email the City of Pompano Beach Economic Response Team
954.786.4048 | Chris.clemens@copbfl.com