
THE VILLAGE OF BLOOMINGDALE
DUPAGE COUNTY, ILLINOIS

ORDINANCE
NUMBER 2023-21

**AN ORDINANCE
PROVIDING AN EXTENSION OF TEMPORARY RELIEF
RELATED TO OUTDOOR DINING FOR RESTAURANTS,
BARS AND VARIOUS OTHER ESTABLISHMENTS
PROVIDING FOOD AND/OR BEVERAGE SERVICE,
FROM VILLAGE CODE OF ORDINANCES
DUE TO COVID-19**

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Village Board

Published in pamphlet form by authority of the
President and the Board of Trustees of the Village of Bloomingdale
on this the 24th day of April, 2023

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FOR RESTAURANTS, BARS AND VARIOUS OTHER
ESTABLISHMENTS PROVIDING FOOD AND/OR
BEVERAGE SERVICE, FROM
VILLAGE CODE OF ORDINANCES
DUE TO COVID-19**

WHEREAS, the Village of Bloomingdale, DuPage County, Illinois is a home rule unit of local government, and as such may exercise any power and perform any function pertaining to its government and affairs, except as limited by Article VII, Section 6 of the 1970 Illinois Constitution;

WHEREAS, the Illinois Constitution of 1970 provides that a Home Rule Unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license, to tax; and to incur debt;

WHEREAS, the Village has in full force and effect a codified set of those ordinances of the Village which are of a general and permanent nature, which said codified set is known and designated as the Village Code of the Village of Bloomingdale, as amended;

WHEREAS, on January 31, 2020, the Secretary of Health and Human Services (“HHS”) declared a public health emergency for the entire United States of America concerning COVID-19; on March 9, 2020, Governor Pritzker issued a disaster proclamation concerning the spread of COVID-19 in Illinois; on March 11, 2020, the World Health Organization (“WHO”) declared that the spread of COVID-19 is a global pandemic; on March 13, 2020 President Trump declared a national emergency concerning the COVID-19 pandemic; on March 15, 2020 DuPage County Board Chairman Cronin issued a disaster proclamation concerning the spread of COVID-19 in DuPage County; and on March 20, 2020 Governor Pritzker issued an order for all Illinois residents to “shelter in place”;

WHEREAS, Governor Pritzker has issued various Executive Orders providing for the closure of all non-essential businesses throughout the State of Illinois, including but not limited to restaurants, bars and various other establishments that provide food and/or beverage service (collectively the "Establishments");

WHEREAS, on March 23, 2020 the Village of Bloomingdale issued Resolution 2020-R-05, approving a Declaration of Emergency in response to COVID-19;

WHEREAS, on or about May 6, 2020 Governor Pritzker introduced the ReOpen Illinois Plan which provides for the opening of the Illinois economy in various stages and/or phases pursuant to certain metrics as designated and defined by the Illinois Department of Public Health and the Illinois Department of Commerce and Economic Opportunity;

WHEREAS, pursuant to said plan the Village of Bloomingdale is located within the northeastern region of the ReOpen Illinois Plan;

WHEREAS, the ReOpen Illinois Plan currently allows for indoor dining, but with certain limitations and following strict public health procedures;

WHEREAS, the Village of Bloomingdale Zoning Ordinance establishes provisions for outdoor dining, related to these Establishments. The provisions generally provide for outdoor seating for up to twenty-four (24) seats by right, with an opportunity to obtain additional outdoor seating through a special use public hearing process;

WHEREAS, on May 26, 2020, the Village of Bloomingdale Board of Trustees approved Ordinance No. 2020-13 which provided temporary relief for restaurants, bars and various other establishments providing food and/or beverage service, from the Village Code of Ordinances, due to COVID-19, until October 31, 2020 or the start of Phase 5 of the Reopen Illinois Plan;

WHEREAS, On October 26th, 2020, the State still had not yet moved to Phase 5 of the Reopen Illinois Plan, and as such the Village of Bloomingdale Board of Trustees approved Ordinance 2020-26, which extended the allowances for the same until Phase 5, or October 31st of 2021, whichever comes first;

WHEREAS, on June 11, 2021 the State has announced the official transition into Phase 5 of the Reopen Illinois Plan which would effectively terminate the temporary outdoor dining relief previously granted by Ordinance No. 2020-13 and further extended by Ordinance No. 2020-26;

WHEREAS, in response to the State's June 11, 2021 announcements, the Corporate Authorities approved Ordinance 2021-21 which solidified the extension of relief provided for in Ordinance No. 2020-13 and 2020-26 through October 31, 2021 despite the State's formal transition into Phase 5 in recognizing that the Establishments have been severely impacted as a result of COVID-19 and it is unlikely everyone would be comfortable immediately making the transition back to indoor dining;

WHEREAS, in accordance with Executive Order 2022-12 (COVID-19 Executive Order No. 105), and on April 29, 2022, the State declared all counties in the State of Illinois as a disaster area considering the expected continuing spread of COVID-19 and the ongoing health and economic impacts that that will be felt over the coming month by people across the State, and in doing so, re-issued and extended all previous Executive Orders related to COVID-19 and the relief and/or restrictions provided for therein;

WHEREAS, on June 13, 2022 the Corporate Authorities adopted Ordinance No. 2022-27 which extended Ordinance Nos. 2020-13, 2020-26, and 2021-21 which allowed for the temporary suspension of Village of Bloomingdale Zoning Code provisions that would otherwise prevent outdoor seating to continue to continue to assist local establishments;

