

RESOLUTION NO. 2020-01

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO THE EXISTING COVID-19 STATE OF EMERGENCY AND THE GOVERNOR’S ACTIONS TO BEGIN THE PROCESS OF REOPENING BUSINESSES; WAIVING TOWN REGULATIONS IN ORDER TO PROMOTE TOWN RESTAURANTS AND FOOD ESTABLISHMENTS AND IN-STORE RETAIL SALES ESTABLISHMENTS IN ACCORDANCE WITH THE GOVERNOR’S EXECUTIVE ORDER 20-112 “SAFE. SMART. STEP-BY-STEP. PLAN FOR FLORIDA’S RECOVERY”; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, on March 9, 2020, 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.

WHEREAS, on April 1, 2020 the Governor issued “Safer at Home” Executive Order 20-91 restricting non-essential business activities.

WHEREAS, on April 29, 2020, the Governor issued Executive Order 20-112, beginning the process of expanding allowed operations of non-essential businesses.

WHEREAS, Executive Order 20-112 allows restaurants and food establishments licensed under Chapter 500 or 509 of the Florida Statutes, on-premises consumption of food and beverage both indoors and outdoors following social distancing measures required by the Executive Order, as long as (i) restaurants limit their indoor occupancy to no more than 25% of their building occupancy, and (ii) social distancing measures are observed for outdoor seating.

WHEREAS, Executive Order 20-112 allows in-store retail sales establishments to open storefronts if they operate at no more than 25% of their building occupancy and abide by the safety guidelines issued by the United States Centers for Disease Control and Prevention (CDC) and United States Occupational and Health Administration (OSHA).

WHEREAS, in order for the Town to participate in the reopening of Florida’s economy, the Town Council finds it appropriate to temporarily waive certain local regulations to facilitate the reopening efforts of certain Town businesses.

Now Therefore, Be It Resolved by the Town Council of the Town of Windermere, Florida:

Section 1. Restaurants and Food Establishments Licensed under Chapter 500 or 509 of the Florida Statutes. Restaurants in the Town may temporarily utilize available outdoor space adjacent to the restaurants to provide for socially distanced outdoor seating without obtaining a permit from the Town. Temporary additional outdoor seating must satisfy the following criteria:

- a. Must comply with provisions of Executive Order 20-112.
- b. Must comply with all applicable fire regulations. The fire lane and other areas currently restricted (such as fire department connection areas) must always remain clear of any obstacles.
- c. Must comply with all Florida Department of Health regulations.
- d. Must comply with all state requirements, including any requirements relating to the sale or service of alcoholic beverages.

- e. Must not negatively impact ingress/egress to the building or property and must maintain required ADA accessibility requirements.
- f. If additional outdoor dining space is located within a parking area, a temporary physical barrier must be placed separating the dining from the remaining parking. ADA parking spaces may not be utilized.
- g. All temporary outdoor dining areas must be maintained clean of litter.
- h. Must not encroach onto public right-of-way or public property.
- i. If the restaurant owner is not the property owner, then the restaurant owner must obtain written permission from the landlord prior to utilizing the outdoor space.

Section 2. In-Store Retail Sales Establishments. In-store retail sales establishments located in the Town may temporarily utilize available sidewalk space adjacent to the retail establishment without obtaining a permit from the Town. Temporary additional outdoor space must satisfy the following criteria:

- a. Must comply with provisions of Executive Order 20-112.
- b. Must comply with all applicable fire regulations. The fire lane and other areas currently restricted (such as fire department connection areas) must always remain clear of any obstacles.
- c. Must comply with all state requirements.
- d. Must not negatively impact ingress/egress to the building or property, maintain compliance with ADA accessibility requirements, and must maintain at least a four foot clear pedestrian access on the sidewalk.
- e. All temporary outdoor areas must be maintained clean of litter.

Section 3. Temporary Shades and Canopies. Restaurants and retailers that utilize additional outdoor areas pursuant to this Resolution may erect temporary shades and temporary canopies without obtaining a permit from the Town to provide shade as long as such shades and canopies are not larger than 12 feet by 12 feet in length and width and not higher than 15 feet, and not inconsistent with any requirement of the Florida Building Code. Such shades and canopies shall not be located in a manner that blocks pedestrian access on a sidewalk, and must be removed from the outdoor areas and properly stored when the business closes each day.

Section 4. Temporary Signs. Restaurants and retailers may install temporary signs, without a permit, such as sidewalk signs or banners that meet the following criteria:

- a. One temporary sidewalk sign may be placed directly in front of the retail business and may not be placed more than 2.5 feet from the face of the retail business storefront. Such sidewalk sign shall not exceed eight square feet in sign face area nor be permanently affixed to the ground.
- b. A temporary banner may be attached to the retail business storefront or temporary shade or canopy if the banner does not exceed 20 square feet in area and is not permanently attached to the storefront or temporary shade or canopy.
- c. Temporary sidewalk signs shall be removed from the sidewalk and properly stored when the business closes each day. Temporary banners are not required to be removed at the close of business each day.

Section 5. Authority of Town Manager. The Town Manager may revoke the ability of a restaurant or retail store to utilize outdoor space for failure to comply with the criteria in this Resolution. The Town Manager may authorize, in writing, and with such conditions deemed necessary by the Town Manager, the use of additional signage by an establishment subject to the provisions of this Resolution, in excess of the permitted signage in this Resolution. The Town Manger is authorized to resolve any question or dispute regarding the provisions of this Resolution subject to the stated purpose and intent of the Resolution and protecting the health, welfare, and safety of the Town.

Section 6. Conflicts. If any provision of this Resolution conflicts with a state or federal law or conflicts with or is superseded by any Executive Order of the Governor of the State of Florida or President of the United States, such provision shall be inapplicable and deemed severed from this Resolution with the remainder of this Resolution in full force and effect.

Section 7. Effective Date and Expiration. This Resolution shall become effective immediately upon enactment. Unless modified sooner by the Town Council, with respect to restaurants and food establishments, this Resolution shall remain in force and effect until the State of Florida permits such establishments to operate at 100% of their approved building occupancy. Unless modified sooner by the Town Council, with respect to in-store retail sales establishments, this Resolution shall remain in force and effect until the State of Florida permits such establishments to operate at 100% of their approved building occupancy.

Resolved this 12th day of May, 2020.

Town of Windermere, Florida
By: Town Council

By: _____
Jim O'Brien, Mayor

Attest:

Dorothy Burkhalter, MMC, FCRM
Town Clerk