



**AGENDA ITEM EXECUTIVE SUMMARY**

**Agenda Item Number: IIC3**

**Title:**

Motion to approve an Ordinance Amending the Temporary Outdoor Dining Program for Private Property

**Presenter:**

Rita Tungare, Director of Community and Economic Development

**Meeting:** City Council

**Date:** January 19, 2021

Proposed Cost: \$0

Budgeted Amount: \$0

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

At the January 11 Planning & Development Committee meeting, the Committee recommended extending the Temporary Outdoor Dining Program for Private Property through December 31, 2021.

The Committee also recommended updating the program guidelines for private property to prohibit amplified sound in outdoor dining areas due to several noise complaints recently received by the St. Charles Police Department. The following language has been added to the program guidelines for private property to address these concerns:

- 12. No amplified sound is permitted in temporary outdoor dining areas on private property. Only acoustic live music is permitted unless a special event permit has been secured to include amplified sound/live entertainment.

The Planning & Development Committee unanimously recommended approval of the ordinance on January 11, 2021.

**Attachments** *(please list):*

Ordinance Amending the Temporary Outdoor Dining Program for Private Property

**Recommendation/Suggested Action** *(briefly explain):*

Motion to approve an Ordinance Amending the Temporary Outdoor Dining Program for Private Property

**City of St. Charles, IL**  
**Ordinance No. 2020-M- \_\_\_\_\_**

**An Ordinance Amending the Temporary Outdoor Dining  
Program for Private Property**

**WHEREAS**, COVID-19 (a/k/a Novel Coronavirus) is a severe respiratory illness caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a threat to the health and safety of the residents of the City of St. Charles; and,

**WHEREAS**, on January 27, 2020, United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency due to COVID-19; and,

**WHEREAS**, on March 9, 2020, Illinois Governor J.B. Pritzker issued a Gubernatorial Disaster Proclamation declaring that all counties in the State of Illinois, including Kane and DuPage Counties, are disaster areas due to the Novel Coronavirus; and

**WHEREAS**, on March 11, 2020, the World Health Organization (“WHO”) declared COVID-19 to be a global pandemic; and

**WHEREAS**, on March 13, 2020, President of the United States Donald Trump issued a declaration of a national emergency due to the growing COVID-19 crisis in the United States, and on March 26, 2020, President Trump issued a major disaster declaration for the State of Illinois due to the COVID-19 crisis; and

**WHEREAS**, on March 18, 2020, Raymond P. Rogina, as Mayor of the City of St. Charles (“City”) issued a Declaration of a Local State of Emergency for the City to address the impact of COVID-19 on the City and its residents and businesses and property owners (“Emergency Declaration”); and

**WHEREAS**, the Illinois Governor has established a five-phase plan, Restore Illinois, dated May 5, 2020, for the reopening of the State; and

**WHEREAS**, though the threat from COVID-19 to the public health, safety and welfare continues, the Restore Illinois Plan acknowledges the need to allow local and State economies to begin to recover economically to minimize and reverse the adverse economic, social and psychological effects of Phases 1 (Rapid Spread) and 2 (Flattening the Curve) of the Plan; and

**WHEREAS**, all regions of the Restore Illinois Plan, including the Northeast Region in which the City is located, advanced to Phase 3 on May 29, 2020 which allowed outdoor dining to reopen with social distancing and safety measures in place; and

**WHEREAS**, pursuant to the Mayor’s Executive Order issued on May 28, 2020, the City issued permits allowing temporary outdoor dining areas; and

**WHEREAS**, Region 8, in which the City is located, advanced to Phase 4 on June 26, 2020, which has allowed indoor dining, amongst other businesses, to resume operations with social distancing and safety measures in place; and

**WHEREAS**, June 29, 2020, the City Council approved Ordinance #2020-M-26, "Establishing a Temporary Outdoor Dining Program" which extended the permits previously issued under the Mayor's Executive Order until October 31, 2020; and

**WHEREAS**, on October 5, 2020, the City Council approved Ordinance #2020-M-39 "Amending the Temporary Outdoor Dining Program for Private Property" which extended the permits previously issued through Phase 4 of the Restore Illinois Plan; and,

**WHEREAS**, suspension and relaxation of the local zoning and other ordinances and rules to encourage and expand the ability of restaurants and bars to offer the outdoor consumption of food and drinks during the period of recovery would be in the best interests of the City; and

**WHEREAS**, the City Council finds it reasonably necessary to continue and extend the Temporary Outdoor Dining Program to allow restaurants additional outdoor dining space on private property to focus on recovery from the past months of reduced operations and income.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS**, as follows:

A. The recitals set forth above are adopted and incorporated herein as the material and significant findings of the Council.

B. An Amended Temporary Outdoor Dining Program for Private Property, attached hereto as Exhibit "A" is hereby established.

C. The Temporary Outdoor Dining Program for Private Property shall be effective through December 31, 2021, unless extended by the City Council. After termination of the program, use of temporary outdoor dining areas authorized through the program shall cease, barriers and all other improvements placed therein shall be removed, and all areas used for temporary outdoor dining shall be returned to their original use within 48 hours of the termination date.

