



## **City of North Miami Beach, Florida** **Office of the City Manager**

TO: The Honorable Mayor and City Commission

CC: Daniel A. Espino, Weiss Serota Helfman, City Attorney  
Andrise Bernard, City Clerk  
Department Directors

FROM: Esmond K. Scott, City Manager  
William Hernandez, Chief of Police

DATE: July 22, 2020

*EKS*

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**RE: Emergency Order No. 10: Temporary Outdoor Dining Program**

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### **CITY OF NORTH MIAMI BEACH EMERGENCY ORDER NO. 10 TEMPORARY OUTDOOR DINING PROGRAM - COVID-19**

On March 9, 2020, Florida Governor Ron DeSantis declared a State of Emergency for the State of Florida related to the novel COVID-19 coronavirus ("COVID-19"). On March 11 and respectively, also declared States of Emergency in their corresponding jurisdictions associated with COVID-19. The States of Emergency in the State of Florida, Miami-Dade County, and the City of North Miami Beach (the "City") have continued, or been appropriately extended, through the date of this Order.

Following Centers for Disease Control and State of Florida guidance, the State and County issued various Emergency Orders temporarily closing public and private facilities, including temporary closure all non-essential retail and commercial establishments, and identifying essential retail and commercial businesses that may remain open, subject to any further City restrictions, as set forth in the City's Emergency Orders. The State, the County, and the City each issued subsequent orders specifically urging the public to shelter in place to further underscore protection, specifically for those groups most at risk to COVID-19.

The City has recognized the economic impact of mandatory closures the effect on the local economy, specifically for small businesses. The City has a desire to provide regulatory relief to essential businesses and businesses operating under a reduced capacity, by allowing the use of open spaces like sidewalks and parking facilities for restaurants and bars to serve customers outside. Such temporary use may not be permitted under the City's Zoning and Land Development Code of Ordinances (the "Code"); however, the City Manager, pursuant to Section 2-29.4, has the authority to issue emergency regulations necessary for the control of adverse conditions affecting public welfare resulting from an

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emergency. The negative impact on businesses and the limitation of interior space for dining available for essential businesses and other business amenities in the City constitute adverse conditions that may be alleviated by permitting new temporary outdoor uses and the adoption of temporary regulations as provided herein.

Because of the foregoing, the City deems it in the best interest of public to issue this additional emergency order with the following measures:

1. **Temporary outdoor dining.** The "NMB's Open Restaurant Program" provided in Exhibit "A," which is incorporated herein and made a part hereof by this reference, is hereby implemented.

The City will implement a full range of public information activities to inform business owners about NMB's Open Restaurant Program. Including, but not limited to:

- Provide regulations to all businesses registered as restaurants and food establishments within the City;
- Provide information to the North Miami Beach Chamber of Commerce that serves all businesses;
- Provide weekly distribution via social media;
- Post information on the City's website;
- Distribution of handouts by Code Compliance Officers during field inspections; and
- Provide informational flyers and applications at the Planning and Zoning Division.

The Planning and Zoning Division staff will provide support to business owners in completing applications and will offer timely responses.

This Order is in addition to, and supplements, the City's Emergency Orders. All requirements of City Emergency Orders, Miami-Dade Emergency Orders, and State of Florida Executive Orders shall be strictly adhered to all times.

## Exhibit "A"

### **Temporary Outdoor Dining Regulations During COVID-19 Outbreak**

The City of North Miami Beach introduces the "NMB's Open Restaurant Program" to expand outdoor seating options for existing food establishments to promote open space, enhance social distancing, and help restaurants recover during the COVID-19 pandemic.

The intent is to allow restaurants to continue to operate with on-site dining, by expanding their footprint onto public right-of-way and into privately owned sidewalks and/or parking facilities.

The following NMB's Open Restaurant Program will be in effect until the State of Emergency has been declared over or has expired, whichever comes first. To guarantee public safety, all restaurants in the City of North Miami Beach using the NMB's Open Restaurant Program shall implement and follow the following requirements:

- Restaurants businesses shall follow the CDC guideline, for more information refer to: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html>
- Indoor seating capacity shall comply with Miami-Dade County executive order restrictions (as such executive orders may be amended or superseded).
- All indoor and outdoor seating must be spaced at least six feet apart.
- All restaurants are encouraged to use a seating reservation process to prevent capacity issues and avoid gathering groups of more than ten people who are waiting to be seated.
- All restaurants are encouraged to provide clear information of ordering take out.
- All restaurants shall designate a waiting area for order pick up with clearly designated spaces meeting safety distancing guidelines.
- All staff members must wear facial coverings.
- Hand sanitizer must be available to staff and customers.
- It is strongly encouraged to screen employees for COVID-19.
- All restaurants shall adhere to the City's noise regulations, which will be enforced for the temporary outdoor dining.

Restaurants interested in utilizing the "NMB Open Restaurant Program" shall obtain a permit from the City by filling out the application attached to these guidelines and submitting it to the Community Development Department, Planning and Zoning Division for Approval.

