STATE OF CONNECTICUT

BY HIS EXCELLENCY

NED LAMONT

EXECUTIVE ORDER NO. 7MM

PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC AND RESPONSE – EXPEDITED APPROVAL AND PERMITTING FOR EXPANDED OUTDOOR DINING

WHEREAS, on March 10, 2020, I issued a declaration of public health and civil preparedness emergencies, proclaiming a state of emergency throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and Connecticut; and

WHEREAS, pursuant to such declaration, I have issued thirty-nine (39) executive orders to suspend or modify statutes and to take other actions necessary to protect public health and safety and to mitigate the effects of the COVID-19 pandemic; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, the World Health Organization has declared the COVID-19 outbreak a pandemic; and

WHEREAS, the risk of severe illness and death from COVID-19 is higher for individuals who are 60 or older and for those who have chronic health conditions; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention and the Connecticut Department of Public Health (DPH) recommend implementation of community mitigation strategies to slow transmission of COVID-19, including cancellation of gatherings of ten people or more and social distancing in smaller gatherings; and

WHEREAS, public health experts have determined that it is possible to transmit COVID-19 even before a person shows symptoms and through aerosol transmission; and

WHEREAS, public health experts have determined that the risk of transmission of COVID-19 is reduced in outdoor areas, including where there is more sunlight, greater air movement, and greater space to maintain distance between people; and

WHEREAS, I intend to issue an executive order in the coming days providing for limited increased economic and recreational activity, including outdoor dining and outdoor retail, with conditions designed to protect the public health by reducing the risk of transmission of COVID-19; and

WHEREAS, certain statutes, municipal ordinances, regulations, and procedures may prevent the timely implementation of protective measures to provide for safe resumption of economic activity, including some outdoor dining with liquor service and outdoor retail, which resumption is essential to sustaining compliance with and effectiveness of other efforts to respond to and mitigate the effects of COVID-19; and

WHEREAS, existing state and local laws and regulations governing outdoor liquor service currently require approvals by local authorities and the Department of Consumer Protection; and

WHEREAS, Executive Order Nos. 7G, and 7T, permitted certain liquor licensees to sell alcoholic liquor in connection with take-out and delivery of food, but did not permit private clubs to do the same; and

WHEREAS, many clubs, nonprofit clubs and golf country clubs offer food and are able to sell alcoholic liquor safely to their members in connection with take-out and delivery of food prepared on premises in a manner similar to what is permitted for the food establishments covered by Executive Order Nos. 7G and 7T;

NOW, THEREFORE, I, NED LAMONT, Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and the laws of the State of Connecticut, do hereby **ORDER AND DIRECT**:

1. **Expedited Municipal Zoning Amendments.** In order to expedite changes to municipal laws, ordinances, or regulations and ensure greater flexibility for local governments to respond to COVID-19, Section 8-3b of the Connecticut General Statutes is suspended and modified to provide that, if a zoning administrator, chairperson of the zoning commission or planning and zoning commission, or chief elected official has made a finding that a proposal is necessary to respond to the COVID-19 pandemic, including but not limited to making changes to permit the Outdoor Activities described herein, such zoning administrator, chairperson, or chief elected official may place such proposal, or cause such proposal to be placed, on the public hearing agenda of a zoning commission or a planning and zoning commission, as applicable, and such commission shall conduct its public hearing and act on such proposal without being required to adhere to the requirements of Section 8-3b.

2. **Suspension and Modification of Certain Permitting and Approval Processes for Outdoor Activities.** In order to prevent the potential transmission of COVID-19 in commercial establishments while allowing commercial establishments to operate in a manner that promotes social distancing and complies with my executive orders or any order issued by an executive agency or municipal official pursuant to the public health and civil preparedness emergency declared on March 10, 2020, including but not limited to any rules or guidelines issued by the Department of Economic and Community Development for operation of businesses during such emergency, any provision of Connecticut General Statutes Chapters 14, 97a, 98, 124, 126, 242, or 541 and Section 22a-27j, or any special act, municipal charter, ordinance, resolution, or regulation that conflicts with this Order (all such state and municipal laws and

regulations being, collectively, the "Covered Laws"), is suspended and modified, as enumerated below, for the duration of this Order and as hereafter provided:

a. **Expedited Municipal Review of Outdoor Dining and Retail.** Any Covered Law requiring an applicant to receive an approval or permit for outdoor food and beverage service, outdoor displays of goods, or COVID-19 Signage, which activities (other than COVID-19 Signage) end at 11 p.m. or earlier on Friday and Saturday nights and end at 9 p.m. or earlier all other days of the week (such activities being, the "Outdoor Activities") is suspended to the extent that the Covered Law requires review and determination of any application for Outdoor Activities by a multi-member municipal agency or any by any entity other than an individual municipal official generally responsible for administrative enforcement of the relevant Covered Law, such as a zoning administrator or a building code official (such official and his or her designee being, the "Local Enforcement Official"), and modified to require all such reviews and determinations to be conducted only by the Local Enforcement Official.

