



Temporary Outdoor Seating Application Town of Cumberland

Town Clerk's Office
45 Broad Street
Cumberland, RI 02864
401.728.2400

To the extent permitted by state law, by statute, and executive orders, the Town of Cumberland is permitting local restaurants and bars to provide outdoor seating to patrons. Plans may be submitted that follow all guidance from RI Commerce and the RI Department of Business Regulations.¹

Deliver one (1) hardcopy of the plan with an application signed by the property owner to the Cumberland Fire Department located at 3502 Mendon Road. The Town of Cumberland will route the plan through the public safety offices within forty-eight (48) business hours of receipt.

If you have any questions or concerns, please contact the Mayor's Office at 401-728-2400 x132.

Property Owner (printed): _____ Telephone Number: _____

Property Owner Signature

Nicholas Anderson, Cumberland Fire Chief

John Desmarais, Police Chief

John Pliakas, Chief of Emergency Medical Services

Lawrence Desormier, Building Official (if tent used)

The Applicant agrees to abide by all guidance issued by the State of Rhode Island and the Town of Cumberland, as well as any conditions of approval.

Applicant Name Printed

Applicant Signature

Name of Business

Address

Date: _____

¹The following documents are attached for reference and guidance: (1) Supplemental Declaration of State of Municipal Emergency EO-20-04 with Resolution ratifying same; (2) RI DBR Outdoor Dining Guidance for Cities and Towns; (3) Cumberland Code of Ordinance Sect. 8-36 regarding Sidewalk Cafes; and (4) Cumberland Board of Licensing Commissioners' Rules, Regulations, Policies, and Procedures Art. VIII regarding Outdoor Serving of Alcoholic Beverages.



EO-20-04

**SUPPLEMENTAL DECLARATION OF
STATE OF MUNICIPAL EMERGENCY**

May 6, 2020

WHEREAS: On March 16, 2020, I, Jeffrey J. Mutter, issued a Declaration of State of Municipal Emergency (EO-20-01), which was ratified by the Town Council on April 6, 2020; and

WHEREAS: Governor Raimondo is expected to lift the “stay-at-home” order and permit restaurants and bars to open with restricted occupancy; and

WHEREAS: The Town of Cumberland supports its local businesses and intends to make provisions for restaurants and bars to open to the extent possible while providing a safe environment for employees and patrons; and

WHEREAS: Rhode Island General Laws §§ 30-15-12(b) and 30-15-9(e)(13) permit the Mayor to “do all other things necessary to effectively cope with disasters in the Town not inconsistent with other provisions of law.”

NOW THEREFORE, I, JEFFREY J. MUTTER, pursuant to the powers vested in the Mayor by the Rhode Island General Laws and the Cumberland Town Charter, do hereby order and direct the following:

1. Restaurants and bars that choose to provide additional seating may do so once the “stay-at-home” Order is lifted under all of the following requirements:
 - a. The restaurant or bar must have written permission from the owner of the property, if applicable.
 - b. Sidewalk cafes are permitted under this Order, when the requirements of Sect. 8-36(c) of the Cumberland Code of Ordinances (the “Ordinance”) are addressed in the plans required herein. The Public Safety Chiefs may permit service of alcohol relative to sidewalk cafes, when it is safe to do so, in their discretion.
 - c. The restaurant or bar must provide a drawing to the Chief of Police, Fire Chief, and Chief of Emergency Medical Services, or their respective designees (“Public Safety Chiefs”), depicting the proposed seating chart, which must provide state-required social distancing measures, as well as vehicular traffic plans with necessary signage to direct vehicular traffic in a safe manner.
 - d. Article VIII of the Board of Licenses Rules, Regulations, Policies and Procedures (the “Regulations”) shall be addressed on the submitted plans and followed to the extent possible and as approved by the Public Safety Chiefs.
 - e. The Public Safety Chiefs shall review and approve the proposed seating chart and traffic plan, with any noted conditions (the “Approved Plans”).
 - f. The restaurant or bar may provide up to 100% of its normal seating capacity if the property accommodates such seating capacity in the sole discretion of the Public Safety Chiefs, with safe seating and traffic controls in place. In no event shall the restaurant or bar add seating over



normal seating capacity unless it applies to the Board of Licenses under applicable provisions of the Ordinance and Regulations.

- g. The Approved Plans shall be submitted to the Town Clerk, who shall provide notice of the Approved Plans to the Town Council at its next regularly-scheduled meeting and posted on the Agenda under "Report of Temporary Outdoor Seating Plans."
2. To the extent Article VIII of the Regulations and Sect. 8-36 are inconsistent with this Executive Order, particularly relating to fees, notice and hearing requirements, such provisions are suspended.
3. This Executive Order supplements and does not supercede the Governor's Executive Orders and, where any inconsistencies exist between this Order and the Governor's Executive Orders, the Governor's Executive Orders shall control.

