Action Item # 5924/20
Docket Date: March 23, 2020

City of Newport

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jamie P. Bova and Members of the Council
From: Joseph J. Nicholson, Jr., Esq., City Manager
Date: March 18, 2020
Subject: COVID-19 - State of Emergency - Extension of Time Period
Staff Presentation:

RECOMMENDATION:

The City Manager recommends that Council approve the attached resolution reaffirming the emergency powers of the City Manager with regard to the Declaration of a State of Emergency in the City of Newport in connection with the COVID-19 virus outbreak and extending the time period thereunder.

BACKGROUND AND FINDINGS:

On March 9, 2020, Governor Gina Raimondo issued Executive Order 20-02 declaring a State of Emergency due to the outbreak of the COVID-19 virus. On March 15, 2020, the City Manager, by virtue of the authority as Chief Executive Officer of the City of Newport, issued an Executive Order declaring a State of Emergency due to the dangers of health and life posted by the COVID-19 virus outbreak, which power remains in effect for a period of seven (7) days. As the COVID-19 situation continues to unfold on the national, state and local levels, it is necessary to extend the City Manager's emergency power in connection therewith for an additional thirty (30) days. Council reserves the right to revoke this power at any time during this period.

PREVIOUS LEGISLATIVE ACTION

Governor Raimondo - Executive Order 20-02 dated March 9, 2020
Governor Raimondo - Executive Order 20-05 dated March 16, 2020
City of Newport - Executive Order dated March 15, 2020

FISCAL IMPACT

___ Currently Budgeted (Acct #_____) ___ Requires additional appropriation ___ No Fiscal Impact

SUPPORTING DOCUMENTS

Resolution

Finance Dept. Review: _____ Date By: _____ (if applicable)

CITY OF NEWPORT

RESOLUTION
OF THE
COUNCIL

No. _____

WHEREAS, on March 9, 2020, Governor Raimondo declared a State of Emergency due to the outbreak of the COVID-19 virus; and

WHEREAS, on March 15, 2020, the City Manager issued an Executive Order declaring a State of emergency due to the dangers of health and life posted by the COVID-19 virus outbreak, which power remains in effect for a period of sever (7) days; and

WHEREAS, due to the ongoing nature of the COVID-19 situation, it is necessary to extend the City Manager's emergency power in connection therewith for an additional thirty (30) days, which make by revoked by Council at any time during this period. NOW THEREFORE BE IT

RESOLVED: that the City Council reaffirms the emergency power of the City Manager with regard to the Declaration of a State of Emergency in the City of Newport in connection with the COVID-19 virus outbreak and extends the time period in connection therewith for an additional thirty (30) days and Council reserves the right to revoke this power at any time during this period.

IN COUNCIL
READ AND PASSED

_____

Laura C. Swistak
City Clerk

EXECUTIVE ORDER

March 15, 2020

Declaration of State of Emergency

WHEREAS, on January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern;

WHEREAS, on January 31, 2020, the Rhode Island Department of Health established an Incident Command System response to COVID-19;

WHEREAS, on January 31, 2020, the United States Health and Human Services Secretary Alex M. Azar III declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19;

WHEREAS, on March 9, 2020, the State of Rhode Island Governor Gina M. Raimondo issued Executive Order 20-02 declaring a State of Emergency due to the outbreak of COVID-19;

WHEREAS, on March 11, 2020, the World Health Organization declared the outbreak of COVID-19 to be a Pandemic;

WHEREAS, community transmission in the United States has occurred in at least two dozen states and is an immediate public health threat to the elderly and those with underlying health conditions;

WHEREAS, cases of COVID-19 have been documented in the State of Rhode Island;

NOW, THEREFORE, I, Joseph J. Nicholson, Jr., by virtue of the authority vested in me as Chief Executive Officer of the City of Newport, pursuant to the Rhode Island General Laws, including but not limited to, Title 30, Chapter 15 of the General Laws, do hereby order and direct the following:

1. A State of Emergency is hereby declared for the City of Newport due to the dangers to health and life posed by COVID-19, and the City's disaster emergency plan is hereby activated.

