



ROBERT M. "BOBBY" DYER
MAYOR

City of Virginia Beach

VBgov.com

MUNICIPAL CENTER
BUILDING 1, ROOM 234
2401 COURTHOUSE DRIVE
VIRGINIA BEACH, VA 23456-9000
(757) 385-4581
FAX (757) 385-5699
BDYER@VBGOV.COM

May 14, 2020

HONORABLE MEMBERS OF CITY COUNCIL

*On March 12, 2020, Governor Northam declared a state of emergency due to COVID-19. Because of the catastrophic nature of the declared emergency, it is impracticable or unsafe to assemble a quorum of the City Council in a single location. In accordance with the Virginia Beach City Code Section 2-21 and Virginia Code § 2.2-3708.2(A)(3), and by the authority vested in me as Mayor of the City of Virginia Beach, I hereby call for a **SPECIAL MEETING BY ELECTRONIC COMMUNICATION MEANS** of the **VIRGINIA BEACH CITY COUNCIL***

**Thursday, May 14, 2020
4:00 P.M.**

*In accordance with Virginia Code § 2.2-3708.2(A)(3), this **SPECIAL MEETING BY ELECTRONIC COMMUNICATION MEANS** will be held virtually with Council Members participating via video/audio conference. The purpose of this **SPECIAL MEETING** is for the City Council to consider an **Ordinance to APPROVE expanded use of outdoor restaurant seating and to AUTHORIZE the City Manager to approve temporary outdoor dining permits and an Ordinance to SUSPEND Resort Open Air Café Franchise Fees and provide revenue offsets.***

Although I sent a similar letter yesterday, the ordinance regarding outdoor dining was subsequently revised, so I am sending this revised letter with the revised ordinance.

This Special Meeting will be broadcast on cable tv, www.vbgov.com and Facebook Live. Citizens are encouraged to submit their comments to the City Council prior to the Special Meeting via email at CityCouncil@vbgov.com.

Sincerely,

Robert M. Dyer
Mayor

Cc: City Manager
City Attorney
City Clerk
Deputy City Managers
FOIA Officer
Communications Office

REQUESTED BY MAYOR DYER AND VICE MAYOR WOOD

AN ORDINANCE TO APPROVE EXPANDED USE
OF OUTDOOR RESTAURANT SEATING AND TO
AUTHORIZE THE CITY MANAGER TO APPROVE
TEMPORARY OUTDOOR DINING PERMITS

WHEREAS, by Executive Order No. 61, dated May 8, 2020, the Governor of Virginia initiated Phase 1 of reopening restaurants from ordered closures due to the COVID-19 Pandemic;

WHEREAS, as part of Phase 1, restaurants are permitted to reopen to the extent they only have seating in outdoor spaces with limited capacity and adequate spacing;

WHEREAS, the Governor's Executive Orders have provided additional procedural and regulatory discretion to the Virginia Alcoholic Beverage Control Authority, and pursuant to such Executive Orders, the Authority has issued guidance for outdoor dining in Topic 16, issued May 13, 2020; and

WHEREAS, the City Council desires to provide additional opportunities for Virginia Beach restaurants to serve patrons during Phase 1 and subsequent loosening of business restrictions, as provided herein.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH, VIRGINIA THAT:

1. The City Council hereby approves the expanded use of outdoor restaurant seating provided the facilities comply with the Governor's Executive Orders, including but not limited to Executive Orders 61 and 62 and any subsequent orders, and the rules promulgated by the Virginia Alcoholic Beverage Control Authority, including but not limited to Topic 16.

2. The City Council hereby authorizes the City Manager or designee to issue temporary permits for use of public property for outdoor dining at restaurants during those phases of reopening wherein the Governor has limited indoor serving of patrons in restaurants. For purposes of this ordinance, the term "restaurant" shall mean an existing business with a business license to operate as a restaurant. The permitted area for outdoor dining shall be adjacent to, or in close proximity to, the restaurant. Any permit authorized by this ordinance shall require the permittee to comply with applicable public health, alcohol beverage control, and public safety requirements, including but not limited to the requirements contained in the Governor's Executive Orders pertaining to COVID-19 and related guidelines.

Such permit shall be in the form of a revocable license and of similar legal effect as those encroachments authorized by Article VI of Chapter 33 of the City Code. The permits may include any public property not otherwise necessary for safe and accessible

45 pedestrian, bicycle, or vehicular traffic. The permit shall require the same indemnity and
46 insurance provisions as those set forth in § 33-113(d)(2) and (d)(3) of the City Code.
47

48 No fee shall be assessed for the processing of permit applications, and it is the
49 desire of the City Council that City staff prioritize and process applications promptly. The
50 denial of such permit may be appealed to the City Manager, and the denial by the City
51 Manager may be appealed to the City Council.
52

53 3. Any authorization provided by this ordinance or permit issued pursuant to
54 this ordinance shall automatically expire thirty (30) days after the end of the Statewide
55 Declaration of Public Health Emergency unless sooner terminated. A permit may be
56 revoked for the noncompliance with any requirement of the permit, and the continued
57 occupancy of City property after revocation may be remedied in the same manner as
58 authorized for unlawful encroachments.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this ____
day of _____, 2020.

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney's Office

CA15070
R-5
May 13, 2020