



CITY OF PORTSMOUTH
PLANNING DEPARTMENT

MEMORANDUM

TO: KAREN S. CONARD, CITY MANAGER
FROM: JULIET T.H. WALKER, PLANNING DIRECTOR
TODD GERMAIN, FIRE CHIEF
PETER H. RICE, PUBLIC WORKS DIRECTOR
ROBERT MERNER, POLICE CHIEF
NANCY CARMER, ECONOMIC DEVELOPMENT MANAGER
SUBJECT: REPORT BACK ON USE OF PUBLIC REALM FOR TEMPORARY
OUTDOOR USE BY BUSINESSES
DATE: 5/26/2020

JTW

The City has received requests from downtown business owners related to temporary use of the public realm (streets, sidewalks, and parking areas) to accommodate outdoor dining areas. Use of City sidewalks and streets are the purview of City Council subject to City ordinances and Council policies.

As we all navigate these difficult times, we are cognizant of the need to work expeditiously to find ways to support our local businesses including possible use of the public realm. At the City Manager's request, staff from Police, Fire, Planning, DPW, and Economic Development have reviewed the requests related to use of the public realm for outdoor dining. We also considered examples of what other communities are implementing nationally and regionally. As a result of our review, we offer the following guidance for consideration by the Council and the Citizen Response Task Force that the Council is establishing to guide City policies related to COVID-19.

City Sidewalks

Use of City sidewalks are regulated by Article V of the City Ordinances. Where restaurants propose to use a sidewalk for outdoor service of food and alcohol, they must submit an application for a Sidewalk Café License according to the terms of City Council Policy Number 2012-02. These are approved by vote of the City Council.

Businesses proposing to use a City sidewalk for placement of outdoor tables and chairs where no food and alcohol service is proposed, must apply for a Sidewalk Obstruction License. These approvals are issued on an annual basis by the City Clerk's office.

To facilitate the use of public sidewalks for outdoor dining, Council could consider granting the City Manager temporary power (for a limited duration) to approve all

licenses requesting use of City sidewalks. These would still be subject to the requirements of Article V of the City Ordinances and the Council Policy Number 2012-02, but would enable these requests to be processed more quickly rather than waiting until Council meetings to approve.

City Streets and Parking Areas

Recent proposals to consider closure of all or portions public streets to provide expanded social distancing and outdoor dining areas for restaurants have included the following:

- Closure of a portion of Ceres Street
- Closure of one side of Pleasant Street between Court Street and State Street and convert to one-way traffic only
- All or partial closure of portions of Market Street and Congress Street
- Closure of the public parking lot at the corner of Hanover Street and Market Street

Staff have identified the following guidance for consideration when developing policies for use of the public realm:

1) Public safety

- Appropriate protections should be in place for users of the outdoor dining areas, these include physical barriers between motor vehicle travel ways as well as social distancing measures to comply with public health guidelines.
- Access for emergency vehicles needs to be maintained through and to these areas.
- In order to provide the appropriate protections, any use of the road (either through full or partial closure) should be semi-permanent implemented for a duration of time (e.g. weeks or months). It would be unreasonable and unsustainable for the temporary infrastructure and signage to be place or removed contingent on weather, day of week, time of day, etc.

2) Traffic Impacts

- Full or partial closure of streets should include a detailed traffic circulation and detour plan, including provisions for emergency vehicle access and public transit access.

3) Equity

- Decisions to close or partially close certain streets should balance the benefit to individual businesses versus potential negative impacts to other businesses and residents due to inconvenience and loss of parking.
- Council policies for closure or partial closure should consider that not all businesses will have equitable access to city property for expansion of outdoor dining areas or are otherwise limited by location or capacity.
- Processes for use of outdoor space should be clearly laid out and consistently applied. For example, the existing sidewalk café and sidewalk license processes could be adapted for consideration of requests for use of

city streets, including mechanisms for City staff review to confirm compliance with insurance requirements and public safety provisions.

4) Parking Impacts

- Use of parking spaces is generally less complicated for traffic impacts than a full or partial closure of a street. However, use of parking spaces will impact other businesses and residents that do not necessarily receive direct benefit from the closure of the spaces and the City will lose any parking revenues associated with those spaces.

5) Material and Installation Costs

- There will be costs for installation of appropriate barriers and signage for routing of traffic. Whether this cost is born by the businesses or the City will need to be a factor in any Council policy.
- Semi-permanent closures implemented for a duration of time (e.g. weeks or months) would reduce the overall installation costs. It would be more costly for the temporary infrastructure and signage to be placed or removed contingent on weather, day of week, time of day, etc.