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**THE VILLAGE OF BLOOMINGDALE**

DUPAGE COUNTY, ILLINOIS

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**ORDINANCE**

NUMBER 2020-13

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**AN ORDINANCE  
PROVIDING TEMPORARY RELIEF 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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FRANCO A. COLADIPIETRO, Mayor  
JANE E. MICHELOTTI, Village Clerk

VINCE ACKERMAN  
WILLIAM BELMONTE  
BILL BOLEN  
FRANK BUCARO  
PATRICK SHANNON  
JUDI VON HUBEN

Village Board

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Published in pamphlet form by authority of the  
President and the Board of Trustees of the Village of Bloomingdale  
on this the 26th day of May, 2020

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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 which is set to move to Phase 3 on or about May 29, 2020;

**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**, Phase 3 of the ReOpen Illinois Plan does not provide for indoor dining, but allows for Establishments to utilize outdoor seating, many of which currently do not have access to or local permission to utilize designated areas for outdoor seating;

**WHEREAS**, the Corporate Authorities recognize that the Establishments, have been severely impacted and struggle to remain in business as a result of COVID-19 and without the ability to utilize additional outdoor seating will be unable to reopen and further contribute to the Illinois economy;

**WHEREAS**, the Corporate Authorities desire to assist local Establishments, during these unprecedented times and all for the temporary suspension of Village of Bloomingdale Zoning Code provisions that would otherwise prevent the requested outdoor seating;

**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 – Temporary Suspension of Zoning Code Provisions / Outdoor Seating**

- 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.

### **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 first to occur: (i) the start of Phase 5 of the Reopen Illinois Plan; or (ii) October 31, 2020 unless extended by the Board of Trustees at an open meeting assembled prior to the October 31, 2020 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			X
William Belmonte	X			X
Bill Bolen	X			X
Frank Bucaro	X			X
Patrick Shannon	X			X
Judi Von Huben	X			X
Franco A. Coladipietro (if necessary)				X
<b>TOTAL</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>7</b>

**PASSED AND APPROVED** by the Village of Bloomingdale Board of Trustees on the 26th day of May, 2020.

  
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Franco A. Coladipietro  
Village President

ATTEST:

  
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Jarie E. Michelotti  
Village Clerk