    i. "COVID-19 Signage" shall mean any outdoor, non-internally-illuminated, non-animated signage that is 15 square feet in size or smaller and contains directions, social distancing instructions, or other signage that might customarily be displayed within the building, including but not limited to menus or specials.

    ii. "Outdoor Activities" shall not be deemed to include live entertainment, provided that nothing in this Order shall be deemed to prohibit an independent approval of live entertainment pursuant to local regulation.

b. **Outdoor Dining and Retail Allowed During Emergency.** Any Covered Law that does not explicitly allow Outdoor Activities or that prohibits Outdoor Activities shall be deemed to allow such activities as an accessory use to any location where food or beverages are served or goods are sold, as applicable, subject to review and approval by the Local Enforcement Official and reasonable conditions imposed through Local Enforcement Official review, provided that nothing in this order shall require a municipality to permit the sale or service of alcoholic beverages as a principal or accessory use anywhere that such activity is not permitted as a principal or accessory use, and provided further than nothing in this Order shall permit the sale of alcoholic beverages for on-premise consumption independent of sale of food, or permit the operation of outdoor bars unless expressly permitted by further executive order or by rules or guidelines issued by the Department of Community and Economic Development pursuant to an executive order.

c. **Minimum Parking Lifted to Facilitate Outdoor Activities.** Any Covered Law requiring a minimum number of parking spaces or prohibiting Outdoor Activities from taking place in parking lots is suspended to the extent required to permit such Outdoor Activities alone or in conjunction with any other authorized activity, including any activity required to enable the response to the COVID-19 pandemic.

Any Covered Law prohibiting Outdoor Activities from taking place in on-street parking spaces is modified to allow the Local Enforcement Official to permit this activity, consistent with the requirements of this Order.

d. **Application Process.** Any Covered Law relating to applications for Outdoor Activities is suspended to the extent that it requires any of the following documents: plans stamped by a licensed engineer, landscape architect, or architect; site survey; parking plan; traffic study or plan; sign plan; soil erosion and sediment control plan; photometric lighting plan; or stormwater management plan; provided that the applicant has submitted, at a minimum, a drawing or illustration, roughly to scale or dimensioned and depicting with reasonable accuracy the outdoor area that is proposed to be used and what is proposed to be placed, built, or erected in the outdoor area, and a narrative (with or without accompanying illustrations) that explains any noise, waste management, odor, light pollution, and environmental impacts expected from same and how said impacts will be managed. Notwithstanding the preceding sentence, the Local Enforcement Official may require an applicant to submit additional and more detailed information that he or she reasonably deems necessary to protect public health, safety and the environment, in order to complete an application, taking into account the need for expedited review of such applications.

e. **Approval and Conditions.** Notwithstanding any contrary Covered Law, the Local Enforcement Official shall review and approve, approve with conditions consistent with any executive orders or rules issued pursuant to executive orders (including extending the hours of operation), or reject any complete application for Outdoor Activities, and shall notify an applicant of such decision (including, but not limited to, emailed notice or certified mail) by the later of (i) ten days after actual receipt of the complete application, or (ii) ten calendar days after actual receipt of any additional materials required pursuant to the previous paragraph. Any failure of the Local Enforcement Official to act pursuant to the preceding sentence within such time period shall be deemed to be an approval of the application.

f. **Appeals.** Notwithstanding any contrary Covered Law, if a Local Enforcement Official approves with conditions or rejects an application for an Outdoor Activity filed pursuant to this Order, the applicant may appeal such decision, within 7 days of receipt of notice of the decision (including, but not limited to, emailed notice or certified mail), to the planning and zoning commission or to the zoning commission, as applicable, but if the zoning commission is the town's legislative body, to the planning commission, provided that any Covered Law that would require a public hearing for such appeal is suspended. Nothing in this Order shall suspend or modify an individual's right to submit a complaint to the relevant municipal authority or the right of a municipal authority to enforce conditions associated with a permitted Outdoor Activity, impose fines and fees, or issue a notice of violation or a cease and desist order.

g. **Shared Lots and Expanded Spaces.** Any Covered Law requiring Outdoor Activities to take place on the same lot, zoning lot, street face or yard as a principal use, or to take place only in certain yards, shall be modified to allow Outdoor Activities to take place on any nearby lot, zoning lot, street face, or yard, (contiguous or not), provided that written permission from the owner of any other lot or zoning lot on which such Outdoor Activity is proposed to take place is provided to the Local Enforcement Official and further provided that any nearby lot, zoning lot, or street face used for Outdoor Activities must include a commercial use or be located in a commercial zoning district.

