

Ordinance (_____)

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

An Ordinance Authorizing Auxiliary Outdoor Seating Area Program for Restaurants

shall be, and is hereby, adopted as follows:

Section 1. BACKGROUND.

On March 9, 2020, Governor J.B. Pritzker, declared all counties in the State of Illinois as a disaster area in response to the outbreak of COVID-19. On March 26, 2020, President Frum issued a Declaration of Emergency pursuant to the authority granted by: Section 8-47 of The Northbrook Municipal Code (1988), as amended (“*Village Code*”), Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6; and Section 11 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/11 to address the health threat posed by the COVID-19 pandemic (“*Declaration*”). Since issuance of the Declaration, the corporate authorities of the Village of Northbrook have approved and extended the duration of the Declaration through and until May 26, 2020.

On March 16, 2020, Governor Pritzker issued Executive Order No. 2020-07, which prohibited all businesses within the State that offer food or beverages for on-premises consumption – including restaurants, bars, grocery stores, and food halls – from providing on-premises service of food and beverages and limited their operations to delivery and carry-out services only, which Executive Order was extended by Executive Order 20-33 (“*Executive Order*”).

Of the many businesses within the Village that have been significantly and adversely affected by the ongoing COVID-19 pandemic, restaurants have been particularly hard-hit by the requirement that they cease providing on-premises services during the pandemic.

Restaurants are crucial parts of the social and economic fabric of the Village and have worked diligently and creatively since entry of the Executive Order to continue their operations and provide carry-out and delivery service to residents of the Village and neighboring communities.

After issuing the Executive Order, Governor Pritzker released the “Restore Illinois” Plan to provide a path for reopening businesses and facilities based on when geographic regions of the state meet specific goals regarding the spread of the virus and the availability of medical facilities.

Governor Pritzker has announced that, as of May 29, 2020, all regions of the state are expected to have satisfied the criteria to allow the entire state, including the North Eastern region, to transition to Phase III of the Restore Illinois framework, the “Recovery” Phase.

Phase III will allow all retail businesses and open subject to compliance with social distancing best practices. On May 20, 2020 Governor Pritzker announced that restaurants will be allowed to open for in-person dining exclusively with outdoor seating configured to comply with social distancing best practices. The Governor encouraged municipalities to work with restaurants in their communities to expand opportunities for outdoor seating to safely facilitate the reopening of the hospitality industry. To

assist in this effort, the Illinois Department of Commerce and Economic Opportunity has publishing a detailed set of outdoor dining guidelines for restaurants to follow.

Village staff has reached out to the business community to determine what steps can be taken to assist local restaurants to open for in-person outdoor dining. Based their feedback and examination of best practices from other communities, the Village staff recommends the Village Board approve a plan to (a) temporarily close certain streets in the Village; (b) allow restaurants to utilize portions of the public rights-of-way, including closed streets, for auxiliary outdoor seating areas pursuant to a temporary license agreement (c) authorize the Village President to temporarily modify existing on-premises alcoholic beverage licenses to allow restaurants to serve alcohol in authorized auxiliary outdoor seating areas; (d) to direct Village staff to prepare guidelines, procedures, and legal instruments necessary to implement the auxiliary outdoor seating area program (collectively, the “*Auxiliary Outdoor Seating Area Program*”).

The Village President and Board of Trustees have determined it is in the best interest of the Village to accept the recommendations of the Village staff and authorize the implementation of an Auxiliary Outdoor Seating Area Program.

Section 2. ADMINISTRATION OF PROGRAM; WAIVER OF CERTAIN REQUIREMENTS.

A. The Village Manager or his designee is hereby authorized to develop and publicize qualifications, rules, and procedures for food service establishments seeking to participate in the Auxiliary Outdoor Seating Area Program (“*Program Rules*”). The Program Rules shall conform to and comply with the latest guidance from the Centers for Disease Control, the Illinois Department of Health, the Illinois Department of Commerce and Economic Opportunity, and the Cook County Health Department. The Village Manager shall post the Program Rules on the Village’s website no later than Friday, May 29, 2020. Participation in the Auxiliary Outdoor Seating Area Program will be a privilege contingent on compliance with the Program Rules. Violation of the Program Rules shall be grounds for immediate termination of a food service establishment’s participation in the Program by Village staff.

B. Food service establishments that are deemed eligible to qualify to participate in the Auxiliary Outdoor Seating Area Program shall not be required to obtain an outdoor seating area license pursuant to Article III of Chapter 13.

C. Food service establishments that are deemed eligible to qualify to participate in the Auxiliary Outdoor Seating Area Program shall not be required to comply with the off-street parking requirements of the Northbrook Zoning Code (1988), as amended (“*Zoning Code*”) so long as the establishment remains in compliance with the Program Rules. Auxiliary Outdoor Seating Areas shall be permitted as temporary uses in all zoning districts in which food service establishments are allowed as permitted or special uses under the Zoning Code.

Section 3. TEMPORARY CLOSURE OF PUBLIC STREETS.

The Village Manager is hereby authorized to close or partially close Village streets adjacent to, or in close proximity of, food service establishments on a temporary basis to facilitate the Auxiliary Outdoor Seating Area Program.

Section 4. TEMPORARY LICENSES ON PUBLIC RIGHTS-OF-WAY.

The Village Manager is authorized to enter into license agreements with owners of food service establishments that seek to establish temporary seating areas on public rights-of-way including

sidewalks and closed streets in furtherance of the Auxiliary Outdoor Seating Area Program. The license agreements shall be in a form and substance acceptable to the Village Attorney.

Section 5. MODIFICATION OF ON-PREMISES LIQUOR LICENSES.

The Village President, in her capacity as the Village Liquor Commissioner, is hereby authorized to temporarily modify on-premises alcoholic beverage licenses issued to food service establishments seeking to participate in the Auxiliary Outdoor Seating Area Program to allow such licensees to serve alcoholic beverages outside of their licensed premises, so long as such service conforms with the Program Rules. Any modifications of licensed premises shall terminate at the conclusion of the Auxiliary Outdoor Seating Area Program.

Section 6. EFFECTIVE DATE; TERM.

A. This Ordinance shall be in full force and effect commencing Friday, May 29, 2020, or upon such date as Governor Pritzker issues an executive order authorizing the North Eastern Region to enter into “Phase III” of the Restore Illinois Plan, whichever is later.

B. This Ordinance shall remain in effect until the earlier of (i) the termination of the state of emergency associated with the COVID-19 pandemic by rescission of Governor Pritzker’s declaration of emergency or its lapsing without replacement; or (ii) the repeal of this Ordinance and termination of the Auxiliary Outdoor Seating Area Program by duly adopted motion of Board of Trustees.

ATTEST:

Village Clerk

Village President