D. This Ordinance is effective immediately and shall cease by its own terms provided herein.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 19<sup>th</sup> day of January 2021.

PASSED by the City Council of the City of St. Charles, Illinois, this 19<sup>th</sup> day of January 2021.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 19<sup>th</sup> day of January 2021.

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Raymond P. Rogina, Mayor

ATTEST:

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City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:



## Exhibit A

### Temporary Outdoor Dining Program Program Guidelines for Private Property

Updated January 14, 2021

- A. Establishments that are allowed to reopen for outdoor dining with social distancing and safety measures, as allowed by the Restore Illinois Plan, that have existing outdoor areas for the consumption of food and drinking wanting to expand their current outdoor dining area and establishments seeking to temporarily add outdoor dining areas shall abide by the following:
1. Establishments must apply for a temporary outdoor dining permit from the City (attached at the end of this document). There shall be no fee for the permit.
    - a. The permit application shall include an aerial drawing that shows the existing outdoor dining area (if any) in a dotted line and the proposed new dining area in a solid line. Also:
      - i. If the proposed new dining area encroaches upon an existing parking area, the applicant should indicate on the drawing how traffic will flow if the request is approved.
      - ii. Parking lots over 25 stalls: Up to 50% of the parking area may be used for outdoor dining. Parking will need to be preserved to adequately serve the outdoor dining area and carry-out activities. ADA parking spaces shall not be blocked and access to/from those spaces shall not be impeded.
      - iii. Parking lots under 25 stalls: Small parking lots may convert the entire lot to outdoor dining, including ADA stalls, provided that effort is made to relocate the ADA stalls near the entrance using street parking where possible.
      - iv. If there is to be a covering over the new dining area, please indicate that on the drawing. The manufacturers guidelines for installation, all City code requirements, and flame spread requirements must be followed. A tent permit and inspection may be required (see Section A (13)).
      - v. Sidewalks may be utilized for outdoor dining provided there is still means for ADA compliant pedestrian traffic on the remaining portion of the sidewalk.
    - b. Applicants must demonstrate that they are the owner of the property on which the new outdoor dining space is to be located, if the applicant is not the owner of the property, the application must include the signature of the owner acknowledging that they will permit the creation or expansion of the outdoor dining area as indicated on the drawing provided as part of the permit application submitted by the requestor.

- c. Businesses shall not set up any expanded outdoor dining prior to being notified of approval.
  - d. Any indemnification or insurance shall be provided as required by the City.
2. Establishments shall comply with protocols or guidelines issued by the Illinois Department of Public Health, Centers for Disease Control or other official authority.
3. Establishments shall comply with the City's outdoor liquor license provisions.
4. A physical barrier shall delineate all outdoor dining areas and shall be of sufficient size and design as to deter the unintentional encroachment of vehicles into the dining area.
5. If ample lighting is provided, the outdoor dining area shall close no later than as permitted under the Applicant's current liquor license in conjunction with indoor dining and drinking, as issued by the City.
6. The temporary outdoor dining area shall be accessible to the disabled and shall comply with all applicable federal, state and City laws, ordinances and regulations concerning accessibility and non-discrimination in the providing of services.
7. Establishments may not expand outdoor dining in front of neighboring businesses without written permission from the neighboring business/property owner.
8. No permanent plumbing, electrical and lighting fixtures shall be installed.
9. Any temporary lighting shall be directed in a manner to not impair visibility on nearby streets and not shine onto adjacent properties.
10. Smoking in the outdoor dining area is prohibited.
11. Tables shall be placed to allow for a minimum of 6-foot separation (blocking tables is allowed). Public seating and eating areas shall be reduced and/or reconfigured to allow for minimum separation of 6 feet.
12. No amplified sound is permitted in temporary outdoor dining areas on private property. Only acoustic live music is permitted unless a special event permit has been secured to include amplified sound/live entertainment.
13. Tent canopies and enclosed tents are permitted on private property, but any existing or proposed tent that is either a) over 400 square feet in size, or b) includes tent side walls, shall require a separate tent permit to be submitted and approved by the City. Unless otherwise determined by the Illinois Department of Public Health, tent canopies with 50% or more of side walls down shall be considered enclosed for indoor dining and their use shall be subject to the Department of Health Regulations for indoor dining. If the Illinois Department of Public Health implements mitigation efforts, reverts the Region back to Phase 3, or takes any other action which prohibits indoor dining, then use of enclosed tents shall be prohibited.
14. Adequate safeguards shall be in place for security, crowd control, lighting control and the protection of minors.
15. Bar areas are prohibited in an expanded outdoor dining area.

16. Outdoor trash receptacles shall be provided and maintained and the outdoor dining area shall be kept free from litter and debris.
17. No liquor shall be removed in open containers from the outdoor dining area.
18. Incorporation of landscaping is encouraged to enhance ambiance and improve the aesthetics of the outdoor dining area.

B. Applicant shall be required to abide by all other requirements of the Governor's Executive Orders and the requirements of the CDC, Illinois Department of Public Health, the Kane County Health Department, City of St Charles Municipal Code, and the Illinois Liquor Control Act. Failure to abide by any of these requirements may result in revocation of the temporary outdoor dining permit.