h. **Sidewalks and Non-Vehicular Rights of Way.** Any Covered Law prohibiting Outdoor Activities from taking place on public sidewalks or other nonvehicular public rights of way shall be suspended and modified to allow Outdoor Activities to take place therein, subject to a 6-foot clearance for pedestrian passage, and subject to reasonable conditions imposed by the municipal department with jurisdiction over sidewalk obstruction permits. Any Covered Laws prohibiting Outdoor Activities from taking place on a state highway right of way are modified to allow the State Department of Transportation (DOT) to issue a permit for such activities to take place in the non-vehicular portion of the state highway right of way pursuant to conditions imposed by the DOT.

i. **Vehicular Rights of Way.** Any Covered Laws prohibiting Outdoor Activities from taking place on a local public road or vehicular right of way are modified to allow the municipal official with jurisdiction over local roads, after consulting with the municipality's Local Traffic Authority and, if that local road is used for public transportation routes, consulting with the DOT, to close the road in order to permit Outdoor Activities without additional public hearings. Closure of any part of the vehicular portion of a state highway right of way shall not be permitted without a request from the municipality to the DOT pursuant to the Regulations of Connecticut State Agencies §14-298-262 for a Special Event Permit, provided that such Outdoor Activities shall be included in the definition of "special event" and the DOT shall use its best efforts to expedite review of any such request in furtherance of the purposes of this Order. Any Covered Laws prohibiting special event permits for the closure of a state highway are modified to authorize the DOT to issue such permits to allow Outdoor Activities pursuant to this Order. The automatic approval provisions of subsection 1(c) of this order shall not apply to this subsection.

j. **No Nonconformity Rights Bestowed.** Any Covered Law that would provide nonconforming use or structure rights to any activity or structure permitted during the state of emergency pursuant to this Section 2 of this Order is suspended.

k. **No Application, Building or Related Fees.** The Covered Laws are suspended to the extent they impose fees for applications filed pursuant to this Order for Outdoor Activities, and no fees for such applications shall be collected or be due and owed to the State or to any municipality for the duration of the emergency.

3. **Liquor Service in Connection with Outdoor Dining.** Title 30 of the Connecticut General Statutes, including Sections 30-22(a) and 30-22a(a), and any corresponding regulations or practices such as the requirement to file a patio or extension of use permit with the Department of Consumer Protection, are modified to the extent they conflict with, or create additional requirements on, the sale of alcoholic liquor by a liquor licensee so long as such licensee is (i) in compliance with Section 2 of this order and any executive order permitting outdoor dining; (ii) any rules for outdoor dining, including social distancing requirements, issued by the Department of Economic and Community Development (DECD); and (iii) any town or municipal requirements related to outdoor dining and liquor sales, as amended by Section 2 of this order. A liquor licensee who serves alcoholic liquor shall not be required to obtain a patio or extension of use permit provided that the licensee shall serve only the types of alcoholic liquor allowed by their permit type and shall abide by the following conditions:

    a. The licensee must comply with all other laws and regulations under Title 30, including prohibitions on sales to minors or intoxicated persons and restrictions on the times such sales may occur.

    b. Alcoholic liquor may be served only in connection with outdoor dining, which means food prepared on premises or at a food truck adjacent to the premises.

    c. There shall be no consumer bars, and all alcoholic beverages shall be served tableside.

    d. There shall be no live entertainment unless live entertainment was previously permitted in the outdoor space, or the licensee obtains permission pursuant to this order or underlying rules, and such entertainment complies with all other social distancing rules.

    e. For Caterer licensees, outdoor service is permitted only at locations with on-premise permits for which the licensee is hired as a bona fide caterer.

    f. For Clubs, outdoor dining is permitted only for members and their families and guests.

    g. If a licensee is permitted by local authorities to provide outdoor dining in space outside their permitted premises, including public sidewalks, parking lots or space owned by an adjacent business, such space shall be deemed to be part of the permitted premises for the duration of this order and the licensee shall be responsible for any liquor violations in that area.

4. **Further Clarification of Limits on Private Clubs**. Effective immediately, Executive Order Nos. 7G and 7T, which addressed sales of alcoholic beverages by certain licensees, are modified to additionally permit holders of club, nonprofit club and golf country club permits to deliver food prepared on premises and sealed containers of

alcoholic liquor directly to consumers and to offer for the pick-up and off-premise consumption of any sealed containers of alcoholic liquor with food prepared on premises under the same conditions as the prior Executive Orders permitted for restaurants, except that such sales shall only be to their members.

Unless otherwise specified herein, this order shall take effect immediately and remain in effect for the duration of the public health and civil preparedness emergency, unless earlier modified, extended or terminated.

Dated at Hartford, Connecticut, this 12th day of May, 2020.

Ned Lamont
Governor

By His Excellency's Command

Denise W. Merrill
Secretary of the State