



## CITY OF KEY WEST

### STATE OF LOCAL EMERGENCY DIRECTIVE 2020-17 AMENDMENT 1

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and causes symptoms similar to those of influenza and, in some cases, cause death; and

WHEREAS, Section 252.38(3)(a), Florida Statutes, gives political subdivisions the authority to declare and enact a State of Local Emergency for a period of up to seven days, thereby waiving the procedures and formalities otherwise required of the political subdivision by law; and

WHEREAS, on March 1, 2020, the Governor of Florida, Ron DeSantis, issued Executive Order Number 20-51, directing the State Health Officer and Surgeon General to declare a Public Health Emergency due to the discovery of Coronavirus Disease 2019 (COVID-19); in Florida; and on that same date, the State Health Officer and Surgeon General issued a Declaration of Public Health Emergency, stating that COVID-19 is a threat to public health in Florida; and

WHEREAS, on March 9, 2020, the Governor of declared a State of Emergency because of COVID-19; and

WHEREAS, on March 15, 2020, at 3:15 p.m. the City of Key West declared a State of Local Emergency; and

WHEREAS, the Centers for Disease Control (CDC) has since issued guidance entitled encouraging social distancing and maintaining a 6-foot separation between residents to slow the spread of infection and for individuals to cover their mouths and noses with a cloth face cover when around others, including when they have to go out in public, stating that "COVID-19 spreads mainly among people who are in close contact (within about 6 feet) for a prolonged period"<sup>1</sup> and "[t]he more people an individual interacts with at a gathering and the longer that interaction lasts, the higher the potential risk of becoming infected with COVID-19 and COVID-19 spreading"<sup>2</sup>; and

WHEREAS, the CDC strongly advises that reopening of communities include full observance of the social distancing, facial covering, and sanitation requirements stated in the CDC Guidelines in order to minimize the risk of a dramatic increase in infections that might overwhelm the available public health resources and require reclosure of amenities and businesses; and

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>

WHEREAS, on June 15, 2020, the CDC issued updated Guidance titled “Venturing Out? Be Prepared and Stay Safe” where the CDC stated “[b]eing in a group with people who aren’t social distancing or wearing cloth face coverings” increases your risk” of contracting COVID-19;<sup>3</sup> and which recommends keeping on hand “a cloth face covering, tissues, and a hand sanitizer with at least 60% alcohol” when venturing out, and

WHEREAS, on June 3, 2020, the Governor of Florida issued Executive Order Number 20-139, to take effect at 12:01 a.m. on June 5, 2020, extending and modifying Executive Orders 20-112, 20-120 and 20-139, implementing Phase 2 of his Safe. Smart. Step-by-Step. Plan for Florida’s Recovery allowing certain types of businesses to re-open under certain conditions, allowing certain types of businesses currently allowed to operate to expand their services and allowing local government to implement additional restrictions and measures; and

**WHEREAS, Friday, June 26, 2020, the Florida Department of Business and Professional Regulation issued an Emergency Order, known as 2020-09, directing certain types of vendors licensed to sell alcohol beverages to suspend such sales for consumption on the stating that “during the month of June 2020, the number of individuals testing positive for COVID-19 increased significantly in the State of Florida, especially among younger individuals, and some of these cases involving younger individuals are suspected to have originated from visits to bars, pubs, or nightclubs who have disregarded the restrictions set forth in Phase 2 of the Safe. Smart. Step-by-Step. Plan for Florida’s Recovery”;**

WHEREAS, the City has issued eighteen emergency directives as the enactment of the local state of emergency undertaken pursuant to Florida Statutes permits the City of Key West to take whatever action is necessary to insure the health, safety and welfare of the community; and

WHEREAS, pursuant to Section 252.46, Florida Statutes, political subdivisions are authorized and empowered to make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of Sections 252.31-252.90, Florida Statutes, such orders and rules have full force and effect of law, and all existing laws, ordinances, and rules inconsistent with any order or rule issued under the authority of such statute shall be suspended during the period of time and to the extent that such conflict exists; and

