



# WAUKEGAN

City of Progress *Illinois*

Sam Cunningham, Mayor  
Janet E. Kilkelly, City Clerk  
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Office of the Mayor

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May 29, 2020 **MAY 29 2020**

Waukegan Emergency Order  
2020-EO-23

WAUKEGAN CITY CLERK  
JANET E. KILKELLY

## CITY OF WAUKEGAN, ILLINOIS

### MAYORAL EMERGENCY ORDER REPEALING AND REPLACING 2020-EO-22 ALLOWING LIMITED OUTDOOR REOPENING OF RESTAURANTS AND TAVERNS

**WHEREAS**, On April 30, 2020, the Governor of the State of Illinois issued a Gubernatorial Disaster Proclamation with respect to the ongoing spread of COVID-19; and

**WHEREAS**, as the Local Liquor Commissioner, the Mayor has the authority to adopt rules or regulations related to the retail sale of alcoholic liquor within the corporate boundaries of the City of Waukegan; and

**WHEREAS**, Executive Order 2020-07 (Extended through Executive Order 2020-033, and in conjunction with Executive Order 2020-32) issued by Governor JB Pritzker ordered the suspension of on-premises consumption of food or beverages through May 29, 2020; and

**WHEREAS**, although the suspension of on-premises consumption of food and beverages is temporary, it is unprecedented and has presented a hardship for local restaurants in the City of Waukegan; and

**WHEREAS**, Executive Order 2020-07, allows for food and beverages to be sold by delivery, third-party delivery, drive-through, and curbside pick-up to be consumed off-premises; and

**WHEREAS**, the City of Waukegan, Illinois Code of Ordinances currently does not allow, or partially limits, restaurants with liquor licenses (Class A, Class E, and Class P) to sell alcohol including wine, beer, or mixed alcoholic drinks (mixed cocktail) to be consumed off-premises; and

**WHEREAS**, in order to assist local bars, restaurants and businesses on a short term basis and to provide some relief to the economic challenges of this Pandemic, while still protecting the health and safety of the City's residents, I find that in the best interest of the City for liquor licensees that in addition to the sale of packaged beer and wine for customer's home delivery or pick-up with a meal or food order to be consumed at the customer's home, a Class A, A-1, A-2, A-3, E, and P licensee be authorized to sell beer, wine, or mixed alcoholic drink in an open container for pick-up made in conjunction with the sale and/or delivery of food or a meal to be consumed off-premises in an outdoor area adjacent to or near the establishment; and

**WHEREAS**, on May 21, 2020, I issued Mayoral Emergency Order 20-EO-22, which allowed use of adjacent premises for outdoor dining. Following further guidance from the State of Illinois, I find it necessary to modify and supplant that order to comply.



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**THEREFORE, in further exercise of the Emergency Authority granted to me, I, Samuel D. Cunningham, Jr., Mayor of the City of Waukegan DO HEREBY ORDER as follows:**

SECTION ONE. Mayoral Emergency Order 20-EO-22 is hereby repealed in its entirety, and this Order shall supplant it in all respects.

SECTION TWO. PHASES 3 and 4.

During “Phase 3” and “Phase 4” of the “Restore Illinois Plan” and the associated Executive Orders of the Governor of the State of Illinois, the following modifications to the City of Waukegan’s Liquor Ordinances (Chapter 3 of the Code of Ordinances) shall be permitted:

- 1) A Class A, A-1, A-2, A-3, E, or P licensee shall be authorized to commence or continue the sale of packaged in its original sealed container, beer and wine only, for delivery or pick-up with a meal or food order to be consumed at the customer’s home.
- 2) A Class A-3 “Craft Brewery” licensee shall be authorized to continue the sale of “growlers,” “crowlers,” or “howlers” as permitted by City Code and state law, by curbside pickup only, and only for consumption at a customer’s home.
- 3) Beginning not earlier than 12:01PM on May 29, 2020, a Class A, A-1, A-2, A-3, E, or P licensee shall be authorized to sell beer, wine, or mixed alcoholic drink for pick-up made in conjunction with the sale and/or delivery of food or a meal to be consumed on-premises only in an outdoor area adjacent to or near the establishment. Sales made under this section and consumption in the outdoor area may only occur between the hours of 7:00am and 10:00pm daily.
- 4) All sale of such alcoholic drink must be to a person to a person at least 21 years of age, and must be a sale that is in conjunction with the sale of food or meal.
- 5) The outdoor area considered to be “on-premises” for the purposes of the liquor license issued, and for Paragraph 3, *supra*, and shall include existing outdoor dining or a temporarily expanded outdoor dining area by using other business-owned adjacent properties such as open areas, parking spaces, or city rights-of-way, including sidewalks, with written notice to the City and **City approval**, and with authorization from the property owner or other areas. Such use shall require a signed hold-harmless agreement and proof of insurance to be filed with the City, on the owners policies naming the City as an additional insured.
- 6) In an outdoor area, the licensee shall abide by the following restrictions:
  - (a) Smoking is prohibited.