This Declaration is effective immediately and shall remain in full force and effect until seating is increased to 100% of normal occupancy by the Governor, unless renewed, modified or terminated by subsequent Declaration.



Jeffrey J. Mutter, Mayor of Cumberland

R-20-68

TOWN OF CUMBERLAND

**RESOLUTION: RATIFYING MAYOR JEFFREY J. MUTTER'S SUPPLEMENTAL
DECLARATION OF STATE OF MUNICIPAL EMERGENCY,
EO-20-04**

WHEREAS, on March 16, 2020, Mayor Jeffrey J. Mutter declared a State of Municipal
Emergency, EO-20-01; and

WHEREAS, the Mayor has issued additional supplemental Declarations relating to the
COVID-19 pandemic in order to keep residents healthy and safe; and

WHEREAS, the Mayor issued an additional Supplemental Declaration of State of Emergency
Municipal Emergency relative to restaurants and bars, EO-20-04; and

WHEREAS, the Town Council supports the directives of the Mayor, with the intention to
allow restaurants and bars the ability to accept more patrons while observing social
distancing requirements and providing a safe environment for employees and guests; and

WHEREAS, Rhode Island General Laws permits the Mayor to "do all other things necessary
to effectively cope with disasters in the Town not inconsistent with other provisions of
law;" and

WHEREAS, Rhode Island General Laws requires that the Town Council ratify executive
orders that are effective for more than seven (7) days.

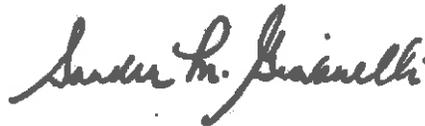
NOW, THEREFORE, BE IT RESOLVED BY THE CUMBERLAND TOWN COUNCIL AS
FOLLOWS:

Section 1. The Town Council hereby ratifies Mayor Jeffrey J. Mutter's Supplemental
Declaration of Municipal Emergency, EO-20-04, which shall remain in effect as stated,
unless renewed, modified or terminated by subsequent declaration or by action of the
Town Council.

Section 2. This resolution shall become effective immediately upon passage.

Date Adopted: May 8, 2020

A TRUE COPY, ATTEST:



Sandra M. Giovanelli, Town Clerk

Prepared by: Solicitor 5.6.2020

Outdoor Dining Guidance for Cities and Towns

As the State of Rhode Island begins to reopen its economy in a phased and measured way, significant restrictions remain in place to protect public health and safety. In Phase I, restaurants may continue to offer their customers pick-up, drive-thru and delivery services but can also open for limited outdoor dining. The DBR has received many inquiries from cities and towns as to how they can help their local establishments offer outdoor dining in a safe & legal manner. Below we have summarized several important considerations that must be reviewed.

ZONING ORDINANCES

- Each city and town are responsible for their own zoning regulations and ordinances. Therefore, for cities and towns that do not currently permit outdoor dining, the issuance of special use permits, an executive order allowing for the temporary outdoor expansion of premises, and/or temporarily amending (or adding) pertinent articles in local zoning ordinances is encouraged.

BUILDING CODE

- The State Building Code has no requirements for the use of tents for outdoor dining. However, tent permits must be approved by the local building department.

FIRE CODE

- Adherence to the State Fire Code is required. Particularly, NFPA 1, ch. 25 and NFPA 101, ch. 11
- § 23-28.19-1 Sets requirements for tent licensing
- § 23-28.19-11 Sets regulations for prohibiting smoking within tents
- § 23-28.19-13 Sets requirements for the filling of gasoline appliances used around tents
- § 23-28.19-14 Sets requirements for the survey of tents and the installation and training of necessary fire appliances.
- 23-28.19-15 Sets requirements for firefighter detail
- § 23-28.19-16 Sets seating requirements

LIQUOR CONSUMPTION

- For establishments that have been issued a liquor license, the areas where the consumption of liquor is allowable is defined by its liquor service area. For establishments whose liquor service area does not extend to outdoor dining, these establishments would have to request a limited expansion of its liquor service area.
- To request this extension, the licensee is required apply to the city or town. The process generally includes notice and a public hearing and can take up to several weeks to complete. However, R.I. Gen. Laws § 3-5-17 eliminates the requirement for “advertisement or notice” when a licensee requests a temporary extension of its liquor service area.
- Therefore, in light of the extenuating and temporary nature of the present situation, we are encouraging the cities and towns to either enact a temporary ordinance, executive order, or blanket variance to allow qualifying establishments to temporarily expand their liquor service area so they can immediately serve liquor in their outside dining area.