WHEREAS, the Third District Court of Appeal has defined the term business establishment to mean “a location where business is conducted, goods are made or stored or processed or where services are rendered.” *Publix Supermarkets, Inc. v. Santos*, 118 So.3d 317 (Fla. 3d DCA 2013); and

WHEREAS, mitigating the effects of COVID-19 and protecting the health of its citizens and visitors is a high priority of the City of Key West and minimization of social contact is necessary to avoid risk of COVID-19 infection for citizens and visitors of the City; and

WHEREAS, it is necessary and appropriate to take action to ensure that COVID-19 remains controlled, and that residents in the City of Key West remain safe and secure and that any re-opening promotes business operation and economic recovery while maintaining focus on core safety principals and slowing the spread of COVID-19, given a recent increase in positive reported cases of COVID-19 within the City of Key West; and

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<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/activities.html>

**WHEREAS, the City of Key West is issuing this directive for clarity and uniformity regarding alcohol consumption at business establishments.**

NOW THEREFORE, as Mayor and City Manager of the City of Key West, we hereby order the following:

A. This directive supersedes any conflicting provisions of Emergency Directive 20-05, Section 1.a. (essential businesses); Emergency Directive 20-07, Amendment 1, Section B.1 (retail and museums) and C.5 (restaurants); Emergency Directive 20-12, Section B.1. (gyms and fitness centers). This Directive extends and modifies the remaining provisions of Emergency Directive 20-05; Emergency Directive 20-07; and Emergency Directive 20-12 as follows:

1. Essential businesses, retail establishments, museums, gyms and fitness centers may operate at full building capacity. All businesses, operations, and organizations continuing to operate pursuant to the Governor's orders or a county or municipal directive, must to the maximum extent possible implement and comply with current CDC guidance regarding social distancing and hazard mitigation, including but not limited to guidance regarding social distancing, sanitization, and hygiene.
2. **All vendors licensed to sell alcoholic beverages for consumption on the premises who derive more than 50% of gross revenue from such sales of alcoholic beverages shall suspend such sales, distribution and/or consumption of alcoholic beverages on the premises. Such vendors may continue to sell alcoholic beverages in sealed containers for consumption off the premises in accordance with Executive Order 20-71, Sections 1 and 2. Unless otherwise permitted by law, the sale of alcoholic beverages in sealed containers for consumption off-premises requires the containers to be sealed by the manufacturer.<sup>4</sup> Manufacturers as utilized in this sub-section shall not include bartenders, servers, etc.**
3. **Vendors who are also licensed as public food service establishments or "restaurants" under Chapter 509, Florida Statutes, may continue to operate for on-premises consumption of food and beverages at tables pursuant to the restrictions in Executive Order 20-139<sup>5</sup> (with the additional restriction in subsection 4, below), Emergency Ordinance 20-07 of the Code of Ordinances of the City of Key West<sup>6</sup>, City of Key West Emergency Directive 20-07 and all applicable amendments<sup>7</sup>, and this City of Key West Emergency Directive 20-17 and all applicable amendments, so long as these vendors derive 50% or less of gross revenue from the sale of alcoholic beverages for on-premises consumption.**
4. **Restaurants permitted to operate may allow seating at bar counters for consumption of food by patrons provided there is no alcohol consumption at the bar counter and there is social distancing between other person(s) as**

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<sup>4</sup> <http://www.myfloridalicense.com/DBPR/os/documents/DBPR%20FAQs%20re%20EO%2020-71.pdf>

<sup>5</sup> [https://www.flgov.com/wp-content/uploads/orders/2020/EO\\_20-139.pdf](https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-139.pdf)

<sup>6</sup> <https://www.cityofkeywest-fl.gov/egov/apps/document/center.egov?view=item&id=21088>

<sup>7</sup> <https://www.cityofkeywest-fl.gov/egov/apps/document/center.egov?view=item&id=20980>