- Applications will be accepted by the following means:
  - Via e-mail: [nmbcomdev@citynmb.com](mailto:nmbcomdev@citynmb.com). Please include "NMB Open Restaurant Program" in the subject line."
  - In-person at the Planning and Zoning Division, located at 17050 NE 19th Avenue, North Miami Beach, Florida 33162.
- No fees are associated with this permit.

The NMB's Open Restaurant Program permits the outdoor dining expansion into private open space areas and the public right-of-way during the COVID-19 State of Emergency. The expanding outdoor dining must comply with the following regulations:

1. Restaurants may apply to use the private sidewalk, public sidewalks of adequate size and area to accommodate both pedestrians and seating area, or private and public parking facilities adjacent to their business.
2. The total outdoor seating shall comply with Miami-Dade County executive order restrictions (as such executive orders may be amended or superseded).
3. All public right of way spaces must be maintained in good order, no alterations to these spaces are permitted, access to storm drains and other infrastructure facilities must be granted when requested by the City or applicable agency.
4. Private sidewalk seating must also comply with the following requirements:
  - Seating and tables must be up against the wall of the business or as close as possible.
  - Sidewalk seating area may not exceed business frontage.
  - Must leave a 5' clear path for pedestrians.
  - Must be at least 3' from adjacent business.
  - Tables and chairs must be provided by the applicant.
5. Seating area on parking facilities must also comply with the following requirements:
  - Restaurants must provide a protective barrier, such as planters or similar objects.
  - Not place seating or barriers within 8' of a crosswalk, to provide for safety vehicle turns.
  - Seating area may not exceed the length of business.
  - Ensure visibility of barriers at night.
  - Outdoor seating area shall be ADA accessible.
  - Not place seating within a No Stopping Anytime or No Standing Anytime Zone.
  - Provide at least 6' between tables and pathways.
  - Only utilize umbrellas with a weighted base and such umbrella may not extend past the barrier or obstruct access or be removed during inclement weather.
  - Tables, chairs, and barriers must be provided by the applicant.
  - Remove tables and chairs or secure them in place when not in operation
  - No heating, cooking or open flames are permitted.
  - No food preparation, food storage or refrigeration apparatus shall be allowed on the temporary outdoor areas.
6. Restaurant businesses participating in the NMB Open Restaurant Program within the public right of way shall provide a copy of their liability insurance for \$500,000. The liability insurance shall include the City of North Miami Beach as an additional insured.
7. Temporary Outdoor Dining areas permitted under the NMB's Open Restaurant Program shall be removed seven (7) days after the end of the State of Emergency; if not removed within the seven (7) days, then the occupancy shall be subject to Code Compliance enforcement.
8. **These rules may be amended from time to time as necessary in order to protect the health, safety and welfare of the City of North Miami Beach. This program does not grant a permanent entitlement to outdoor dining nor does it grant any legal nonconforming protections pursuant to Chapter 24, Article IV of the Zoning and Land Development Code. The City of North Miami Beach reserves the right pursuant to its emergency management authority to amend, delete, and extend the rules in this order.**



**City of North Miami Beach, Florida**  
**Community Development Department**

**NMB's Open Restaurant Program Application**  
during the COVID-19 State of Emergency.

**General Information**

Business Name: \_\_\_\_\_ Submission Date: \_\_\_\_\_

Address (es) of the Property: \_\_\_\_\_

Maximum Capacity of Restaurant: \_\_\_\_\_ Proposed Outdoor Seating: \_\_\_\_\_

**Will the outdoor seating be in the public right-of-way?**

Sidewalk: Yes:  No:  On-Street Parking: Yes:  No:

**Will the outdoor seating be on private property?**

Parking Lot: Yes  No  No designated Open Space: Yes  No

How many parking spaces will be occupied for outdoor seating? \_\_\_\_\_

Tents: Yes  No . If yes, tents over 10x12 feet from the Building Department for Fire Safety review.

**Sketch Outdoor Seating Area or Attached Separately**

Neatly draw a floor plan of the premises, or provide pictures, including sidewalks and other outside areas which will be used for temporary outdoor dining.

**Applicant/Agent/Property owner affirmation and consent  
to Temporary Outdoor Dining areas during COVID-19**

\_\_\_\_\_  
Applicant/Authorized Agent's Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email

\_\_\_\_\_  
Property Owners Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner's Street Address

\_\_\_\_\_  
City, State & Zip Code

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone Number

**Notary's Statement of Acknowledgment**

State of \_\_\_\_\_ County of \_\_\_\_\_

The foregoing statement was acknowledged before this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ who is personally known to me or has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Name of Notary

\_\_\_\_\_  
Serial Number, if any

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\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Name of Notary

\_\_\_\_\_  
Serial Number, if any

**Official Use Only**

Permit Number: \_\_\_\_\_ Date: \_\_\_\_\_

Folio Number: \_\_\_\_\_

Review by: \_\_\_\_\_ Approved: \_\_\_\_\_ Denied: \_\_\_\_\_

Comments/or Stipulations: \_\_\_\_\_