

SUPPLEMENTAL ORDER
PURSUANT TO DECLARATION OF EMERGENCY
CITY OF WARRENVILLE
MAY 28, 2020

I, Mayor David Brummel, do hereby issue the following supplemental emergency order for the City of Warrenville this 28th day of May, 2020 (“*Supplemental Order*”).

Introduction

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 16, 2020, I issued a Declaration of Emergency pursuant to the authority granted to me by Chapter 2 of Title 4 of Warrenville City Code, as amended (“*City Code*”); Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6; Section of 11 of the Illinois Emergency Management Act, 20 ILCS 3305/11; and the home rule powers of the City, to address the health threat posed by the COVID-19 pandemic (“*Declaration*”). The Declaration granted and reserved emergency powers to the Mayor during the pendency of the civil emergency, including the right to issue additional emergency regulations and orders in furtherance of the Declaration.

On March 16, 2020, the Governor 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, and similar business establishments (“*Food and Beverage Service Establishments*”) – 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*”).

The corporate authorities of the City of Warrenville subsequently approved and extended the duration of the Declaration through and until the adjournment of the next regular, special, or emergency meeting of the corporate authorities of the City.

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 stated 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 3 of the Restore Illinois framework, the “Recovery” Phase.

Although the Governor’s Restore Illinois plan originally anticipated that Food and Beverage Service Establishments could not return to on-premises service until at least June 26, 2020 during Phase 4, the Governor has announced that Food and Beverage Service Establishments may provide limited outdoor on-premises services beginning as early as May 29, 2020 in Phase 3 (“*Outdoor Service*”) provided that Food and Beverage Service Establishments comply with guidance issued by the Illinois Department of Commerce and Economic Opportunity (“*DCEO Guidance*”).

Food and Beverage Service Establishments are of vital importance to the City both socially and economically and have been particularly adversely affected by the ongoing COVID-19 pandemic and the subsequent restrictions imposed the Executive Order.

In light of the DCEO Guidance, I have determined that it is necessary and in the best interests of the City and its residents to issue a supplemental emergency order to permit Food and Beverage Service Establishments to provide Outdoor Service and to install new or expand existing outdoor seating areas (“*Auxiliary Outdoor Seating*”) provided that the Food and Beverage Service Establishments comply with the DCEO Guidance and the conditions set forth in this Supplemental Order (“*Auxiliary Outdoor Seating Area Program*”).

In order to facilitate the safe and orderly recovery of the City’s business community from the COVID-19 pandemic, and to further protect the residents of the City from disease and death, and pursuant to the authority set forth in the Declaration; Sections 11-1-6 and 11-20-5 of the Illinois Municipal Code, 65 ILCS 5/11-1- 6, 11-20-5; and Section 11 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/11, I find that it is necessary to issue a supplemental emergency order as set forth below.

Nothing in the supplemental order shall modify or limit the actions and authority previously established by the Declaration.

Supplemental Order

I hereby direct and order as follows:

1. Administration of Program; Waiver of Certain Requirements.
 - a. The City Administrator, or his designee, is hereby authorized to modify as necessary, publicize, develop the necessary legal instruments and administer the qualifications, rules, and procedures for Food and Beverage Service Establishments seeking to participate in the Auxiliary Outdoor Seating Area Program (“*Program Rules*”), which Program Rules shall be substantially in the form attached to and, by this reference, made a part of this Supplemental Order as Exhibit A, and in a final form approved by the City Administrator. 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 business’s participation in the Program.
 - b. Food and Beverage Service Establishments that are eligible and desire to participate in the Auxiliary Outdoor Seating Area Program must obtain a Temporary Use Permit. The Zoning Administrator is authorized to issue Temporary Use Permits, with appropriate conditions, to Food and Beverage Service Establishments that comply with the Program Rules.

- c. All normal and customary City fees shall be and are hereby waived for Temporary Use Permits, license agreements, signs and liquor license modifications issued and allowed under the Auxiliary Outdoor Seating Area Program.
- d. City staff is authorized to not necessarily strictly enforce the requirements of the Warrenville Zoning Ordinance, Warrenville City Code, and Sign Ordinance of the City of Warrenville applicable to Outdoor Service and Auxiliary Outdoor Seating so long as the Food and Beverage Service Establishment remains in compliance with the Program Rules and holds a valid Temporary Use Permit.

2. Temporary Licenses on Public Rights-of-Way. The City Administrator is authorized to enter into license agreements with owners of Food and Beverage Service Establishments that seek to establish Auxiliary Outdoor Seating areas on public rights-of-way including sidewalks and other publicly owned property in furtherance of the Auxiliary Outdoor Seating Area Program. The license agreements shall be in the form prepared by the City Attorney.