**defined in Emergency Ordinance 20-07 of the Code of Ordinances of the City of Key West.**

- B. In conjunction with Governor DeSantis' Executive Order 20-139 and the City of Key West's Emergency Directive 20-13 in its entirety, until such time as amended or repealed, Personal Services including but not limited to tattooing, body piercing, acupuncture, tanning and massage may operate with appropriate safety guidelines as outlined by the Department of Health.
- C. In conjunction with Governor DeSantis' Executive Order 20-139 and the City of Key West's Emergency Directive 20-13 in its entirety, until such time as amended or repealed, Movie Theaters located within the City of Key West may begin to operate on Friday, June 5, 2020. In order to begin operations, all such businesses shall implement measures which mitigate the exposure and spread of COVID-19. Such measures shall include:
1. Limiting access to the building and monitoring entrances and exits to reduce their maximum occupancy load to no more than fifty (50) percent of their building occupancy.
  2. Except for immediate family members and/or members of the same travel group, Movie Theaters shall implement strict social distancing guidelines of at least six feet between all individuals, modify scheduling to reduce unnecessary interactions to the greatest extent possible, adjust layout and close or restrict seating to maintain at least six feet of distance between customers (e.g., close every other row, use assigned seating, use an usher to seat groups as they enter the theater and ensure proper distancing is maintained).
    - i. Immediate family members are defined as individual and spouse, domestic partner, parents, caretakers, household members, children, or legal guardians who reside in the same household, and inclusive of children whose custody is shared between two parents in different households.
  3. Prohibiting all unnecessary person-to- person contact. Such measures will include using touchless payment options as much as possible, when available.
  4. Clear paths should be designated to allow customers to enter and exit theaters to access the restroom and to obtain food and/or beverage without breaking social-distancing requirements.
  5. Implementing cleaning and disinfection procedures in accordance with the CDC Guidelines and ensure all high-touch surfaces, including but not limited to, sales locations are cleaned frequently. Cleaning products utilized should be listed on the [EPA List N: Disinfectants for Use Against SARS-CoV-2](https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2)<sup>8</sup>.
  6. Disinfecting wipes and hand sanitizer, with at least 60% alcohol, must be provided for the use of all persons at common touch point locations, and request that patrons assist by cleaning/sanitizing any touchpoints or common surfaces they come in contact with, in addition to the frequent and regular cleaning to be done by employees.

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<sup>8</sup> <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>

7. No water fountains, self-serve food stations or self-serve beverage stations until further notice.

D. For purposes of this directive, "Employee", "Employees" or "Workers" shall also include owner(s), independent contractor(s), trainer(s), tenant(s), sub-tenant(s), lessee(s), sub-lessee(s), etc.

E. All businesses are responsible for strictly enforcing any and all required social distancing, facial coverings and temperature and health screening directives. Any lack of enforcement, and/or violation of this directive, on behalf of the businesses and/or by the businesses may subject the business, its employees, owners, agents, etc., to the charges, fines and penalties in Section F. Any individual who violates this directive is also subject to the charges, fines and penalties in Section F.

F. This Emergency Directive shall be enforced under section 252.47, Florida Statutes. Violation of this order is a second-degree misdemeanor pursuant to section 252.50, Florida Statutes, and is punishable by imprisonment not to exceed 60 days, a fine not to exceed \$500, or both.

**G. In addition to the enforcement mechanisms, penalties and fines as stated above, failure to comply with any Executive Orders and/or Emergency Orders from any state agencies any may result in additional action being taken against the business establishment, including but not limited to, administrative action by the Department of Business and Professional Regulation against your license, including the issuance of an Emergency Suspension Order pursuant to section 120.60(6), Florida Statutes.**

H. The provisions of this Directive shall serve as minimum standards in conjunction with all Emergency Directives and Executive Orders previously issued and remain in force and effect unless modified or superseded. In the event of any conflict, the more restrictive measure shall control. If any provision herein, or portion thereof, is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this directive shall continue in full force and effect.

I. The conditions specified herein shall be assessed daily and this Directive shall remain in effect until superseded, repealed or upon expiration of the local state of emergency, including any extensions thereof.

J. This Emergency Directive is effective immediately.

Signed   
Teri Johnston, Mayor, City of Key West

Date: 6/29/20

Time: 2:59 PM

Signed   
Gregory W. Veliz, Manager, City of Key West

Date: 6/29/20

Time: 2:56 PM