



Town of Smithfield
EXECUTIVE ORDER 2021-01

**ALLOWING EXPANDED OUTDOOR DINING
AT RESTAURANTS**

WHEREAS, the Town of Smithfield on the **14th** day of **April, 2021**, resulting from:

WHEREAS, on March 9, 2020, Executive Order 20-02 was issued by the Governor to declare a state of emergency due to the outbreak of COVID-19 (the “Pandemic”), and that Declaration has been extended to May 13, 2021; 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 Smithfield on March 16, 2020, due to the dangers to health and life posed by COVID-19, and that Declaration was extended to June 18, 2021 with the consent of the Town Council; 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 continues reopening numerous areas of the State's economic, cultural and civic life; and

WHEREAS, it is critical that the Town’s economy be re-opened to the greatest extend possible consistent with public health guidance and that the public’s health shall always be of paramount concern in connection with such re-opening; 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, I, Randy R. Rossi, by virtue of the authority vested in me as the Town Manager and Chief Administrative Officer of the Town of Smithfield under the Rhode Island General Laws, including but not limited to Chapter 15 of Title 30, and with the consent of the Smithfield Town Council, 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 April 15, 2021 (“Food Expansion Applications”). Restaurants with a current liquor license may also apply for the temporary expansion of their liquor services area on or after April 15, 2021 by filing a separate Application for Temporary Expansion of Liquor License (“Liquor Expansion Applications”). Applications may be obtained on the town’s website (www.smithfieldri.com). All applicable filing and inspection fees associated with such applications shall be waived.
2. All Food Service Expansion Applications and Liquor Expansion 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 (concrete blocks) 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 shall be required subject to a full Life Safety Inspection by the Smithfield Fire Department prior to being occupied.
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 Smithfield Zoning Ordinance.

4. All applications shall be reviewed for compliance prior to use with the provisions of this Executive Order by the Building Official, the Fire Marshal, the Police Chief, the Town Clerk and/or such other Town officials as may be designated by the Town Manager. Food Service Expansion Applications may be administratively approved by the Town Manager. Liquor Expansion Applications must be approved by the Town Council pursuant to Rhode Island General Law § 3-5-17.
5. The following provisions of the Smithfield 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. Articles 3, 10 and any other provision that would otherwise require the issuance of a special use permit for the temporary expansion;
 - b. Article 7 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 as shown on the parking plan as required in section 1 herein;
 - c. Articles 5, 6 and any other provision that would otherwise prohibit the placement of an accessory structure in any required 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;
6. The hours of operation of any temporary outdoor service area approved hereunder shall be limited to 7:00 am to 10:00 pm.
7. Any temporary outdoor service area approved hereunder shall be permitted to continue only so long as consumption of food or drink in indoor portions of the restaurant is prohibited or restricted in a manner that reduces its current licensed capacity. If consumption of food or drink in indoor portions of the restaurant is allowed to resume on a limited basis, the size of the temporary outdoor service area shall be reduced as needed, so that the total number of seats indoor and outdoor, does not exceed the restaurant's current licensed capacity. At such time as consumption of food or drink in indoor portions of the restaurant is allowed to resume without restriction, the provisions of this Executive Order, and any approval issued hereunder, shall cease. In such case, any temporary outdoor service areas approved hereunder shall be removed from the license premises within forty-eight hours.
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 the Executive Order.
9. Nothing in this Executive Order shall constrain duties and powers of the Town, the Town Manager authorized by Title 30, Chapter 15 of the Rhode Island General Laws and the Smithfield Code of Ordinances.

10. This Executive Order shall take effect immediately and remain in full force and effect until such time as the State of Emergency in Rhode Island and/or the Town of Smithfield is lifted, or otherwise modified or terminated by subsequent Executive Order.

SO ORDERED this 14th day of **April, 2021**.

A handwritten signature in black ink, appearing to read 'R. R. Rossi', written above a horizontal line.

Randy R. Rossi
Town Manager