

## City of New Brunswick Executive Order 2020-13

WHEREAS, restaurants are a vital and invaluable component of the City of New Brunswick's vibrant economy; and

WHEREAS, Governor Murphy has authorized restaurants and other eateries to re-open to patrons for outdoor seating and restricted levels of in-door seating; and

WHEREAS, the measures that were implemented to combat Covid-19 via social distancing and reduced public activity have greatly affected the business model of all dining establishments; and

WHEREAS, the City's restaurants are small businesses that employ hundreds of the City's residents; and

WHEREAS, the City already has several regulations with respect to allowing for outdoor dining on sidewalks and other portions of the City's right-of-way; and

WHEREAS, the City of New Brunswick wishes to facilitate the efficient economic recovery for its restaurants; and

WHEREAS, the City of New Brunswick seeks to temporarily enact certain guidelines to better enable its eateries to succeed in the current environment.

NOW, THEREFORE, I, JAMES M. CAHILL, Mayor of City of New Brunswick in the County of Middlesex in the State of New Jersey, by virtue of the authority vested in me by the Constitution and Statutes of this State, do hereby establish the following guidelines:

1. Until Sunday, January 3, 2021 at 11:00 p.m., George Street, between Albany Street and Bayard Street will remain closed. The intersections of George Street and Church Street, George Street and Paterson Street, and George Street and Bayard Street will remain open to vehicular traffic.
2. Operation of business within the George Street closure area, from 8:00 a.m. Monday, November 9, 2020 until Sunday, January 3, 2021 at 11:00 p.m. shall be as follows:
  - a. Sundays through Wednesdays: From 9:00 a.m. until 10:00 p.m.
  - b. Thursdays through Saturdays: From 9:00 a.m. until Midnight (12:00 a.m.)
3. On Thursday, December 31, 2020 restaurants and taverns in non-residential zones shall be allowed to operate outdoor dining until 1:00 a.m. January 1, 2021.
  - a. On the above date music shall be permitted in such zones until 12:30 a.m. on January 1, 2021.
  - b. Indoor dining continues to be restricted as per Governor's Executive Order 194.
4. On Wednesday, December 30, 2020 restaurants and taverns in non-residential zones shall be allowed to operate outdoor dining until 11:00 p.m.
  - a. On the above date music shall be permitted until the close of business.
  - b. Indoor dining continues to be restricted as per Governor's Executive Order 194.
5. Restaurants and taverns within the boundaries of the George Street closure shall be allowed to leave their tables, chairs and associated equipment until Sunday, January 3, 2021 at 11:00 p.m. In the event of a weather event or other problematic occurrence, businesses may be instructed to place their tables, chairs and associated equipment inside a secure location until the condition subsides. Said determinations shall be made by the City Police Department as needed.
6. Any restaurants and taverns may use City parking spaces or loading zones but must get permission from the City and additional permission from the New Brunswick Parking Authority and must follow any and all additional requirements as determined by the New Brunswick Parking Authority.
7. The use of metered parking spaces by restaurants and taverns in residential zones is limited to the following hours of operation:
  - a. Sundays through Wednesdays: From 11:00 a.m. until 8:00 p.m.
  - b. Thursdays through Saturdays: From 10:00 a.m. until 9:00 p.m.
8. The use of metered parking spaces by restaurants and taverns in non-residential zones is limited to the following hours of operation:
  - a. Sundays through Wednesdays: From 9:00 a.m. until 10:00 p.m.
  - b. Thursdays through Saturdays: From 9:00 a.m. until Midnight (12:00 a.m.)

