

**ORDINANCE NO. 2020-10**

**AN ORDINANCE AUTHORIZING AND APPROVING CERTAIN REGULATIONS RELATED TO OUTDOOR SEATING AT RESTAURANTS IN THE VILLAGE OF STICKNEY, COUNTY OF COOK, STATE OF ILLINOIS DURING PHASE III OF THE RESTORE ILLINOIS PLAN RELATED TO THE COVID-19 PANDEMIC.**

\* \* \* \* \*

**WHEREAS**, the Village of Stickney (the “Village”) is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

**WHEREAS**, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret and amend its ordinances, rules, and regulations; and

**WHEREAS**, the Village President (the “President”) and the Board of Trustees of the Village (the “Village Board” and with the President, the “Corporate Authorities”) are committed to ensuring the health, safety and welfare of individuals residing in, working in, and visiting the Village; and

**WHEREAS**, 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; and

**WHEREAS**, pursuant to the authority granted by Chapter 26 of the Village of Stickney Code of Ordinances (the “Village Code”), Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6, and Section 11 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/11 to address the health threat posed by the COVID-19 pandemic, on March 16, 2020, the Corporate Authorities approved Ordinance No. CO-2020-13 which declared a local state of emergency (the “Declaration of Emergency”) due to the Coronavirus Disease 2019 (COVID-19); and

**WHEREAS**, on March 16, 2020, Governor Pritzker 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, grocery stores, and food halls – 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 through May 29, 2020 by Executive Order No. 2020-33 (the “Executive Order”); and

**WHEREAS**, of the many businesses within the Village that have been significantly and adversely affected by the ongoing COVID-19 pandemic, restaurants have been uniquely impacted by the inability to provide on-premises services during the pandemic; and

**WHEREAS**, subsequent to the issuance of 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; and

**WHEREAS**, on May 20, 2020 Governor Pritzker announced that restaurants will be allowed to open for outdoor dining as part of Phase III of the Restore Illinois framework (the “Recovery Phase”); and

**WHEREAS**, Governor Pritzker announced that, as of May 29, 2020, all regions of the state are expected to have satisfied the criteria to allow the entire state to transition to the Recovery Phase; and

**WHEREAS**, the Recovery Phase will allow all retail businesses to resume operations subject to social distancing requirements and other best practices related to preventing the spread of COVID-19; and

**WHEREAS**, Governor Pritzker encouraged municipalities to work with restaurants in their communities to safely facilitate the reopening of the hospitality industry using outdoor seating pursuant to guidelines issued by the Illinois Department of Commerce and Economic Opportunity (the “DCEO”) configured to comply with social distancing best practices; and

**WHEREAS**, in light of the COVID-19 pandemic and its impact, Village staff reached out to the business community to investigate what steps can be taken to assist local restaurants to open for in-person outdoor dining and to keep the Village residents and its guests safe. And in light of the above, the Corporate Authorities have determined that it is in the best interests of the Village to: (a) allow restaurants to utilize portions of the public rights-of-way, including closed streets, for auxiliary outdoor seating areas pursuant to a temporary license permit; (b) authorize service or consumption of alcoholic beverages in conjunction with outdoor seating areas in the rights-of-way; (c) provide requirements and restrictions related to the same; (d) authorize the Village President to temporarily modify existing on-premises alcoholic beverage licenses to allow restaurants to serve alcohol in authorized auxiliary outdoor seating areas; and (e) to direct Village staff to prepare guidelines, procedures, and legal instruments necessary to implement the auxiliary outdoor dining permit program (collectively, the “Auxiliary Outdoor Dining Permit”); and

**WHEREAS**, the Corporate Authorities have determined that the use of public property to allow business establishments to provide outdoor seating areas will benefit the community at large with all persons having an equal right to access and use the property; and

**WHEREAS**, sole title and control of the public property used to facilitate the implementation of outdoor seating areas will remain with the Village and will not be invested in a person or corporation as private property to be used and controlled as private property; and

**WHEREAS**, in light of the above, the Corporate Authorities find that the temporary use of public property to facilitate outdoor seating constitutes a public purpose and therefore find that it is in the best interest of the Village and its residents to authorize and approve regulations related to the same which shall expire upon the North Eastern region moving up or down a phase as determined by the Restore Illinois Plan, or until this Ordinance is revoked or repealed by the Corporate Authorities, whichever happens first;

**NOW, THEREFORE, BE IT ORDAINED** by the President and the Village Board of the Village of Stickney, County of Cook, State of Illinois, as follows:

**ARTICLE I.  
IN GENERAL**

**Section 01. Incorporation Clause.**

All of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true, and correct, and the Corporate Authorities do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

**Section 02. Purpose and Term.**

The purpose of this Ordinance is to implement certain temporary regulations related to outdoor seating at certain business establishments within the Village and shall expire upon the North Eastern region moving up or down a phase as determined by the Restore Illinois Plan, or until this Ordinance is revoked or repealed by the Corporate Authorities, whichever happens first.

**Section 03. Invocation of Authority.**

This Ordinance is enacted pursuant to the authority granted to the Village by the Constitution of the State of Illinois and the Illinois Compiled Statutes.

**Section 04. State Law Adopted.**

All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this Ordinance are hereby incorporated herein by reference.

