

**CITY OF MANHATTAN BEACH  
DIRECTOR OF EMERGENCY SERVICES ORDER NO. 5**

**PROHIBITING RESTAURANTS, BARS, NIGHTCLUBS, AND SIMILAR BUSINESSES FROM PROVIDING ANY ALCOHOL TO A CUSTOMER PRIOR TO PROVIDING THE MEAL PREPARED FOR DELIVERY, PICK-UP, AND DRIVE-THRU, AND REQUIRING SUCH ESTABLISHMENTS TO MONITOR CUSTOMERS WAITING FOR FOOD TO ENSURE THAT NO ONE IS CONSUMING ALCOHOL ON OR ADJACENT TO THE PREMISES**

**EFFECTIVE APRIL 25, 2020, AT 12:01 A.M.**

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”);

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19;

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19;

WHEREAS, on March 13, 2020, the City Council adopted Resolution No. 20-0039, A Resolution of the City Council of the City of Manhattan Beach Proclaiming the Existence of a Local Emergency;

WHEREAS, the City Manager is the Director of Emergency Services in the City of Manhattan Beach. Pursuant to Manhattan Beach Municipal Section 3.08.060.A.6.a, the City Manager as the Director of Emergency Services is empowered during a local emergency to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency;

WHEREAS, on March 16, 2020, the Los Angeles County Department of Public Health issued the Safer at Home Order for Control of COVID-19, which was subsequently amended and revised (the “County Safer at Home Order”);

WHEREAS, on March 25 and March 27, 2020, the City Council adopted Ordinance Nos. 20-0014-U and 20-0015-U which require all persons and businesses to comply with social distancing requirements and other health and safety measures required by a state or county order or guidelines related to COVID-19;

WHEREAS, Ordinance Nos. 20-0014-U and 20-0015-U also require all restaurants, bars, nightclubs, and similar businesses that serve food and alcohol to comply with the “Notice of Regulatory Relief” issued by the California Department of Alcoholic Beverage Control (the

“ABC”), including the requirements that any alcoholic beverages sold by such establishments must be (1) sold in conjunction with the sale of food prepared for off-site consumption, and (2) “packaged in a container with a secure lid or cap and in a manner designed to prevent consumption without removal of the lid or cap (e.g., no lids with sipping holes or openings for straws).”;

WHEREAS, in addition, the ABC requires such establishments to prominently post the following warning in a manner that puts consumers on notice of limitations regarding open container laws: “Alcoholic beverages that are packaged by this establishment are open containers and may not be transported in a motor vehicle except in the vehicle’s trunk; or, if there is no trunk, the container may be kept in some other area of the vehicle that is not normally occupied by the driver or passengers (which does not include a utility compartment or glove compartment (Vehicle Code Section 23225)). Further, such beverages may not be consumed in public or in any other area where open containers are prohibited by law.”;

WHEREAS, the City has received reports that some restaurants, bars, nightclubs, and similar businesses which serve food and alcohol for off-site consumption are providing alcohol to customers while they are waiting for their meal to be ready, and that customers are – in violation of existing state and local laws prohibiting open containers of alcohol and consuming alcohol in public – opening the alcohol container and consuming the alcohol; and

WHEREAS, in the interest of the public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Chapter 3.08 of the Manhattan Beach Municipal Code, Manhattan Beach City Council Resolution No. 20-0039, and the California Emergency Services Act, Chapter 7 (commencing with Section 8550) of Title 2 of the Government Code, to issue this order.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

Section 1. The recitals set forth above are true and correct and are incorporated into this Order by reference.

Section 2. Pursuant to Manhattan Beach Municipal Section 3.08.060.A.6.a and consistent with City Council direction, the City Manager as the Director of Emergency Services hereby orders the following:

- A. All restaurants, bars, nightclubs, and similar businesses that serve food and alcohol via delivery, pick-up, or drive-thru shall not provide any alcohol to a customer prior to providing the meal prepared for delivery. All alcohol shall be provided to the customer concurrently with the delivery of food.
- B. All such establishments have a duty to monitor customers waiting for food to ensure that no one is consuming alcohol on or adjacent to the premises.

Section 3. Any violation of this Order may be determined to be a misdemeanor and punishable by a fine or imprisonment, or both, pursuant to Government Code Section 8665 and Chapters 1.04 and 1.06 of the Manhattan Beach Municipal Code, and any other state or city law as may be applicable.

Section 4. This Order shall take effect on April 25, 2020, at 12:01 a.m., subject to confirmation as soon as practicable by the City Council.

Executed on April 24, 2020.

/s/ Bruce Moe

City Manager Bruce Moe

Director of Emergency Services