

EMERGENCY ORDER AUTHORIZING TEMPORARY OUTDOOR

RESTAURANT DINING

WHEREAS on March 10, 2020, Governor Ned Lamont issued declarations of public health and civil preparedness emergencies and proclaimed a state of emergency throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19); and

WHEREAS on March 16, 2020 I issued a Declaration of Emergency pursuant to the provisions of Connecticut General Statutes section 28-1 (8) because of the COVID-19 pandemic; and

WHEREAS the governor ordered that all non-essential businesses shall close to help inhibit the spread of COVID-19; and

WHEREAS the State and local economy was and remains in peril and in an emergency state as a result of the COVID-19 pandemic economy and the New Milford restaurant and food service industry has sustained great financial losses; and

WHEREAS a principle means of inhibiting the spread of COVID-19 is so-called “social distancing”; and

WHEREAS The state of emergency that existed on March 16, 2020 remains and includes the economic and financial losses that have and continue to befall New Milford restaurants; and

WHEREAS the governor stated that he will issue mandates and guidelines to allow the gradual, so-called re-opening of the State economy way of revision and of some of the prohibitions issued by Executive Orders and the modification and gradual relaxation of mandated prohibitions; and

WHEREAS on May 8, 2020 Governor Lamont issued Reopen Connecticut Guidelines (the May 8 Guidelines) and procedures to be followed for commercial establishments re-opening or adding on-site, Outdoor Activity effective May 20, 2020; and

WHEREAS on May 12, 2020 Governor Lamont issued Executive Order 7 MM to allow Outdoor Dining and Retail Activity on the conditions set forth in that Executive Order and the Guidelines; and

WHEREAS New Milford restaurants may directly benefit from modifying their service to accommodate outdoor dining while complying with pandemic mitigation principals including social distancing; and

WHEREAS after consultation with the New Milford Health Director, Zoning Enforcement Officer, Fire Marshal, Economic Development Director, and Chief of Police I have determined that, during the existence of the public health and civil preparedness emergency, to help stem financial loss and mitigate the harsh economic and financial effects on New Milford restaurants, it is in the best interest of the residents of New Milford and the local economy to allow, on a

temporary basis, restaurants to offer outdoor dining consistent with Governor Lamont's May 9 Guidelines and Executive Orders, including Executive Order 7 MM authorizing same.

NOW THEREFORE:

PURSUANT to the authority vested in me by Connecticut General Statutes section 28-8a, IT IS

HEREBY ORDERED that, subject to the limitations and conditions herein and FURTHER subject to the terms and conditions of **Executive Order 7 MM and the May 8 Guidelines**, a brick and mortar restaurant business duly registered within the State of Connecticut as a lawful restaurant business entity or a restaurant operating as a sole proprietorship or common law partnership whose trade name is duly registered in the office of the New Milford Town Clerk, and which was actually engaged in conducting restaurant business as of March 16, 2020, shall be permitted to engage in temporary outdoor food service so as to accommodate outdoor dining adjacent to the restaurant's brick and mortar restaurant, on the following terms and conditions:

1. Outdoor dining shall not be a right, and shall only be permitted upon issuance of an Outdoor Dining License (ODL) determined in the discretion of the Mayor and the Local Enforcement Official (LEO), after consultation with the New Milford Health Director, Zoning Enforcement Officer, Fire Marshal, and Chief of Police.
2. To request permission for outdoor dining, the restaurant operator shall present a completed Application for Temporary Outdoor Dining to the LEO's or Mayor's office. The application must be signed by the restaurant operator and the restaurant's landlord (if the permit sought is for private property and the property owner is different than the restaurant owner) and furnish the information requested on the application and such other information as may be requested including but not limited to a detailed sketch depicting the seating, service and equipment plan. If the outdoor area proposed is town property the applicant shall provide a hold harmless covenant and certificate of liability and workers compensation insurance naming the Town of New Milford as an additional insured and providing coverage in an amount satisfactory to the New Milford Finance Director.
3. The LEO and I shall endeavor to act on the application within 48 hours, but in any event the application must be acted upon no later than ten (10) after it is submitted. Such ODL, if given, shall be temporary and, unless earlier terminated or otherwise revoked, shall automatically expire within fifteen (15) days following the expiration of the state of emergency as declared by the Governor or modification of the operative Executive Order, and the concomitant expiration of the local emergency as declared by me. An ODL may not be granted unless the restaurant establishment has appointed and identifies a Certified Food Protection Manager and represent by signature that the owner/operator has read and

shall abide by the May 8 Guidelines. I may also seek advice from other relevant health and/or safety professionals and engineers as the LEO and/or I deem necessary.

4. The ODL shall be revocable with or without cause and shall not create nor be considered a permanent zoning variance nor shall it be considered to be nor shall it create a property right or interest. All items and equipment, tables, chairs and outdoor accessories pertinent to or associated with the outdoor dining plan must be removed within fifteen (15) days of the expiration of the ODL. Should the owner or operator fail to remove the materials within said fifteen (15) days, The Town may, but shall not be required to, remove the materials and charge the property owner and operator for the cost of removal and storage. Failure of the operator or owner to retrieve the materials within ten (10) days after written notice sent to the address furnished on the ODL permit application will result in the property being disposed of in accordance with the law pertaining to abandoned property.
5. Outdoor dining areas shall be situated within 2500 feet of the existing brick and mortar restaurant that is operating it and, in addition to requirements within Executive Order 7 MM and the May 8 Guidelines, shall be subject to other health, safety and liquor control regulations and orders including, without limitation, orders relating to public health and safety issued by the New Milford Director of Health, Fire Marshal, and the Chief of Police or their designees.
6. The undersigned may, but is not obligated to, authorize the temporary closure of public roads and rights of way to facilitate outdoor dining subject to the advice of the LEO and the advice and approval of the Chief of Police and Fire Marshal.
7. If an ODL is issued, the Licensee and Licensee's employees shall be required to comply with and conform to each requirement, standard and guideline set forth in this and the Governor's applicable Executive Orders and the May 8 Guidelines, the orders and instructions of the New Milford Director of Health, Chief of Police and Fire Marshal. In the event of a conflict between and Executive Order and this Order, the stricter standard or guideline, in the opinion of the Director of Health, shall apply.
8. Failure to comply with and conform to any requirement imposed by the terms of the ODL, including without limitation the orders of the New Milford Director of Health, Chief of Police or Fire Marshal shall result in summary revocation, enforced by the New Milford Police Department.

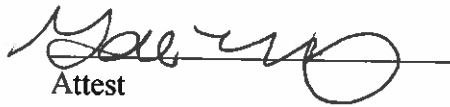
9. An appeal of the denial of an ODL or the conditions imposed on a granted ODL may be appealed to the New Milford Zoning Commission by submitting a letter of appeal to the LEO or Mayor's office with seven (7) days of the act appealed from. A remote hearing on the appeal shall be held within ten (10) Days of the receipt of the appeal or at such other reasonable time as a quorum may be gathered remotely.

This Order shall stay in effect until the fifteenth (15th) day after the Emergency Declaration of March 16, 2020 is lifted.

Dated at New Milford this 13th day of May, 2020.



Pete Bass, Mayor



Attest
Notary Public/Town Clerk

GALE L. FERNANDEZ
NOTARY PUBLIC
State of Connecticut
My Commission Expires
April 30, 2024