2. The City of Newport is directed to activate the City's emergency operations center and all necessary City emergency response plans, policies, compacts, and agreements, to create and establish mobile support units, and to activate and deploy disaster response teams and disaster response workers to perform disaster response services.
3. All City departments, agencies, or quasi-municipal agencies and boards and commissions performing executive functions shall cooperate fully with the Rhode Island Emergency Management Agency (RIEMA) and Newport Emergency Management Agency (NEMA) in all matters concerning this Order. Efforts to provide emergency disaster relief to the City of Newport should be coordinated through NEMA.
4. City officials are directed to cancel all non-essential official City meetings, limit the travel of City employees, and postpone all public events during the period of the State of Emergency.
5. All City offices and operations shall otherwise remain open until further notice and shall continue to otherwise operate in their ordinary course of business;
6. Pursuant to the emergency powers granted by the Rhode Island General Laws, and any other applicable provisions of state or local law, I shall from time to time issue additional directives, orders, and recommendations as circumstances require, either written or verbal.
7. This Executive Order shall take effect immediately and remain in full force and effect through seven (7) days hence, and with the consent of the City Council, it shall continue in effect and automatically renew for an additional period of seven (7) days.

So Ordered:

3/15/2020

Joseph J. Nicholson, Jr. Esq.
City Manager

SECRETARY OF STATE
PUBLIC INFORMATION
CENTER
2020 MAR -9 PM 4:47

State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-02

March 9, 2020

DECLARATION OF DISASTER EMERGENCY

WHEREAS, on January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern;

WHEREAS, on January 31, 2020 the Rhode Island Department of Health established an Incident Command System response to COVID-19;

WHEREAS, on January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19;

WHEREAS, the number of countries that are experiencing community transmission of COVID-19 continues to grow;

WHEREAS, community transmission in the United States has occurred in some states and is an immediate public health threat to the elderly and those with underlying health conditions;

WHEREAS, cases of COVID-19 have been documented in the State of Rhode Island;

WHEREAS, the State has worked tirelessly to contain the spread of COVID-19 within its borders;

WHEREAS, the State needs to take additional measures to limit the spread of COVID-19; and

WHEREAS, Rhode Island General Laws § 30-15-9(e)(1) permits the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency.

NOW, THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby order and direct the following:

1. A state of emergency is declared for the State of Rhode Island due to the dangers to health and life posed by COVID-19 and the state disaster emergency plan is activated.

2. The Rhode Island Emergency Management Agency (RIEMA) is directed to stand up the state emergency operations center and to activate all other necessary state emergency response plans, policies, compacts and agreements, to create and establish mobile support units, and to activate and deploy disaster response teams and disaster response workers to perform disaster response services.

3. The Adjutant General is authorized to order Rhode Island National Guard members to state active duty, if necessary, to assist in the response to this event.

4. All state departments, agencies or quasi-state agencies and boards and commissions performing executive functions shall cooperate fully with RIEMA in all matters concerning this Order. Efforts to provide emergency disaster relief to affected cities and towns should be coordinated by and through RIEMA.

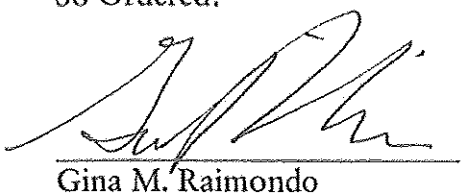
5. All state offices and operations shall remain open until further notice and continue to operate in their ordinary course of business.

6. As of the date of this order, no person, firm or corporation shall increase the price of personal protective equipment, including masks and gloves, hand sanitizer, soap, bleach or other household disinfectant it sells or offers for sale at retail. Pursuant to section 6-13-21 of the Rhode Island General Laws, it shall be an unfair sales practice for individuals or retailers to participate in price gouging for any other essential commodity during the pendency of this emergency.