If you have any questions, please feel free to submit your questions online to the Department of Business Regulation using the web form available at <https://dbr.ri.gov/critical/> or you may call the Department of Business Regulation at 401-889-5550.

Sincerely,
Elizabeth M. Tanner, Director
Rhode Island Department of Business Regulation

Created: May 6, 2020

§ 8-36. Sidewalk cafes. [Ord. No. 12-16-A, § 1, 8-15-2012]

- (a) Definitions. For the purposes of this chapter, "sidewalk cafe" means any area situated on a public sidewalk where food, refreshments, and/or beverages are sold by a restaurant, delicatessen, ice cream shop or coffee shop (hereinafter "operating establishment") for public consumption at tables or counters located on the sidewalk fronting the operating establishment. Sidewalk cafes shall operate only as authorized pursuant to this chapter.
- (b) Permit required.
- (1) A person shall not construct, maintain, use or operate a sidewalk cafe without first obtaining a permit as provided in this chapter.
 - (2) As application for a sidewalk cafe permit shall be made to the Town Clerk's office on forms provided by the Town Clerk. The Town Clerk shall transmit the application to the Town Council for approval at the next Council meeting. The application shall be made by the operating establishment.
 - (3) A sidewalk cafe permit shall be for one year from May 1st in each year until the following April 30th. The holder of a permit shall pay an annual fee of \$100. Annual fee shall be paid with the original permit application and with the request for renewal of the permit. Use of the outside sidewalk area will be allowed only for the time period of May 1st to October 1st annually.
- (c) Standards.
- (1) Sidewalk cafes shall be permitted only in the general business and limited business districts.
 - (2) No part a sidewalk cafe area shall encroach upon any part of the sidewalk frontage of any adjacent premises, right-of-way, or alley.
 - (3) A sidewalk cafe must leave a minimum four-foot unobstructed passageway for pedestrians along the length of the cafe.
 - (4) In the case that a business owner holds property adjacent to their business (e.g., side-yard setback, parking lot, etc.), a sidewalk cafe may be permitted in that location as well. The side-yard cafe will be subject to the same guidelines as the sidewalk cafe.

- (5) The holder of a sidewalk cafe permit shall fully insure, indemnify, defend and hold harmless the Town and in their capacity as such, the officers, agents, and employees thereof from and against any and all claims and damages in any way arising out of or through the acts or omissions of the permit holder or its employees in the construction, operation, maintenance, use, placement or condition of the sidewalk cafe. An applicant for a sidewalk cafe shall provide proof of such insurance before a permit may be issued or renewed under this chapter, and a fully executed indemnification agreement.
- (6) A sidewalk cafe shall close and all cafe seating shall be removed from the cafe area no later than 9:30 p.m. The cafe area shall be cleared of all other furniture, debris and obstructions to the sidewalk no later than midnight.
- (7) An operating establishment shall not sell, serve or allow consumption of alcoholic beverages on its sidewalk or side-yard cafe without receiving the required permit from the board of license commissioners.
- (8) The following are prohibited in the cafe area: cooking of food, unshielded trash or refuse storage, advertisements (exclusive of menus intended to be read from cafe); outdoor entertainment, music, speakers or public address systems; and exclusively carry-out transactions.
- (9) A sidewalk cafe shall comply with all building, health, safety, fire, zoning, and environmental standards.



Cumberland Board of Licensing Commissioners' Rules, Regulations, Policies, and Procedures

Article VIII – Outdoor Serving of Alcoholic Beverages

A. Temporary Outdoor Serving

1. The Board acknowledges that there may be requests from time to time to serve alcoholic beverages outside the licensed premises for a temporary time period, not being more than three (3) consecutive days. The Board shall review 6 requests per year, three of which must be for fundraisers, and if licensee is qualified based on past experience, may grant approval. The Board at their discretion may approve or deny any other requests per licensee per year. Premises shall be defined for the purposes of these rules and regulations as the interior of the building for which the alcoholic beverage license is issued. Upon the receipt of any request the board shall give due consideration to such request and grant permission only when the applicant meets all of the requirements of this article. Any such request shall include an application fee of \$50.00.
2. Security. The area outside in which the alcoholic beverages are to be sold shall be adjacent to the building wherein the license is located. It shall be so designed so as to prevent access to the area in which the alcoholic beverages are sold and/or consumed except through an entrance where the identity of potential customers can be ascertained. It is permissible to have an identification process consisting of a designated area used to check identifications of potential alcohol purchasers and assigning a controlled identifier. A controlled identifier shall be a wrist band that once removed is noticeably damaged, water resistant, and for those events of more than one day have a different color assigned to them for each day. This process

shall be managed by adults over the age of 21. (These managers shall be considered servers and are required to meet all legal requirements, such but not limited to a RI certified server training program.) If this identifying process is used, an outline of the process, samples of the wrist bands and those adults who will manage the process shall be submitted to and approved by the Cumberland Police Department. Said design shall also be such that it shall prevent the passing of alcoholic beverages from within the designated business area to persons outside the business area. This can be accomplished with either a physical barrier or a barrier of a large amount of land, i.e.: a parking lot.