- (b) Tables shall be spaced to allow for a minimum of 6-foot separation (blocking tables is allowed). Public seating and eating areas shall be reduced, or otherwise reconfigured to allow for minimum separation of 6 feet.
- (c) The outdoor dining area shall not disturb the lawful use and quiet enjoyment of nearby tenants, property owners or occupants.  
Outdoor dining areas shall be open (e.g., no side walls) but may utilize awnings or other top coverings that meet minimum City guidelines, provided that a Tent Permit is issued by the City's Fire Marshall pursuant to the Life Safety Codes. Tent Permit application fees will be waived for the duration of this Order.
- (d) Tent Permits applied for under, or issued under, this Order, or under 20-EO-22, shall have their application and permit fees waived until this order is supplanted, suspended, revoked, or expires. All City of Waukegan tent permits issued during this period are only valid while Order 20-EO-22 (or any successor thereto dealing with the same issues) remains in effect.
- (e) Adequate safeguards shall be in place for security, crowd control, lighting control and the protection of minors.
- (f) Bars or bar areas are prohibited, however a "server-only service bar" or "station" for closer access to liquor shall be permitted as long as the station is limited only to use by staff, and does not accept orders from the general public.
- (g) Outdoor trash receptacles shall be provided and maintained.
- (h) No liquor served in an open container shall be removed from the outdoor dining area.
- (i) Except for the use of restrooms or carrying out of take-out orders, indoor premises are closed for public use.
- (j) Masks **shall be required** for Customers/Public to enter the indoor premises (e.g., for restroom visits and picking up take-out orders).
- (k) By means of signage and/or other markings at 6-foot intervals, social distancing markers shall be placed in queue areas (e.g., restrooms and take-out order lines).
- (l) All customer-facing employees shall wear masks.
- (m) No parties larger than six (6), *including children*, shall be allowed in the outdoor area. The total number of patrons allowed at a single table shall be limited to a household unit, or patrons who have asked to be seated together. People in the same party seated at the same table do not have to be six feet (6') apart.
- (n) No party or table shall linger—their use of the outdoor area shall be limited to 90 minutes total for the consumption of food and packaged alcohol purchased from the adjacent licensed business.



- (o) Where possible, one way entrances or exits should be used, or dividers placed in entryways requiring incoming traffic to walk on only one side of entry, and outgoing on the other side.
  - (p) Sanitization and disinfection of tables, seats, booster seats, and highchairs shall be required after each use.
  - (q) Enhanced Overnight Sanitizing and Disinfecting – Restaurants shall be thoroughly cleaned during non-operating hours.
  - (r) In restrooms, every other sink and urinal shall be taped off and signage shall be posted encouraging proper hygiene.
  - (s) Sanitizing wipe packets and/or hand sanitizer shall be available at designated entrances.
  - (t) Public Notices shall be posted with these rules in substantially the same form as Exhibit A, hereto attached.
  - (u) All CDC recommendations and guidelines for restaurants shall be strictly adhered to. This guidance is available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html>
  - (v) All Lake County Health Department permits, recommendations, and guidelines for restaurants shall be strictly adhered to.
- 7) **OUTDOOR DINING (EXPANSION):** The word “restaurant” used in this Temporary Order shall mean any Class A, A-1, A-2, A-3, E, or P license holder.

Restaurants seeking to temporarily add or expand outdoor dining areas (for the duration of Phases 3 and 4 of the Reopen Illinois Plan) by using a parking lot or other outdoor areas **do not** need to submit any permit application to do so, and enforcement and application of the City’s Zoning Ordinance with respect to these Temporary Outdoor Dining uses (and required parking, etc.) is provisionally suspended. However, an outdoor dining area shall be required to abide by the following restrictions:

- (a) Restaurants may not expand outdoor dining in front of neighboring businesses without written permission from the neighboring business/property owner.
- (b) Restaurants may only utilize up to 25% of their parking lot.
- (c) If the expanded dining area is in a parking lot, a temporary physical barrier shall separate the outdoor dining area from the rest of the parking lot.
- (d) Restaurants that do not own their parking lot or other outdoor areas shall secure correspondence from the property owner or property manager granting permission to use the area for outdoor dining.



