

VILLAGE OF DOWNERS GROVE
Report for the Village
10/20/2020

SUBJECT:	SUBMITTED BY:
Extension of Emergency Order re: Outdoor Dining and other Liquor Provisions	Stan Popovich, AICP Director of Community Development

SYNOPSIS

A resolution has been prepared extending and amending certain emergency orders regarding outdoor dining and liquor provisions through March 15, 2021.

STRATEGIC PLAN ALIGNMENT

The goals for 2019-2021 include *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the October 13, 2020 Village Council meeting. Staff recommends approval on the October 20, 2020 Consent Agenda.

BACKGROUND

Since the declaration of a State of Emergency due to the COVID-19 pandemic, the Village Council affirmed and authorized the establishment of outdoor dining provisions. Staff is proposing the following modifications to the Emergency Order:

- For all outdoor dining areas located on private property (i.e. private parking lots, private patios and private sidewalks):
 - Outdoor dining may continue through March 15, 2021 in conformance with the attached rules and regulations.
 - Outdoor dining continuing past the conclusion of the fall outdoor dining time period must receive a permit from the Village prior to continuing use of their outdoor area if they are using a tent.
- The liquor licensing provisions contained in the previous resolution shall be extended to run concurrently with the Village's State of Emergency Proclamation.
- The Village will re-establish 15-minute parking spaces in the downtown area to accommodate restaurants' curbside pick-up operations.

- There will be no changes to regulations for outdoor dining operations on public property (i.e. public sidewalks, public parks and public streets). All outdoor dining areas located on public property may not be extended past either November 1 or 15, 2021 as determined by the Village Manager.

The outdoor dining provisions that were authorized and established by Village Council at the onset of the COVID-19 pandemic is summarized below:

- Allowed restaurants and certain other establishments to operate outdoor dining areas adjacent to their establishment, including patios, public and private sidewalks, private parking lots and in portions of public streets.
- Temporarily waived the requirement to obtain a Temporary Use permit to operate an outdoor cafe
- Allowed establishments which currently hold a liquor license to sell and serve alcohol in the outdoor dining area without the issuance of a separate outdoor dining liquor license (Class O)
- Allowed establishments which currently hold a liquor license for the sale of full alcohol for on-site consumption to sell beer, wine, cocktails or mixed drinks by curbside pick-up or delivery (must be sold in connection with the purchase of food)

On July 14, 2020, the Village Council extended the Emergency Order through November 1, 2020, provided that the Village Manager shall have the authority to further extend the Emergency Order through November 15, 2020.

ATTACHMENTS

Resolution

Winter Rules and Regulations for Outdoor Dining on Private Property

**A RESOLUTION EXTENDING AND AMENDING RESOLUTION NO. 2020-35
AND CERTAIN EMERGENCY ORDERS REGARDING
OUTDOOR DINING AND LIQUOR PROVISIONS**

WHEREAS, on March 14, 2020, upon the authority of Section 9-16 of the Downers Grove Municipal Code, Robert T. Barnett, Mayor, upon the recommendation of the Village of Downers Grove Office of Emergency Management, proclaimed that a State of Emergency exists in the Village of Downers Grove (the “Village”). On April 7, 2020, the Village Council of the Village of Downers Grove extended the State of Emergency to run concurrently with the Gubernatorial Disaster Proclamation;

WHEREAS, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 (Gubernatorial Disaster Proclamation) in response to the outbreak of COVID-19 which was re-issued on May 29, 2020, June 26, 2020, July 24, 2020, August 21, 2020, and September 18, 2020;

WHEREAS, the number of suspected COVID-19 cases in Illinois was increasing exponentially and across more locations in Illinois, indicating that drastic social distancing measures are needed, even in communities where confirmed cases have not yet been identified, to reduce the number of people who become sick at any given time and the possibility of exhausting our health care resources;

WHEREAS, on March 20, 2020, Governor Pritzker issued a Stay at Home Order (EO 2020-10 or “Order”) directing all individuals living within the State of Illinois to stay at home or at their place of residence except as allowed by the Order; and ordering all non-essential businesses and operations to cease and the suspension of on-premises consumption of food and beverages in restaurants all in accordance with the Order through April 7, 2020. On April 1, 2020, the Governor extended the Order through April 30, 2020 and a new Stay at Home Order was issued on April 30, 2020;

WHEREAS, on March 17, 2020, Mayor Barnett issued an Executive Order allowing the R1 and R2 liquor licensees the option to sell pre-packaged beer and wine in connection with a food order for off premise consumption (Liquor Sales Executive Order);

WHEREAS, on March 24, 2020, Mayor Barnett issued an Executive Order staying Section 25.33 (c), (d) and (e) of the Downers Grove Municipal Code related to utility late payments penalties, discontinuing of services, and lien provisions (Utility Billing Executive Order);

WHEREAS, on March 27, 2020, Mayor Barnett issued an Executive Order staying Sections 14.97.4 and 21.908 of the Downers Grove Municipal Code related to parking citations and food and beverage tax late payments and penalties (Parking and Food & Beverage Executive Order);

WHEREAS, on March 30, 2020, Mayor Barnett issued an Executive Order authorizing an extension of second quarter commuter parking permits through September 30, 2020 (Commuter Parking Permits Executive Order);

WHEREAS, on April 7, 2020, the Village Council of the Village of Downers Grove authorized and extended the State of Emergency and the following executive orders: Liquor Sales Executive Order; Utility Billing Executive Order; Parking and Food and Beverage Executive Order; and Commuter Parking Permits Executive Order;

