

RESOLUTION NO. 2021-013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING RESOLUTION 2020-146, AS AMENDED BY RESOLUTION NO. 2020-218, WHICH ESTABLISHED A LIMITED PERMIT FOR NEW, TEMPORARY, OUTDOOR SEATING AREAS FOR RESTAURANTS IN THE CITY DUE TO CORONAVIRUS TO MODIFY THE EXPIRATION DATE UNTIL JUNE 30, 2021; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Coronavirus Disease 2019 (COVID-19) is a severe, acute respiratory illness that appears to occur through respiratory transmission and presents symptoms similar to those of influenza; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52, declaring that appropriate measures to control the spread of COVID-19 in the State of Florida were necessary and, therefore, directed that a Public Health Emergency be declared in the State of Florida; and

WHEREAS, on September 25, 2020, Governor Ron DeSantis issued Executive Order 20-244, which superseded and eliminated any and all restrictions of previous Executive Orders 20-112, 20-123, 20-139, 20-192, 20-214, and 20-223, which established Phases I and II of the path to re-opening Florida, except as modified in Executive Order 20-244; and

WHEREAS, specifically, Executive Order 20-244, provides that restaurants, including any establishment with a food service license, may not be limited by a COVID-19 emergency order by any local government to less than fifty percent (50%) of their indoor capacity and, further, that if a restaurant is limited to less than one hundred percent (100%) of its indoor capacity, such COVID-19 emergency order must quantify the economic impact of each limitation or requirement on those restaurants and explain why each limitation or requirement is necessary for public health; and

WHEREAS, the City of Cocoa has not adopted any local emergency order limiting the indoor capacity of restaurants in the City and, consequently, Executive Order 20-244 has had the practical effect of eliminating all limitations on indoor capacity of restaurants in the City; and

WHEREAS, previously, the City desired to establish a quick and efficient process for restaurants to obtain a limited permit authorizing temporary outdoor seating capacity as a result of the capacity restrictions on indoor dining as provided in the superseded Executive Orders and adopted Resolution 2020-146 to accomplish this objective; and

WHEREAS, Resolution 2020-146 provided that all limited permits authorizing new, temporary outdoor seating areas would expire upon the rescission or expiration (with no extension) of Governor Ron DeSantis's Executive Order 20-112 or upon the rescission or expiration (with no extension) of any subsequent executive order by Governor Ron DeSantis which maintained limited indoor seating capacity to seventy-five percent (75%) or less; and

WHEREAS, the City of Cocoa recognizes that the Centers for Disease Control and Prevention's (CDC) Guidance on "Considerations for Restaurants and Bars," updated September 6, 2020, still provides that outdoor seating at restaurants reduces the risk of spread of COVID-19 and recommends prioritizing outdoor seating as much as possible; and

WHEREAS, the City Council desires to amend Resolution 2020-146, as amended by 2020-218, to retroactively extend limited permits which may have been issued for temporary outdoor seating, to provide for a second extension and new expiration of December 31, 2021; and

WHEREAS, the City Council has determined this Resolution is in the best interests of the City of Cocoa.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, as follows:

SECTION 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference and are deemed a material part of this Resolution.

SECTION 2. Amendment of Resolution 2020-146, as Amended by Resolution 2020-218. Section 2 G. of City of Cocoa Resolution 2020-146, as amended by Resolution 2020-218, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Resolution of text existing in the Resolution 2020-146, as amended by Resolution 2020-218. It is intended that the text in the Resolution 2020-146, as amended by Resolution 2020-218, denoted by the asterisks and set forth in this Resolution shall remain unchanged from the language existing prior to adoption of this Resolution):

RESOLUTION 2020-146, as amended by Resolution 2020-218

(* * *)

SECTION 2. Limited Permit to Authorize New, Temporary Outdoor Seating Areas.

(* * *)

G. *Retroactive Extension and Expiration.* All limited permits authorizing new, temporary outdoor seating areas shall expire on December 31 ~~September 30, 2021~~ ~~June 30, 2021~~ ~~February 28, 2021~~, or upon adoption of a subsequent resolution of the City Council terminating such permits and the limited temporary outdoor seating program, whichever is sooner. All limited permits authorizing new, temporary outdoor seating areas previously issued pursuant to Resolution 2020-146, as amended by Resolution 2020-218, shall be automatically and retroactively extended upon the adoption of this Resolution. However, nothing herein is intended to supersede the City Manager's authority to revoke individual limited permits pursuant to Section H herein.

(* * *)

SECTION 3. Repeal of Prior Inconsistent Resolution. All prior resolutions or parts of resolutions inconsistent with this resolution are hereby repealed to the extent of the conflict.

SECTION 4. Conflicts and Severability. Should any section or provision of this resolution, or any portion thereof, any paragraph, sentence or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

SECTION 5. Effective date. This resolution shall become effective immediately upon its adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 14th day of September 2021.

Michael C. Blake, Mayor

ATTEST:

Carie Shealy, MMC, City Clerk