- (e) Restaurants within a strip mall, plaza, shopping center or other multi-tenant space shall secure correspondence from the property manager/owner prior to expanding outdoor dining into common parking, pedestrian or greenspace areas. These expanded dining areas must be separated by not less than ten feet (10') and shall have separate fencing barriers between them.
- (f) City owned sidewalks or rights of way may be utilized for such expanded outdoor dining spaces, provided there is still means for pedestrian traffic on the remaining portion of the sidewalk.
- (g) Unless closed to vehicular traffic, streets or on-street parking stalls, may not be utilized. However, upon a complete written application, upon forms generated by the City, and available on its website, with all necessary documentation, the Mayor may temporarily close a street, subject to City Council approval. The Mayor, before closing any street shall consult with the Police Department, and any and all necessary City Departments and other agencies, to ensure appropriate authority and traffic control mechanisms exist so as not to unnecessarily impede traffic throughout the City. Any street closed under this order shall require that all businesses utilizing such space maintain suitable aisles for emergency vehicles to transit the street (e.g. a single 18' wide clear zone).
- (h) Driveways, drive aisles, drive-throughs, or other means for traffic circulation may not be impeded or blocked.
- (i) Parking spaces designated for the handicapped are required and access to those spaces shall not be impeded.
- (j) 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.
- (k) Temporary barriers to safely delineate the seating area do not require additional permitting so long as the temporary barriers do not pose a safety hazard to occupants. Permanent barriers shall **not** be installed without proper permits.
- (l) Permanent plumbing, electrical, and lighting fixtures shall not be installed.
- (m) Any temporary lighting shall be directed in a manner to not impair visibility on nearby streets, and shall not shine into nearby residences.
- (n) Upon expiration of the existing State orders restricting capacity or upon a State order allowing 100% restaurant capacity indoors, the use of temporary outdoor dining shall cease, barriers placed therein shall be removed, and all areas used for temporary outdoor dining shall be returned to their original use.



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**SECTION THREE. PHASE 1 and PHASE 2.**

Should the State of Illinois, through its Governor, order a backslide into “Phase 1” or “Phase 2” of the Reopen Illinois Plan, Section One shall be suspended until such time as it moves back into “Phase 3” or “Phase 4”

**SECTION FOUR. ENFORCEMENT.**

Any violation of this Temporary Order, Executive Order 2020-07 as extended by Executive Order 2020-033, or any other COVID-19 related Executive Order, or any other provisions of the City’s Liquor Code, or Illinois Liquor Control Act except as provided in this Temporary Order shall be subject to fine and/or suspension or revocation of the licensee’s liquor license or business license.

In addition, the Chief of Police or his designee, is hereby designated and authorized to immediately suspend this Emergency Order with respect to a particular business if he finds that violations of the restrictions herein described exist or if violations of the City’s Emergency Orders or Governor’s Executive Orders exist to such an extent that public health or safety is being compromised. A business owner so aggrieved may appeal in writing to the Mayor for reinstatement of such use at any time thereafter, but must affirmatively show that concrete steps are being taken to avoid any repetition of such violations.

**SECTION FIVE. Any use authorized by this order shall immediately cease, or be modified for compliance, if there is a State mandate, executive order, or injunction generally preempting or revoking this order, or that is specific to the Restaurant limiting such use.**

**SECTION SIX.** This Order has been designed to revitalize the local economy in a safe and health conscious manner for its residents, and to provide relief for struggling local businesses in the wake of a crushing pandemic. As a result, the initiatives laid out in this order may need to be revised, modified, or postponed for health and safety reasons, and shall not be construed as a grant of rights or appropriate for long term land use in the City. This Order may be suspended or withdrawn at the sole discretion of the Mayor if they are abused, or if violations of Executive Orders 2020-32, -33, or any COVID-19 related executive orders or this City’s emergency orders occur (e.g. failure to wear facemasks when not actively eating/drinking, more than 10 people gathered in close proximity, social distancing otherwise not being maintained, etc.)

**SECTION SEVEN.** This Order shall become effective at 12:00 p.m. on May 29, 2020, and shall continue in effect until the City Council shall vote to lift the Declaration of Emergency or until it is rescinded, superseded, or amended in writing by the Mayor.



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SECTION EIGHT. This Order shall be promptly filed with the Clerk of the City of Waukegan, and shall be posted on the City of Waukegan's website.

SECTION NINE. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

**IT IS SO ORDERED:**

Dated this 29th day of May 2020.

MAYOR SAMUEL D. CUNNINGHAM, JR.  
City of Waukegan, Illinois Local Liquor Commissioner

ATTEST:

JANET E. KILKELLY  
Clerk, City of Waukegan, Illinois



**Exhibit A**

# PUBLIC NOTICE

Use of this “Outdoor Dining Area” is designated for the consumption of food and alcoholic beverage purchased from the adjoining business, pursuant to Mayoral Emergency Order 2020-EO-23. This use must comply with all rules and other emergency orders including:

- This area may only be open during 7:00am-10:00pm daily.
- **NO SMOKING** is permitted within the designated area.
- Lingering is not permitted, and use of the space is limited to no more than 90 minutes for the consumption of any food and beverage purchased from the adjoining business
- Proper social distancing measures are required.
- Masks shall be worn at all times when not consuming food or beverage.
- Failure to comply with these criteria, or a pattern of violations against the Governor’s Executive Orders or Mayoral Emergency Orders will result in the closure and removal of this designated area.