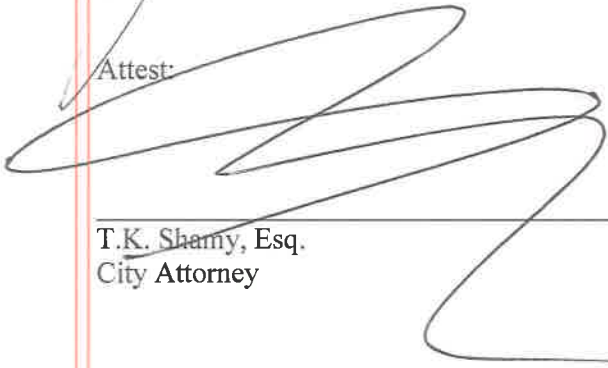
9. Unless, otherwise specified herein, the hours of operation for the use of sidewalks by restaurants and taverns for seating and dining shall follow the same hourly regulations for the use of metered parking spaces.
10. George Street businesses shall place their debris, refuse, and recycling along the side streets for collection. Debris, refuse, and recycling shall continue to be removed at the end of business every night during the above closure and either stored inside or placed on the side streets for collection if collection would occur the following morning.
11. All heating devices and their placement(s) must be approved by the City Fire Official.
12. All tents and canopies that are to remain on the street, sidewalk, any other public right-of-way or private property must be approved by the Fire Official, Construction Official, and the City Engineer as applicable.
13. All tents and canopies must be certified flame retardant and may be inspected by the Fire Official for compliance at any time.
14. All tents, canopies, or other structure for outdoor dining must have no less than 50% of their exterior wall area fully open, with a height clearance of no less than six (6) feet.
  - a. Any tent, canopy, structure for outdoor dining, etc. that does not meet the above requirement is considered "in-door dining" and shall be regulated to such standards.
  - b. The City Fire Official will determine and issue certificates for the above structures with their maximum occupancies at greater than or equal to 50% open and at less than 50% open respectively.
15. All outdoor seating used by restaurants or taverns must have at least two (2) means of egress and each must be at least six (6) feet wide, with a height clearance of no less than six (6) feet.
16. Any and all non-battery powered electric devices must be plugged into a GFCI-outlet.
17. All extension cords must be rated for outdoor use.
18. All cables and cords must be placed or covered in such a way that they are not a tripping hazard.
19. No smoking of any kind is permitted in any area that receives heat via a gas or propane powered heating device.
20. Any business responsible for the placement and/or use of any tent or outdoor enclosed space that is erected to stay in place at all times between December 1, 2020 and March 31, 2021 (unless located entirely on private property) must provide insurance coverage naming the City of New Brunswick as additional insured in the amounts of \$2,500,000.00 per occurrence and \$5,000,000.00 in aggregate.
21. Any business responsible for the placement and/or use of any tent or outdoor propane tanks used for heating any tent or other outdoor enclosed space (unless located entirely on private property) must provide insurance coverage naming the City of New Brunswick as additional insured in the amounts of \$2,500,000.00 per occurrence and \$5,000,000.00 in aggregate.
22. Any business operating outdoor dining on any public property between December 1, 2020 and March 31, 2021 must provide insurance coverage naming the City of New Brunswick as additional insured in the amounts of \$2,500,000.00 per occurrence and \$5,000,000.00 in aggregate.
23. It will be prohibited to operate outdoor dining on the sidewalks on George Street between Albany Street and Bayard Street.
24. All entry and exit ways on the exterior of a building must be unobstructed with no items or equipment within five (5) feet of either side of the entry or exit way.
25. All Fire Department Connections on the exterior of a building must be unobstructed with no items or equipment within five (5) feet of either side of the connection.
26. Restaurants and taverns may continue to operate sidewalk dining (except as noted in #23), tented or otherwise until March 31, 2021, but must resubmit their applications to the office of the City Clerk for this time period.
27. Restaurants and taverns that operate sidewalk dining must allow for an unobstructed four (4) foot pedestrian walkway.

