

**CITY OF MANHATTAN BEACH
DIRECTOR OF EMERGENCY SERVICES ORDER NO. 10**

**AUTHORIZING THE RELAXATION OF USE PERMIT CONDITIONS PERTAINING TO
RESTAURANT FLOOR PLANS AREAS AND CONFIGURATION TO ALLOW OUTDOOR
DINING AND SERVICE OF ALCOHOL IN APPROVED EXPANSION AREAS IN THE PUBLIC
RIGHT OF WAY, PUBLIC PROPERTY, AND PRIVATE PROPERTY TO ACCOMMODATE
SOCIAL DISTANCING REQUIREMENTS REQUIRED BY STATE AND COUNTY
PROTOCOLS TO LIMIT THE SPREAD OF COVID-19**

EFFECTIVE June 5, 2020, at 6:00 p.m.

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”);

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19;

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19;

WHEREAS, on March 13, 2020, the City Council adopted Resolution No. 20-0039, A Resolution of the City Council of the City of Manhattan Beach Proclaiming the Existence of a Local Emergency;

WHEREAS, the City Manager is the Director of Emergency Services in the City of Manhattan Beach. Pursuant to Manhattan Beach Municipal Section 3.08.060.A.6.a, the City Manager as the Director of Emergency Services is empowered during a local emergency to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency;

WHEREAS, on March 16, 2020, the Los Angeles County Department of Public Health issued the Safer at Home Order for Control of COVID-19, which was subsequently amended and revised (the “County Safer at Home Order”);

WHEREAS, on March 25 and March 27, 2020, the City Council adopted Ordinance Nos. 20-0014-U and 20-0015-U which require all persons and businesses to comply with social distancing requirements and other health and safety measures required by a state or county order or guidelines related to COVID-19;

WHEREAS, on May 22, 26, and 29, 2020, Los Angeles County began gradually relaxing the closures, allowing for non-essential retail businesses to fully open to customers, as well as

restaurants to re-open their dining rooms for on-site dining, along with operating protocols to limit the spread of COVID-19. These protocols include social distancing requirements (where customers must maintain space between themselves and other) and a 60% cap on restaurant dining room capacities;

WHEREAS, Section 4.48.030 of the Municipal Code prohibits drinking of any alcoholic beverage on most public areas (including boulevard, streets, avenues, court, or other public place), unless specifically permitted by the prior written approval of the City;

WHEREAS, California Department of Alcoholic Beverage Control (“ABC”) has suspended enforcement of certain legal prohibitions on a temporary basis, including the expansion of the licensed footprint;

WHEREAS, the Manhattan Beach Municipal Code requires a use permit for any restaurant to sell and serve alcoholic beverages;

WHEREAS, the Manhattan Beach Municipal Code regulates, *inter alia*, outdoor facilities and displays of merchandise on private property, the private use of the public right-of-way and public property, and sidewalk dining;

WHEREAS, to facilitate the recovery of businesses and restaurants, the Manhattan Beach City Council wants to enable businesses and restaurants to apply for permission to conduct temporary outdoor operations;

WHEREAS, to enable any business or restaurant to apply for permission to conduct temporary outdoor operations on private property adjacent to its use, the City recommends the temporary relaxation of any use permit condition or Code requirement, including provisions in Municipal Code Section 10.60.080, that would delay or hinder issuance of the temporary permit;

WHEREAS, to regulate outdoor dining uses in the sidewalk portion of the public right-of-way, the Manhattan Beach Community Development Department currently allows for application of Sidewalk Dining Permits in accordance with Municipal Code Section 7.36.160; and

WHEREAS, to regulate outdoor dining uses in the non-sidewalk portion of public right-of-way, the Manhattan Beach Community Development Department has developed an “Outdoor Dining and Business Use in the Right-of-Way Checklist” (“Checklist”) and “Outdoor Dining and Business Use in the Public Roadway Guidelines” (“Guidelines”); and

WHEREAS, in the interest of the public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Chapter 3.08 of the Manhattan Beach Municipal Code, Manhattan Beach City Council Resolution No. 20-0039, and the California Emergency Services Act, Chapter 7 (commencing with Section 8550) of Title 2 of the Government Code, to issue this order.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

Section 1. The recitals set forth above are true and correct and are incorporated into this Order by reference.

Section 2. Pursuant to Manhattan Beach Municipal Section 3.08.060.A.6.a, the City Manager as the Director of Emergency Services hereby orders the following:

- A. Notwithstanding any Municipal Code provision or use permit condition to the contrary, any existing, legally-permitted business or restaurant (“Outdoor Use Applicant”) may apply to the City to expand its existing footprint to conduct outdoor operations, on a temporary basis, on private property or in the public right-of-way, adjacent to its site.
- B. Each Outdoor Use Applicant seeking to use portions of the sidewalk in the public right of way shall apply to the Community Development Department for an encroachment permit and must comply with all City requirements set forth in Section 7.36.160.
- C. Each Outdoor Use Applicant seeking to use private property, or the Metlox courtyard, shall apply to the Community Development Department pursuant to Municipal Code Section 10.60.080.
- D. As stated in the recitals, Los Angeles County has currently imposed a 60% capacity cap on on-site restaurant dining. Such cap may be increased or decreased by the County. In no event shall the overall dining capacity for a restaurant exceed 100% of its approved capacity.
- E. No business or restaurant shall conduct the outdoor uses authorized by this Order prior to receiving City-issued authorization to conduct such use.
- F. An Outdoor Use Applicant who obtains a City-issued approval for an expanded restaurant dining area shall be afforded a temporary relaxation of use permit conditions or Code requirement pertaining to floor plan areas and configuration, provided they abide by all other applicable State, County, and local regulations and any permit conditions of their encroachment.
- G. An Outdoor Use Applicant who obtains a City-issued approval for an expanded restaurant dining area may follow the temporary relief measures passed by the California ABC, including service of alcohol in an approved expanded area.

Section 3. Any violation of this Order may be determined to be a misdemeanor and punishable by a fine or imprisonment, or both, pursuant to Government Code Section 8665 and Chapters 1.04 and 1.06 of the Manhattan Beach Municipal Code, and any other state or city law as may be applicable.

Section 4. This Order shall take effect on June 5, 2020, at 6:00 p.m., subject to confirmation as soon as practicable by the City Council.

Executed on June 5, 2020.

/s/ Bruce Moe
City Manager Bruce Moe
Director of Emergency Services