3. Temporary Modifications to On-Premises Liquor Licenses. In my capacity as the Local Liquor Control Commissioner, I hereby modify the on-premises liquor licenses issued to a Food and Beverage Service Establishment to allow such licensees to serve alcoholic beverages within the approved Auxiliary Outdoor Seating area on the condition that the Food and Beverage Service Establishment participates in the Auxiliary Outdoor Seating Area Program, obtains a Temporary Use Permit, and remains in compliance with the Program Rules.

4. Effective Date; Term.

- a. This Supplemental Order shall take effect on Friday, May 29, 2020, or upon such date as Governor Pritzker issues an executive order authorizing the North Eastern Region to enter into Phase 3 of the Restore Illinois Plan, whichever is later.
- b. This Supplemental Order 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; (ii) the Declaration, this Supplemental Order, or the Auxiliary Outdoor Seating Area Program are terminated or superseded by a majority vote of the corporate authorities; or (iii) 120 days.

[Signature and Acknowledgement on Following Page]

SIGNED AND SEALED with the official seal of the City of Warrenville on this 28th day of May, 2020.

By:

David L. Brummel
Mayor
City of Warrenville



City Seal

STATE OF ILLINOIS)
) SS.
COUNTY OF DuPage)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that David L. Brummel, the Mayor of the City of Warrenville, personally known to me, appeared before me, under oath, this day in person and acknowledged that in such capacity he signed and delivered the said instrument, as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28th day of May, 2020.



NOTARY PUBLIC

EXHIBIT A
Auxiliary Outdoor Seating Area Program Rules

In conjunction with State orders prohibiting or restricting indoor food and beverage consumption, the City of Warrenville has created a temporary program to allow food and beverage establishments to install and operate temporary outdoor seating adjacent to their businesses to replace lost indoor seating (“Auxiliary Seating Area”). The intent of the program is to allow for greater physical distancing and safety for employees and patrons. This program could include expansion into designated outdoor areas such as adjacent parking lots, walkways, lawns and public street right’s of way. This temporary program will 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; (ii) the repeal of this Ordinance and termination of the Auxiliary Outdoor Seating Area Program by duly adopted motion of City Council; or (iii) 120 days. The City Council may reevaluate the program and extend or terminate it at any time.

During this time period applicable City regulations regarding parking, site plan, signage, use of the City right of way, and alcohol service may not be strictly enforced if the business is operating in accordance with State regulations, these Program Rules and the approved auxiliary outdoor seating plan, and holds a valid Temporary Use Permit.

Restaurants and Liquor Serving Establishments that wish to temporarily open new, or expand existing, outdoor seating shall abide by the following rules:

General Rules

1. Auxiliary Seating Area shall be auxiliary to the business conducted on premises.
2. Auxiliary Seating Area hours of operation shall not exceed normal hours of operation for the business.
3. The Auxiliary Seating Area must be functionally adjacent or contiguous to the business.
4. Outdoor trash receptacles shall be provided and maintained.
5. Auxiliary Seating Area shall not have a negative impact on neighbors.
6. Temporary tents over 120 square feet in area may be installed for Auxiliary Seating Areas only pursuant to a Building Permit issued by the City.
7. Permanent plumbing, electrical, and lighting fixtures shall not be installed.
8. All businesses wishing to operate an Auxiliary Seating Area must obtain a Temporary Use Permit from the City (see the temporary use permit requirements below).

Auxiliary Seating Area Location

1. Sidewalks may be utilized provided there is still sufficient sidewalk width for pedestrian, including wheelchair, traffic on the remaining portion of the sidewalk.

2. If off-street parking is used for the Auxiliary Seating Area, a sufficient number of parking spaces, including ADA spaces, shall be preserved for employee and customer use. A temporary physical barrier shall separate the Auxiliary Seating Area from the rest of the parking lot.
3. Temporary barriers delineating the Auxiliary Seating Area do not require additional permitting so long as the temporary barriers do not pose a safety hazard to occupants. No permanent barriers may be installed without proper City permits.
4. Ensure preserved parking stalls and access aisles/routes remain open and accessible.
5. Businesses that do not own their parking lot or other outdoor areas must secure written approval from the property owner or property manager to using the area as an Auxiliary Seating Area.
6. Businesses within a multi-tenant shopping building/plaza must secure approval from the property manager/owner prior to installing an Auxiliary Outdoor Area on common parking, pedestrian walkways, or lawn areas.
7. Public property, including public sidewalks, parking areas, or other City-owned right-of-way may not be used for Auxiliary Seating Areas unless and until the business owner (i) enters into a Temporary License Agreement, in a form provided by the City, and (ii) provides the City with certificate of insurance naming the City as an additional noncontributory primary insured with limits not less than \$1,000,000.