7. Pursuant to the emergency powers granted by the Rhode Island General Laws, and any other applicable provisions of state or federal law, I shall from time to time issue additional recommendations, directions and orders as circumstances require, either written or verbal.

This Order shall take effect immediately and remain in full force and effect until April 8, 2020, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Gina M. Raimondo
Governor

SECRETARY OF STATE
PUBLIC INFORMATION
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2020 MAR 13 PM 4:21

State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-03

March 13, 2020

SUPPLEMENTAL EMERGENCY DECLARATION

This Emergency Declaration supplements Executive Order 20-02 issued March 9, 2020.

COVID-19 continues its spread internationally. For the protection of the health of the people of Rhode Island and the further prevention of the spread of COVID-19, and pursuant to Rhode Island General Laws § 23-8-18, I hereby order and proclaim as follows:

1. Any person arriving from a location outside the 50 states or the District of Columbia must immediately self-quarantine for 14 days upon arrival in Rhode Island.

2. Any person who has travelled outside the 50 states or the District of Columbia in the last 14 days must self-quarantine for the remainder of the 14-day period since arrival in Rhode Island.

3. Instructions for self-quarantine can be found at the Rhode Island Department of Health's website: https://health.ri.gov/diseases/ncov2019/

This Order shall take effect immediately and remain in full force and effect until April 12, 2020, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:

Gina M. Raimondo
Governor

SECRETARY OF STATE
PUBLIC INFORMATION
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2020 MAR 16 PM 1:41

State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-04

March 16, 2020

SECOND SUPPLEMENTAL EMERGENCY DECLARATION --
RESTAURANTS, BARS, ENTERTAINMENT VENUES, AND PUBLIC GATHERINGS

This Emergency Declaration supplements Executive Order 20-02 issued March 9, 2020.

WHEREAS, as of the date of this Order, the Rhode Island Department of Health (RIDOH) has reported 21 cases of COVID-19 in Rhode Island;

WHEREAS, COVID-19 continues to spread and, for the first time, Rhode Island has experienced community transmission of the virus;

WHEREAS, additional measures are necessary to protect the health of the people of Rhode Island and to contain the spread of COVID-19; and

WHEREAS, the Federal Centers for Disease Control and Prevention and RIDOH recommend implementation of community mitigation strategies, including the cancellation of large events and social distancing outside the home.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of

the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, and Title 23, Chapter 8, do hereby order and direct the following:

1. Gatherings of 25 people or more are prohibited in Rhode Island. Gatherings subject to this Order include, but are not limited to, community, civic, public, leisure, or faith-based events, sporting events with spectators, concerts, conventions, fundraisers, parades, fairs, festivals, and any other similar activity that brings together 25 or more people at the same time.

2. Any restaurant, bar or establishment that offers food or drink shall not permit on-premises consumption of food or drink; provided that such establishments may continue to offer food and non-alcoholic beverages for take-out and delivery in accordance with the social distancing protocols and guidance set forth by RIDOH.

This Order shall take effect on Tuesday, March 17, 2020 and shall remain in full force and effect until Monday, March 30, 2020, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered,

Gina M. Raimondo
Governor

SECRETARY OF STATE
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State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-05

March 16, 2020

THIRD SUPPLEMENTAL EMERGENCY DECLARATION – PUBLIC MEETINGS AND PUBLIC RECORDS REQUESTS

This Emergency Declaration supplements Executive Order 20-02 issued March 9, 2020.