3. Approvals. Permission to serve alcoholic beverages outside shall not be authorized pursuant to this article unless it has been approved by the police chief, local fire chief and rescue director.
4. Public Hearing. Permission to serve alcoholic beverages outside shall not be granted pursuant to this article unless there has been a public hearing held at the Board's meetings which approval or denial will be forwarded.
5. Time. Any permission granted pursuant to this article will allow the holder to sell or serve alcoholic beverages outside between the hours of noon and 10:00 PM, unless so authorized by the Board. NOTE: This exception should be exercised for community festivals already in existence.

B. Permanent Expansion of Premises

1. A license holder may apply to expand the premises covered by their license. This expansion could be in the form of a structural addition to the building. This license holder must be in good standing with their current license, including all taxes and fees, and submit a letter of intent to permanently expand their premises along with the following information and/or documents:
 - a. Letter of Intent
 - b. Certified scaled lot plan showing current and proposed premises.
 - c. Letter from Cumberland's zoning official that the changes meet all local zoning codes, or relative surety of their approval.

- d. Letters from the Cumberland Police Department and the local fire chief indicating that the change in no way causes a safety problem within the lot as it pertains to parking and/or to the exit or entrance of the lot.
 - e. An application fee of \$100.00
2. Approval for a permanent change to the premises shall not be granted pursuant to this article unless there has been a public hearing held which has in all respects conformed to the requirements set forth in G.L. 3-5-17. Please note that a requirement within this statute is to notify the abutters, this shall be done and paid for by the applicant.
 3. A notice shall be placed in a newspaper of local distribution once per week for two weeks announcing the public hearing. The first one must be 14 or more days prior to the first hearing. The applicant shall bear the cost of the advertising.
 4. The Board is also desirous of ensuring that all areas designated for outdoor seating are used primarily for the consumption of food and not solely for the consumption of alcohol. Therefore, all such outdoor areas must meet the following requirements:
 - a. A holder of a BV, BVL or B non-transferable license must meet the current state definition of victualling house in § 3-1-1 *Definitions of RI State Law* as it pertains to food sales;
 - i. Proof of sales of food versus liquor must be supplied with application establishing that food is a substantial part of the establishment's total sales. A menu will not be considered proof. At minimum an affidavit listing total food sales as it relates to RI food sales taxes reported and liquor sales as it relates to liquor purchases and reported for the RI sales tax will be required;
 - b. Expansion will be to serve food; accompanied by alcoholic beverages. Outdoor expansion ***will not be considered*** solely for alcohol service/consumption;
 - c. The use of the outside area will be allowed only for the time period of May 1st to October 31st annually;
 - d. A \$25 renewal fee will be added to the regular renewal of the standard

BV and BVL license review in December of each year;

- e. License holder agrees that no more than one liquor beverage per patron will be allowed on the table(s) included in the outdoor area;
- f. Patrons will not be allowed to carry out drinks to the outside serving area;
- g. The number of tables and chairs allowed at the initial approval cannot change, nor can seats be removed for extra standing room. The total number of patrons allowed is equal to or less than the number of approved seats for the establishment;
- h. "Shots" as defined as single or multiple pours of any alcoholic liquid in a container without mixers, ice, etc. intended to be sipped or consumed quickly are not allowed in the outdoor area;
- i. Service to outdoor area(s) must stop at 10:00 pm, and must be closed down by 10:30 pm;
- j. It is the license holder's responsibility to ensure patrons are not using the outdoor area after 10:30 pm;
- k. It is the license holder's responsibility to ensure patrons exiting the regular establishment for smoking purposes are not then using the outdoor area which is being used for consumption of food;
- l. License holders understand that although a permanent change, the Board of Licensing may remove this new area from the premises covered by the issued license at any time for any reason; and
- m. Configurations, physical layouts, safety requirements and other considerations will be received for each individual application. These items include, but are not limited to:
 - i. Table location(s)
 - ii. Safety barriers
 - iii. Fencing
 - iv. Signage
 - v. Lighting
 - vi. Noise barriers

- vii. Accessibility to the area by police, fire and rescue
- viii. Ease of control by license holder at all times during regular hours
- n. The Board of License Commissioners shall seek a recommendation from the Police Chief on each requested license.