

**EXECUTIVE ORDER**

**2020-07**

**May 13, 2020**

**RESTAURANT REOPENINGS AND OUTDOOR DINING EXPANSION**

**WHEREAS,** on March 9, 2020, Rhode Island Governor Gina M. Raimondo issued Executive Order 20-02 declaring a state of emergency due to the outbreak of COVID-19 (the "Pandemic"), and that Declaration has been extended to June 5, 2020; and

**WHEREAS,** pursuant to Chapter 15 of Title 30 of the Rhode Island General Laws and by Executive Order 2020-01, a state of emergency was declared for the Town of Portsmouth on March 16, 2020, due to the dangers to health and life posed by COVID-19, and that Declaration was extended to May 22, 2020; and

**WHEREAS,** the Pandemic and the restrictions required to contain it have had a negative impact on businesses throughout the Town, with the restaurant and hospitality industries being severely impacted; and

**WHEREAS,** the State has begun a very limited re-opening of some areas of the State's economic, cultural and civic life; and

**WHEREAS,** it is critical that the Town's economy be reopened in a phased and measured way, consistent with the need to maintain the health and safety of the public; and

**WHEREAS,** the Governor has authorized restaurants, bars and establishments that offer food and drink to resume on-premises consumption of food or drink in outdoor areas as of May 18, 2020, subject to compliance with state and local regulations; and

**WHEREAS,** it is in the best interests of the general welfare of the community to allow restaurants to temporarily expand their service areas to allow outdoor dining, provided that any such expansion complies with any applicable executive orders, regulations or directives issued by the Governor, the Rhode Island Department of Health ("RIDOH"), the Rhode Island Department of Business Regulation ("RIDBR"), or any other state agency, and with the provisions of this Executive Order.

**NOW, THEREFORE,** pursuant to the Rhode Island General Laws and the Town of Portsmouth Emergency Operations Plan, including but not limited to Title 30, Chapter 15 of the General Laws, and with the consent of the Portsmouth Town Council, I do hereby order and direct the following:

1. Restaurants may apply for the temporary expansion of their food service areas to permit the service and consumption of food in outdoor portions of the licensed

premises on or after May 18, 2020 ("Application for Temporary Expansion of Victualler or Liquor License (Outdoor Service)"). Restaurants with a current liquor license may also apply for temporary expansion of their liquor services area. Applications may be obtained from the Town Clerk's office via email at [clerkoffice@portsmouthri.com](mailto:clerkoffice@portsmouthri.com), or by calling 401-683-2101, and may be filed via email. All applicable filing and inspection fees associated (except tent permits) with such applications shall be waived.

2. All applications shall include:
  - a) a plan showing:
    - (1) the proposed outdoor service area;
    - (2) the proposed number of seats (capacity may not exceed the current licensed capacity);
    - (3) the location of physical barriers or other protection to keep diners separated from other trafficked areas; and,
    - (4) for restaurants wishing to temporarily convert a portion of off-street parking areas into service areas, a parking plan;
  - b) evidence that the expanded service area is covered by liability insurance;
  - c) where any portion of the proposed area of temporary expansion is owned by a separate legal entity, a written authorization from the property owner; and
  - d) where use of a tent is proposed, a separate tent permit application shall be required.
3. All temporary expansions of service areas shall make adequate provisions for parking and the physical safety of diners, and shall be operated in compliance with
  - a) social distancing or other applicable regulations issued by RIDOH and/or RIDBR;
  - b) all applicable fire codes and provisions of the Life Safety Code;
  - c) applicable provisions of the Americans with Disabilities Act; and,
  - d) except as suspended or modified herein, applicable provisions of the Portsmouth Zoning Code.
4. All applications shall be reviewed for compliance with the provisions of this Executive Order by the Building Official, Fire Marshal, Police, Town Clerk and/or such other Town officials as may be designated by the Town Administrator. Food Service Expansion Applications may be administratively approved by the Town

Clerk. Liquor Expansion Applications must be approved by the Town Council pursuant to RIGL § 3-5-17.

5. The following provisions of the Portsmouth Zoning Ordinance are hereby suspended/modified only in connection with a duly authorized temporary expansion of a restaurant service area under this Executive Order:
  - a) Article V, Article VI (Sections B and C), and any other provision that would otherwise prohibit or require the issuance of a special use permit for the temporary expansion;
  - b) Article IX (Section A) or any other provision that would otherwise require the creation of additional parking spaces for the expanded service area; provided further, that restaurants which have received approval to temporarily convert a portion of off-street parking areas into temporary service areas may do so without providing additional parking spaces, provided that the Building Official determines that the number of spaces available is reasonably adequate based on the number of seats provided;
  - c) Article IV (Sections A, B and C) and any other provision that would otherwise prohibit the placement of an accessory structure in any required front yard, or that would require a specific setback from abutting properties; provided however, that any temporary outdoor service area approved hereunder shall maintain a setback of at least ten feet (10') from the front side and rear property lines of the licensed premises, and shall maintain a setback of at least twenty feet (20') from any property line abutting a residential use; and
6. The hours of operation of any temporary outdoor service area approved hereunder shall be limited to 8:00 am to 9:00 pm.
7. If consumption of food or drink in indoor portions of the restaurant is allowed to resume, the size of the temporary service area shall be reduced as needed, so the total number of seats, indoor and outdoor, does not exceed the restaurant's current licensed capacity.
8. The Town may take enforcement action with respect to licensing and/or zoning against any establishment that fails to comply with this provision of this Executive Order.
9. Nothing in this Executive Order shall constrain duties and powers of the Town authorized by Title 30, Chapter 15 of the Rhode Island General Laws and the Portsmouth Town Code.

10. This Executive Order shall take effect immediately and remain in full force and effect until October 15, 2020, unless modified or terminated by subsequent Executive Order.

ORDERED this 13th day of May 2020:

A handwritten signature in black ink, appearing to read "Kevin M. Aguiar", written over a horizontal line.

Kevin M. Aguiar  
Town Council President  
Town of Portsmouth, RI