WHEREAS, on March 9, 2020, I declared a state of emergency due to the dangers to health and life posed by COVID-19;

WHEREAS, both the Federal Centers for Disease Control and Prevention and the Rhode Island Department of Health have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19;

WHEREAS, as a result of this guidance, many public and private employees are being asked to work remotely;

WHEREAS, many important functions of state and local government are executed in meetings of "public bodies," as that term is defined in the Open Meetings Act, Rhode Island General Laws § 42-6-1 et seq.;

WHEREAS, according to the public policy articulated in the Open Meetings Act, Rhode Island General Laws § 42-46-1, "[i]t is essential to the maintenance of a democratic society that

public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy";

WHEREAS, the Open Meetings Act does not allow public bodies or members of public bodies to convene by telephone or other electronic means, except for in very limited circumstances, as defined in Rhode Island General Laws § 42-46-5(b);

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of public bodies;

WHEREAS, the Rhode Island Access to Public Records Act, R.I. Gen. Laws § 38-2-1, et seq., protects the public's right to access public records within statutory timeframes;

WHEREAS, Rhode Island General Laws § 30-15-9(e)(1) permits the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency; and

WHEREAS, Rhode Island General Laws § 30-15-7(1) authorizes the Governor to issue executive orders that have the force and effect of law.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby order and direct the following:

Open Meetings

1. Public bodies conducting meetings, as those terms are defined by the Open Meetings Act are hereby relieved from the prohibitions regarding use of telephonic or electronic communication to conduct meetings, contained in Rhode Island General Laws § 42-46-5(b), provided that the public body is meeting for an essential purpose and makes provisions to ensure public access to the meeting of the public body for members of the public through adequate, alternative means.

    a. An essential purpose is either that which is necessary for continued government operations or to ensure compliance with statutory or regulatory deadlines.

    b. Adequate alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of

the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring.

c. Where allowance for active, real-time participation by members of the public is a specific requirement of a state or local law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

d. A public body that for reasons of economic hardship or despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the public body as those activities are occurring in real time may instead post on its website a full and complete transcript, recording, or other comprehensive records of the proceedings as soon as practicable upon conclusion of the proceedings. However, this paragraph shall not apply to proceedings that are conducted pursuant to state or local laws that require allowance for active participation by members of the public.

e. A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

2. A public body that elects to conduct its proceedings under the relief provided in section (1) shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely.

3. All other provisions of the Open Meetings Act shall remain unchanged and fully applicable to the activities of public bodies.

Public Records

4. The statutory timeframes within which to respond to an Access to Public Records Act request contained in Rhode Island General Laws § 38-2-3 and § 38-2-7 are hereby suspended for all pending and new public records requests. Any agency or public body as defined by the Access to Public Records Act may extend the timeline for responding to a records request by an additional 20 business day, further to the extension provided in Rhode Island General Laws § 38-2-3(e), if the agency or public body notifies the requestor in writing before the regular statutory deadline for the agency's or public body's response and states that the additional time is necessary for reasons related to the current COVID-19 emergency. Any such extension of time must be related to the current COVID-19 emergency.

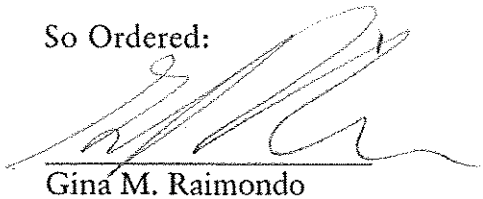
5. The requirements in Rhode Island General Laws § 38-2-3 providing that an agency or a public body permit inspection of records and produce records in "any and all media" in which they are capable of being provided is hereby suspended for all pending and new public records requests. It shall be sufficient for an agency or public body to provide such records electronically. Agencies and public bodies may continue to permit inspection or provide public records in other media, at their discretion.

6. The timeframes regarding administrative appeals of agency or public body decisions contained in Rhode Island General Laws § 38-2-8 are hereby suspended for all pending and new administrative appeals. Any agency or public body as defined by the Access to Public Records Act may extend the timeline within which its chief administrative officer may review his or her subordinate's determination and issue a decision regarding an administrative appeal by an additional 10 business days. Any such extension of time must be related to the current COVID-19 emergency and the agency or public body must inform the requestor in writing within the regular 10 business day timeframe.

7. All other provisions of the Access to Public Records Act shall remain unchanged and applicable to agencies and public bodies.

