

COVID-19: Florida Restaurants Extending Outdoor Areas to Increase Sales for Phase 1 Reopening

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In response to on-going Covid-19 safety measures, Florida alcohol beverage license holders can temporarily or permanently extend their licensed premises outdoors to include sidewalks and other areas contiguous to their licensed premises to serve more consumers.

Governor DeSantis issued Executive Order 20-112 on Monday, May 4, 2020, allowing restaurants, outside of Miami-Dade, Broward, and Palm Beach counties, to re-open, with full outdoor seating and at 25% capacity for indoor seating. Regulated businesses are still required to operate according to appropriate social distancing guidelines (6 ft. apart) and limit groups to 10 people or fewer. Bars and nightclubs will remain closed during this Phase 1 re-opening.

As Florida restaurants re-open their doors, alcohol beverage license holders have the ability to temporarily or permanently expand their current licensed premise to cover outdoor areas, creating additional income opportunities and the employment of service staff. Fla. Stat. Ann. § 561.01 currently requires written approval from the county or municipality attesting to compliance with local ordinances to be submitted to the Division of Alcoholic Beverages and Tobacco (“DABT”) to authorize inclusion of outside areas in licensed premises. Florida Department of Business and Professional Regulation Secretary Halsey Beshears assures alcohol beverage license holders that extending outdoor seating options will not jeopardize their license so long as they have obtained approval from their local jurisdictions and the outdoor seating does not impede the flow of traffic. An application is required to be filed with the DABT for either temporarily or permanently expanding a licensed premises to include sidewalks and other outside contiguous areas over which a licensee has some dominion and control. Local zoning approval is required for extension of the licensed premises. The permanent extension application is approved as soon as it is submitted and filed. There is no state license fee required for a permanent extension to the licensed premises. The temporary extension application requires a \$100.00 fee, local zoning approval, and approval of the Division. It is important to clearly define the outside areas of a licensed premises since license holders may only sell alcohol within the boundaries of their licensed premises which is defined in the licensed premises diagram which is on file with the Division.

Many jurisdictions are issuing their own local recovery plans, so it is important for alcohol license beverage holders, seeking a licensed premises expansion, to engage with experienced alcohol beverage counsel and ensure they are in compliance. For example, the City of Tampa’s newly issued ‘Lift Up Local Economic Recovery Plan’ temporarily suspends local code and permit requirements to allow businesses to extend their premises to cover sidewalks, parking lots, and right-of-ways to better allow for the required 6 ft. apart social distancing guidelines.



Jaclyn is of counsel in the firm's Tampa office and is a member of the Nationwide Alcohol Beverage Department and Food Law departments. She focuses her practice on advising clients on all legal matters related to the three-tier system of the alcohol beverage distribution, licensing, regulatory, business and trade practice issues. In addition, Jaclyn assists clients with regard to compliance with federal, state and local statutes and regulations that govern the manufacturing, importation, distribution, marketing, sale and consumption of alcohol beverages and other regulated products.



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