Temporary Use Permit Requirements

1. A Temporary Use Permit is required for all Auxiliary Seating Areas installed and operated under this program. Temporary Use Permits may be approved with conditions by the City Zoning Administrator. There is no fee for such permit.
2. A Site Plan illustrating the proposed location and layout with dimensions, and all temporary improvements (barriers, fencing, signs, etc), if any, shall be submitted with the Temporary Use Permit application.
3. The City's Zoning Administrator may impose additional conditions after the Temporary Use Permit is issued, if parking, noise, or other issues arise.
4. City Zoning Administrator reserves a right to revoke a Temporary Use Permit if the permit holder consistently violates conditions of an approved Temporary Use Permit or otherwise operates the Auxiliary Seating Area in violation of the Program Rules.
5. The approved Temporary Use Permit shall be displayed in a location visible from the exterior of the business.
6. Upon expiration of the existing State orders restricting indoor seating capacity or upon a State order allowing 100% indoor capacity, the Temporary Use Permit shall automatically terminate, the use of Auxiliary Seating Areas shall cease, barriers placed therein shall be removed, and all areas used for Auxiliary Seating Areas shall be returned to their original use.

Proceed at Your Own Risk Agreement

1. Each business must execute a City of Warrenville “Proceed at Your Own Risk Agreement” before installing and operating Auxiliary Seating Areas authorized under a City approved Temporary Use Permit.

Liquor License

The City’s Liquor Commissioner has temporarily modified all liquor licenses for the duration of the Auxiliary Seating Area Program to allow the service of alcohol in Auxiliary Outdoor Seating Areas provided such Auxiliary Seating Areas are installed and operated pursuant to a valid Temporary Use Permit and in compliance with the Program Rules, the conditions of the Temporary Use Permit, and following additional conditions:

- a. Follow all liquor service laws and best practices.
- b. Ensure that there is adequate control of the outdoor service area including any existing outdoor service area and the Auxiliary Seating Area so that customers are not leaving the designated premises with open containers. Post signage indicating “No Alcohol Beyond this Point”. Barriers need not be physical if they provide adequate information to the customer that it is the end point of the service area.

Fire Safety

1. Fire Hydrants and Fire Lanes (20 feet in width) cannot be blocked. Existing Fire Lanes shall be protected utilizing cones or tape so as to not obstruct emergency access
2. Propane fueled patio heaters shall not be closer than 10’ to any entrance / exit of any structure.
3. Heaters of any kind shall not be used under tents or umbrellas.
4. Smoking is prohibited in all Auxiliary Seating Areas.
5. Extension cords must be removed each night.

Signage

1. Up to two temporary signs shall be allowed in conjunction with and for the duration of a valid Temporary Use Permit for an Auxiliary Seating Area, provided such signs comply with the maximum parameters for temporary signs established in the Sign Ordinance, and directly support operation of the business utilizing the Auxiliary Seating Area.
2. Parking lot regulation signs (i.e., advertising curbside pickup, delivery, now open) up to nine square feet shall be allowed without a permit.
3. Temporary signs shall not interfere with traffic, must be properly secured and well maintained (not tattered or flapping).

Public health and social distancing

1. Comply with protocols and guidelines issued by the Illinois Department of Public Health, Centers for Disease Control, DuPage County Health Department or other official authority. Follow updated guidance as it is released.

2. Adequate safeguards shall be in place for safety, security, crowd control, lighting control and the protection of minors.
3. Restrooms shall to be provided as required by the State of Illinois Plumbing Code.

Resources

Temporary Use Permit for Auxiliary Outdoor Seating

Temporary License Agreement

Proceed at Your Own Risk Agreement

Apply for City Building Permit to install a Tent:

<https://www.warrenville.il.us/FormCenter/Community-Development-Building-6/Building-Permit-Application-47>

City of Warrenville Liquor License Questions: Diana Herrera 630-836-3050 or dherrera@warrenville.il.us

Illinois Department of Commerce & Economic Opportunity:
<https://dceocovid19resources.com/for-businesses>

Illinois Department of Public Health: www.dph.illinois.gov

DuPage County Health Department: www.dupagehealth.org