This Order shall take effect immediately and remain in full force and effect until April 15, 2020 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Gina M. Raimondo
Governor

SECRETARY OF STATE
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State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-06

March 18, 2020

FOURTH SUPPLEMENTAL EMERGENCY DECLARATION - EXPANDING ACCESS TO TELEMEDICINE SERVICES

This Emergency Declaration supplements Executive Order 20-02 issued March 9, 2020.

WHEREAS, on March 9, 2020, I declared a state of emergency due to the dangers to health and life posed by COVID-19;

WHEREAS, the number of presumptive and confirmed cases of COVID-19 continues to rise in Rhode Island as well as in our neighboring states;

WHEREAS, on March 13, 2020, the Rhode Island Office of the Health Insurance Commissioner (OHIC) and Medicaid notified health insurers issuing policies in Rhode Island that they must take timely measures to ensure access and continuity of healthcare services, including the expansion of telemedicine services;

WHEREAS, as of March 16, 2020, the Department of Health confirmed the community transmission of COVID-19 in Rhode Island, a development that significantly increases the likelihood of widespread transmission in the state;

WHEREAS, low-cost telephone and other internet-based audio-only and live video technologies are widely available and accessible to health care providers and patients. These

technologies can enable the provision of health care services, including behavioral health care services, in a manner that will limit the transmission of COVID-19 to health care providers and patients while providing clinically appropriate, medically necessary health care services to those quarantined or practicing social distancing;

WHEREAS, insurance carriers do not always fully reimburse health care providers for telemedicine services;

WHEREAS, insurance carriers do not always provide coverage for the full range of telemedicine services;

WHEREAS, access to telemedicine services is particularly important during the COVID-19 outbreak so that health care professionals can continue to treat patients while in quarantine or to limit exposure as a preventive measure; and

WHEREAS, in order to protect public health and mitigate exposure to and the spread of COVID-19, it is essential to facilitate the delivery of telemedicine services as a convenient, easily accessible, and affordable option to both health care providers and patients.

WHEREAS, recent Medicare program guidance has been issued by the federal government to remove barriers to telemedicine/telehealth services during this crisis, and reasonable consistency among insurance plans is necessary to ensure health service access and continuity of care for patients and providers.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, do hereby order and direct the following:

1. The patient location requirement for telemedicine contained in Rhode Island General Laws § 27-81-3(9) is hereby suspended. Patients may receive telemedicine services at any location.

2. The prohibition against audio-only telephone conversation and the limitations on video conferencing contained in Rhode Island General Laws § 27-81-3(12) are hereby suspended to expand the availability of telemedicine.

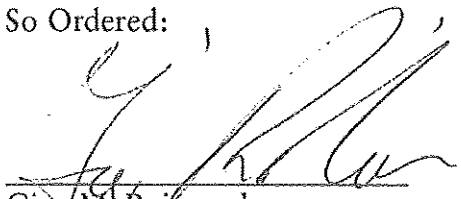
3. Rhode Island General Laws § 27-81-4(b) is hereby suspended to the extent that it allows agreements between health care providers and insurance carriers that limit either the scope of covered telemedicine services or the reimbursement of those services. All such clinically appropriate, medically necessary telemedicine services delivered by in-network providers shall be reimbursed at rates not lower than services delivered through traditional (in-person) methods.

4. Insurance carriers shall establish reasonable requirements for the coverage of such telemedicine services, in accordance with guidance issued by OHIC, including with respect to documentation and recordkeeping, but may not impose any requirements more restrictive than those contained in *The Rhode Island Office of Health Insurance Commissioner and Medicaid Program Instructions During the COVID-19 State of Emergency* issued March 13, 2020 and the Telehealth Benefits for Medicare beneficiaries. No insurance carrier shall impose any specific requirements on the technologies used to deliver telemedicine services (including any limitations on audio-only or live video technologies).

5. OHIC is hereby directed to issue guidance on the implementation of this Order.

This Order shall take effect on Wednesday, March 18, 2020 and shall remain in full force and effect until Monday, April 17, 2020, unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Gina M. Raimondo
Governor