WHEREAS, on May 5, 2020, Governor Pritzker issued the Restore Illinois Plan which was re-issued on June 26, 2020, July 24, 2020, August 21, 2020, and September 18, 2020;

WHEREAS, on June 2, 2020, the State enacted Section 6-28.8 of the Illinois Local Control Ordinance, allowing for the retail sale of cocktails or mixed drinks by curbside pick-up or delivery, subject to certain restrictions and regulations (235 ILCS 5/6-28.8);

WHEREAS, Phase 4 of the Governor's Restore Illinois Plan went into effect on June 26, 2020, which in part allows food establishments to open with limited indoor seating and outdoor dining facilities with appropriate social distancing and safeguards;

WHEREAS, COVID-19 has resulted in significant economic impact, including loss of income and wages, that threaten to undermine housing security and financial stability. More specifically, the stay at home order has had a significant financial impact upon the businesses in Downers Grove that have been unable to fully operate during the Stay at Home Order;

WHEREAS, although the suspension of on-premises consumption of food and beverages is temporary, it is unprecedented and has presented a hardship for local establishments in Downers Grove;

WHEREAS, as the Local Liquor Commissioner, the Mayor has the authority to adopt rules or regulations related to the retail sale of alcoholic liquor within the corporate boundaries of Downers Grove;

WHEREAS, the Village is an Illinois municipal corporation possessing home rule powers under Section 6 of Article VII of the Illinois Constitution, and the approval of this Emergency Order by the Village Council constitutes an exercise of its home rule powers and functions as granted in the Constitution of the State of Illinois;

WHEREAS, on May 29, 2020, Mayor Barnett issued an Executive Order regarding outdoor dining and other liquor provisions, which was subsequently affirmed and authorized by the Village Council on June 9, 2020, which was extended through August 31, 2020 on June 16, 2020 and extended again through November 1, 2020 on July 14, 2020;

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Downers Grove that:

1. The Emergency Order issued by Mayor Barnett on May 29, 2020, regarding outdoor dining and other liquor provisions, which was subsequently affirmed and authorized

by the Village Council on June 9, 2020 and extended through November 1, 2020 on July 14, 2020, is hereby amended and extended as follows:

- Outdoor dining areas located on private property (i.e. private parking lots, private patios and private sidewalks) may continue to operate through March 15, 2021 in conformance with the attached rules and regulations; provided that a valid temporary use permit is issued by the Village.
2. All other provisions of the July 14, 2020 Resolution Extending and Amending Certain Emergency Orders Regarding Outdoor Dining, Liquor and Parking Provisions and Utility Billing shall remain in full force and effect, and specifically the liquor licensing provisions contained therein shall be extended to run concurrently with the State's Disaster Proclamation and the Village's State of Emergency Proclamation.
 3. All resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.
 4. This Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

RULES AND REGULATIONS FOR OUTDOOR DINING LOCATED ON PRIVATE PROPERTY FROM NOVEMBER 1, 2020- MARCH 15, 2021

STRUCTURES: Temporary outdoor tents, or other structures, are allowed on private property with the following regulations:

- Tents must be located on a hard dustless material, generally asphalt or concrete
- Tents must have at least 50% of the sides open to allow open air flow.
- Tents must be weighted, anchored or secured to the ground.
- Tents must be flame resistant and a certificate must be visible on the tent

HEATING DEVICES: Heating devices are allowed with the following regulations:

- Portable gas heaters may **NOT** be placed within the tent.
- Portable electric heaters may be placed within the tent.
- Both portable gas and electric heaters may be placed outside of the tent with ductwork run into the tent to provide heat.
- Heaters placed outside of the tent shall be separated from pedestrian and vehicular traffic. Heaters may not block sidewalks, drive aisles or handicap accessible parking spaces.
- Operators should abide by recommended installation and product safety guidelines
- A minimum of five (5) feet of clearance between heaters and all other objects, including tent sides and tables shall be provided at all times.
- Heating devices shall be unplugged or disconnected when not in use.
- Employees shall be trained in proper installation of fuel tanks and in detecting leaks

SAFETY: The following safety measures must be followed:

- Sufficient fire extinguishers must be provided for winter outdoor dining
- A written inclement weather plan must be prepared and staff must be trained to prevent injuries during inclement weather or other unsafe situations
- Compliance with General Outdoor Dining Rules previously established by the Village. [http://www.downers.us/public/docs/top_stories/Outdoor%20seating%20rules%20-%20Phase%20III%20Restore%20IL%20\(2\).pdf](http://www.downers.us/public/docs/top_stories/Outdoor%20seating%20rules%20-%20Phase%20III%20Restore%20IL%20(2).pdf)
- The Village Manager may, in his sole discretion, order changes to the outdoor dining operation, including but not limited to the immediate cessation of the use, and removal of any or all equipment and facilities in order to protect the public health, safety and welfare of the community.

Permit Required

In order to operate winter outdoor dining, a temporary use permit is required. The following information is required:

- A completed temporary use application <http://www.downers.us/public/docs/permits/2020%20Temp%20Use%20Permit%20App.pdf>
- An inclement weather plan
- Flame resistant certificate for the tent
- Documentation regarding the use of temporary heaters
- Site plan identifying the location of the outdoor dining area and any heating equipment that may be located outside of the tent.