WHEREAS, on March 31, 2023 Governor Pritzker issued Executive Order 2023-06 (COVID-19 Executive Order No. 119) which continued to find the existence of a public health emergency and reissued and extended previous executive orders relating to relief from certain legal requirements to mitigate and prevent the further spread of COVID-19;

WHEREAS, in consideration of the State's Executive Order 2023-06, and due to the level of effectiveness that the temporary relief for outdoor dining had on local Establishments, the Corporate Authorities desire to continue to assist local Establishments during these

unprecedented times and allow for the extension of Ordinance Nos. 2020-13, 2020-26, 2021-21, and 2022-27 which allowed the temporary suspension of Village of Bloomingdale Zoning Code provisions that would otherwise prevent the requested outdoor seating despite the States transition into Phase 5 of the Reopen Illinois Plan;

WHEREAS, the Corporate Authorities further understand that this is an ever-changing fluid situation and further desire to grant administrative staff the authority within the defined time period to further implement rules, regulations and guidelines in furtherance of the spirit of this ordinance and Governor Pritzker's Plan; and

WHEREAS, the Corporate Authorities of the Village of Bloomingdale are of the opinion that it is in the best interests of the health, welfare and safety of the residents of the Village of Bloomingdale to provide the temporary relief from the Village of Bloomingdale Code of Ordinances as provided for herein.

NOW, THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Bloomingdale, DuPage County, Illinois pursuant to the Village of Bloomingdale's "Home Rule Powers" as follows:

Section One – Recitals

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to this ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this ordinance as legislative findings.

Section Two – Extension of Ordinance 2022-27, which provided for a Temporary Suspension of Zoning Code Provisions / Outdoor Seating

The Corporate Authorities hereby extend the regulations that were adopted in Ordinance No. 2022-27, as follows:

- a) The Village of Bloomingdale Zoning Code, pertaining to outdoor seating shall be suspended and allow for Establishments to request the ability to allow for designated, temporary outdoor seating pursuant to Governor's Pritzker's

Executive Order and related guidelines issued by the Illinois Department of Public Health, the Illinois Department of Commerce and Economic Opportunity and the DuPage County Department of Public Health.

- b) All outdoor seating areas that would not otherwise comply with the Village's existing regulations and/or were not previously approved pursuant to Village of Bloomingdale's Zoning Code, shall be required to seek permission from the Village of Bloomingdale. The Director of Community and Economic Development, or his designee, shall have sole and absolute authority to issue temporary permitting pursuant to any rules, guidelines or regulations that may be developed at any point in time during this temporary period.
- c) Any Establishment using Village owned property or right-of way, must first execute a hold harmless agreement, adding the Village as an additional insured on the establishment's insurance policy.
- d) Any Establishment looking to operate any outdoor seating or dining during inclement/colder weather, utilizing a heat source for warming, shall first contact the Village of Bloomingdale Building and Zoning Department, to gain approval from all necessary agencies, which includes, but may not be limited to, the Village of Bloomingdale and the Bloomingdale Fire Protection District;

Section Three –Consumption of Liquor on Premises

The Village of Bloomingdale Code of Ordinances pertaining to the service of alcohol in the designated temporary dining areas shall be suspended and allow for those restaurants or bars that currently possess a valid Illinois State and Village of Bloomingdale liquor license to serve liquor pursuant to the requirements and restrictions of the respective class of liquor license; and to serve liquor in the designated area pursuant to any and all additional restrictions, rules and guidelines as developed by the Bloomingdale Liquor Commissioner during this temporary period.

Section Four – Home Rule Preemption

This ordinance represents an exercise of the home rule powers conferred upon the Village of Bloomingdale by the Constitution of the State of Illinois. This ordinance is specifically intended to preempt state law pertaining to the extent permitted under the Constitution of the State of Illinois.

Section Five – Effective Date:

This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Section Six – Termination of Ordinance

The provisions of this ordinance shall automatically terminate on October 31, 2023 unless extended by the Board of Trustees at an open meeting assembled prior to the October 31, 2023 date.

Section Seven – Violation of Conditions

Any violation of any term, condition or intent stated in this ordinance or of any applicable code, ordinance, or regulation of the Village of Bloomingdale intended to authorize expanded outdoor seating provisions, shall be grounds for rescission by the Board of Trustees of any Temporary Land Use granted to the Establishment and render any approvals void ab initio.

Section Seven - Publication

This ordinance shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

Section Eight - Conflict Clause

That all ordinances or parts of ordinances in conflict with the terms of this ordinance shall be repealed to the extent of said conflict.

Section Nine – Saving Clause

If any section, paragraph, clause or provision of this ordinance is declared by a court of law to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the

validity of the remaining provisions of the Village's Municipal Code, which are hereby declared to be separable.

Section Ten - Recording

This ordinance shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Bloomingdale.

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DECIDED pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Vince Ackerman	X			
William Belmonte	X			
Bill Bolen	X			
Frank Bucaro			X	
Patrick Shannon	X			
Judi Von Huben	X			
Franco A. Coladipietro (if necessary)				
TOTAL	5	0	1	

PASSED AND APPROVED by the Village of Bloomingdale Board of Trustees on the 24th day of April, 2023.



Franco A. Coladipietro
Village President

ATTEST:



Pamela S. Hager
Village Clerk