28. Any and all tents, canopies, and structures placed on public or private property for the purposes of occupancy, for dining, drinking, or otherwise, that will be up at any point between December 1, 2020 and March 31, 2021 must have construction permits submitted to and approved by the New Brunswick Construction Official.
29. No propane is allowed in a parking space, sidewalk, parking lot, or within 10 feet of any structure. Electric heating is preferred.
30. No open flames devices are allowed for any purpose in a parking space, sidewalk, parking lot, or within 10 feet of any structure.
  - a. Such devices include, but are not limited to, anything using charcoal as a fuel source, anything using wood/logs/wood pellets as a fuel source, chimeneas, firepits, and any other devices as determined by the officials of the New Brunswick Fire Department or New Brunswick Police Department.
31. All restaurants and taverns using outdoor structures for indoor dining (whether on public or private property) using non-electric heating must have carbon monoxide detectors for each dining area. The number of required detectors shall be determined by the City's Fire Official. This rule will take effect at Noon (12:00 p.m.) on Friday, December 4, 2020 and shall be in effect until March 31, 2021.
  - a. For this rule each non-contiguous tent/canopy/other structure is considered its own dining area. For example:
    - i. if an establishment has three (3) separate 400 square foot tents used for indoor dining, then each tent must have its own carbon monoxide detector.
    - ii. If an establishment has three (3) 400 square foot tents used for indoor dining and the three (3) are combined into essentially one (1) 1,200 square foot tent, then only one (1) detector is required.
32. A restaurant may use up to 60% of its parking spaces to provide socially distanced outdoor seating.
  - a. ADA accessible parking spaces may be used for purposes of calculating the number of spaces allowable under this Executive Order.
    - i. For example: If a parking lot has ten (10) spaces and one (1) of the 10 is a handicap space. Then the calculation shall be for 60% of 10 space (six (6) spaces in this case) and the handicap space and its access aisle(s) shall remain unobstructed.
  - b. ADA accessible parking spaces may not be blocked or used for this purpose.
  - c. The applicant will submit a zoning permit for temporary use permit and the fee will be waived.
33. All businesses must comply with the standards of the City's Noise Ordinance set forth in Chapter 8.28 - Noise Control, of the City's Municipal Code.
  - a. Requests for a waiver of City's Noise Ordinance may be submitted to the Office of the City Clerk and will be reviewed and issued on a case-by-case basis.
34. Unless otherwise specified herein, restaurants and taverns in a non-residential zone may have outdoor live music until 10:00 p.m. or close of business whichever is earlier in the day, provided it does not create a nuisance condition which shall be determined by the New Brunswick Police Department pursuant to City ordinance.
35. Restaurants and taverns in a residential zone may have outdoor non-live music until 9:00 p.m. or the close of business, whichever is earlier, provided it does not exceed the standards of the City's Noise Ordinance which shall be determined by the New Brunswick Police Department pursuant to City ordinance.
  - a. Additionally, all forms of live music are prohibited by restaurants and taverns in residential zones.
36. Disk jockeys and other musical entertainers shall be considered live music and said determination shall be left to the interpretation of this Executive Order and any other controlling Statutes, Ordinances, or Orders by the New Brunswick Police Department.
37. Any restaurant or tavern which receives approval of the above provisions must adhere to all of the Governor's Executive Orders that are in effect at any period of time including but not limited to Executive Order 150; Executive Directive No. 20-014 from the Department of Health; and Special Ruling 2020-10 Establishing Temporary COVID-19 Permits to Expand Licensed Premises issued by the Department of Law and Public Safety, Division of Alcoholic Beverage Control.
38. Any restaurant or tavern operating outdoors in any capacity must follow the City of New Brunswick Fire Department's Guidelines for Outdoor Dining – COVID-19 (attached).

39. Failure to adhere to any of the terms or provisions of this Executive Order, Governor's Executive Orders, or any statutes, regulations and ordinances may result in the temporary or permanent loss of the privilege extended by this Executive Order, or the approvals granted by the City.
40. Any and all of the above terms and provisions shall be subject to modification, alteration or rescission without notice and at the sole discretion of the City of New Brunswick and its agents.
41. Any term and/or provision contained in any prior Executive Order, which is inconsistent or in conflict with the terms and provisions contained in this Executive Order are hereby repealed.
42. This Executive Order shall, unless otherwise specified herein, take effect on Wednesday, December 30, 2020 at 6:00 a.m. and shall remain in effect until Wednesday, March 31, 2021 at 11:00 p.m.

Given, under my hand and seal this 29<sup>th</sup> day of December, Two Thousand and Twenty.

  
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James M. Cahill  
Mayor

Attest:  
  
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T.K. Shamy, Esq.  
City Attorney