

CM-EO 2020-13

EXECUTIVE ORDER OF THE CITY MANAGER

**PROVIDING FOR TEMPORARY MODIFICATIONS TO CITY DEVELOPMENT
REGULATIONS FOR OUTDOOR SEATING**

RELATED TO GOVERNOR'S DECLARATION OF EMERGENCY 20-52

The following Executive Order was adopted by the City Manager of the City of Melbourne, Florida on the date written below.

WHEREAS, on March 9, Governor DeSantis issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida pursuant to Chapter 252 of Florida Statutes based upon substantial harm related to COVID-19 ("Governor EO 20-52"); and

WHEREAS, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention ("CDC") issued guidance to address COVID-19 advising individuals to adopt far-reaching social distancing measures, such as avoiding gatherings of more than 10 people, and in states with evidence of community spread, indoor and outdoor venues where groups of people congregate should be closed; and

WHEREAS, on March 20, 2020, Governor DeSantis issued Executive Order 20-71, suspending on-premises food consumption for restaurants ("Governor EO 20-71"); and

WHEREAS, pursuant to Section 18-23 of Melbourne City Code, upon the Governor's said declaration of emergency, the City Manager is authorized to order appropriate emergency measures as set forth in Section 18-26 of Melbourne City Code; and

WHEREAS, on April 22, 2020, the City Manager issued Executive Order CM-EO 2020-11, providing for temporary measures for outdoor seating if Governor EO 20-71 was modified or superseded; and

WHEREAS, on April 29, 2020, Governor DeSantis issued Executive Order 20-112, modifying and superseding Governor EO 20-71 to permit limited occupancy for on-premises food consumption at restaurants; and

WHEREAS, the City Manager desires to supplement CM-EO 2020-11 with updated temporary measures for outdoor seating.

**NOW THEREFORE, IT IS ORDERED BY THE CITY MANAGER OF THE
CITY OF MELBOURNE, FLORIDA AS OF THE 1ST DAY OF MAY, 2020:**

SECTION 1: That based upon the authority given to me by Section 18-26(3) of City Code during the declared state of emergency set forth in Governor EO 20-52, I hereby order the following temporary measures regarding outdoor seating:

A. Temporary On-Site Outdoor Seating Permits

I hereby modify Appendix B, Article VII, Section 2 to create a temporary on-site outdoor seating permit. Temporary on-site outdoor seating permits issued by the City pursuant to this Order shall be valid while this Executive Order, or a subsequent order authorizing such permits, is effective. The requirements of the

temporary on-site outdoor seating permit shall be consistent with the relevant requirements of Appendix B, Article VII, Section 2(H) of City Code, with the following exceptions:

- The temporary on-site outdoor seating permit shall apply to eligible establishments Citywide;
- There is no permit fee for a temporary on-site outdoor seating permit;
- On-site outdoor seating is allowed in parking or landscape areas, subject to City review and approval;
- The number of seats in an on-site outdoor seating area may supplement indoor seating up to each establishment's respective occupancy levels permitted by City Code and the Florida Building Code; and
- On-site outdoor seating areas shall comply with social distancing requirements established by relevant order of the Governor.


B. Temporary Sidewalk Use Permits for Outdoor Seating

I hereby modify Appendix B, Article VII, Section 2 to create a temporary sidewalk use permit for outdoor seating. Temporary sidewalk use permits for outdoor seating issued by the City pursuant to this Order shall be valid while this Executive Order, or a subsequent order authorizing such permits, is effective. The requirements of the temporary sidewalk use permit for outdoor seating shall be consistent with the relevant requirements of Appendix B, Article VII, Section 2(H) of City Code, with the following exceptions:

- There is no permit fee for a temporary sidewalk use permit for outdoor seating;
- There are no insurance requirements for a temporary sidewalk use permit for outdoor seating; and
- Outdoor seating areas shall comply with social distancing requirements established by relevant order of the Governor.

SECTION 2. City staff are directed to create and process temporary permit applications consistent with this Executive Order. The requirements for temporary on-site outdoor seating or temporary sidewalk use permits for outdoor seating are subject to revision by subsequent Executive Order. Any conflicting provisions in Executive Order CM-EO 2020-11 are superseded by this Executive Order.

SECTION 3. This Executive Order shall take effect immediately upon adoption, and shall remain in effect for the duration of the Governor's Executive Order 20-52 unless this Executive Order of the City Manager is earlier revoked by the City of Melbourne.

BY: 
Shannon M. Lewis
City Manager of the City of Melbourne