**Sections 05-09. Reserved.**

**ARTICLE II.  
OUTDOOR SEATING ON THE PUBLIC RIGHT-OF-WAY**

**Section 10. Auxiliary Outdoor Dining Permit Required; Disqualifications.**

Notwithstanding any other provision in this Code it is unlawful for any person, firm, corporation, organization or association to use the public right-of-way for outdoor seating as an extension of certain business establishments, or to provide entertainment in conjunction with such outdoor seating without obtaining an outdoor seating permit from the Village. Subject to the provisions of this Ordinance, such permits may be obtained at any time during a calendar year, but all permits shall expire on December 31 of the same calendar year. No permit shall be issued to any business establishment which is not in compliance with all provisions of the Stickney Village Code or maintains a debt that is in arrears to the Village.

**Section 11. Application and fee.**

All applicants for an Auxiliary Outdoor Dining Permit shall complete and submit to the Village an application in a form approved by the Village along with a non-refundable fee of \$150.00. All applications shall include the following information:

- A. Name of the proprietor and the business establishment for which the outdoor seating on the public right-of-way permit is sought.

- B. The address and phone number of the proprietor and the business establishment.
- C. A detailed and measured site plan showing all existing objects on the property and on the public right-of-way adjacent to the business establishment including a depiction of on-street parking adjacent to the business establishment, and the proposed location of each chair and table, service or bussing stations, waste and recycling cans, and any other objects used in operation of the business establishment. The site plan must show the distance between tables and chairs and shall, during Phase III of the “Restore Illinois” COVID-19 recovery plan, be detailed plans exhibiting how social distancing will be achieved. When music or other entertainment is provided outdoors on the private property of the applicant requesting the permit, the site plan shall include the area and placement of said music or entertainment.
- D. Permit applications for outdoor seating on the public right-of-way must include Certificates of Insurance in the following amounts: 1) Commercial General Liability Insurance—\$1,000,000, showing the Village and its officers, employees, agents and volunteers as additional insureds, and containing a statement that said policies shall not be changed or canceled without 30 days written notice to the Village of Stickney; 2) Workers' Compensation—statutory amount; and 3) if alcoholic beverages will be consumed or sold, dram shop insurance in the maximum amount allowed by law shall be required.
- E. A signed indemnification statement where the applicant shall indemnify, hold harmless and defend the Village, its officers (elected and appointed), employees, agents, or assigns against any loss from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expenses of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to person or property resulting from, or connected with, the negligent and/or willful acts or omissions of others arising out of or related to this Ordinance. This signed indemnification statement shall be included with all permit applications for outdoor seating on the public right-of-way on a form provided by the Village. An inspection of the property to document existing conditions of public improvements shall be performed by the Village prior to issuance of a permit. Applications should be filed at least two (2) weeks prior to scheduled use to allow sufficient time for such inspection.

**Section 12. Regulations.**

All Auxiliary Outdoor Dining Permit holders shall be subject to the following regulations:

- A. The outdoor seating area shall be maintained clean and free from refuse or clutter at all times regardless of the source of such refuse and clutter. Refuse from any outdoor seating area shall not be disposed of in public waste receptacles and additional outdoor trash receptacles shall be provided by the restaurant in order to accommodate the outdoor seating.
- B. Tables, chairs, temporary fencing, decorations, and umbrellas (the

“outdoor seating elements”) shall not be permanently attached and shall be removed when not in use during cold weather months, generally October through March. Any outdoor seating elements owned by the business establishment, that are intended to be placed within the public right-of-way outside of established business hours, shall be identified within the annual permit application, and shall be subject to review by the Village. If approved, the Village reserves the right to require the establishment to remove or modify the outdoor seating elements, as deemed necessary by the Village. Any tents erected must have all four (4) sides of the tent open during the hours of operation and service.

- C. For outdoor seating on the public right-of-way, all public improvements shown on the site plan, including, but not limited to, pavers, benches, light poles and trees shall be maintained in the condition in which they existed immediately prior to the issuance of the permit, excluding normal wear and tear. The permit holder shall immediately report any damage to such public improvements to the Village. The Village shall repair or replace such public improvements at its discretion and shall charge the cost of repair or replacement to the permit holder unless the damage can be clearly shown to have resulted from a cause not related to the issuance of the permit. All outdoor seating elements shall meet all provisions of the current Federal Americans with Disabilities Act (ADA) Standard and the Illinois Accessibility Code.
- D. Activities involving the outdoor seating on the public right-of-way shall be conducted in a manner that does not interfere with pedestrians, parking, or traffic.
- E. Permits shall be posted in a conspicuous place inside the business establishment.
- F. The source of music or other entertainment provided outdoors in conjunction with the permit, shall be located only on the private property of the permit holder and shall be provided, with noise levels maintained in strict compliance with the provisions of the Village of Stickney Code of Ordinance (the “Village Code”) or any other codes which may be established with regard to noise or public nuisances. Furthermore, all outdoor music or entertainment shall be prohibited between 10:00 p.m. and 8:00 a.m.
- G. The business establishments shall further be required to fully comply with all applicable Village Codes, including but not limited to Section 50-33 (Noise).
- H. For outdoor seating within public rights-of-way, the outdoor seating area shall be limited to the areas designated on the permit, and shall not be located in front of any other business establishment or use unless the permit holder provides authorization to the Village, from the adjacent business owner or occupant stating consent to the sidewalk seating elements being placed in front of the adjacent business establishment or use.

- I. Business establishments must maintain compliance within the Smoke Free Illinois Act (410 ILCS 82, *et seq.*).
- J. Business establishments must provide public restrooms for patrons, as required by this Code.
- K. Additional general regulations shall include the following:
  - 1. Outdoor seating area shall be in conjunction with food service.
  - 2. Entrance/exit doors and fire lanes shall not be blocked.
  - 3. Areas shall be maintained, including free of rubbish or trash.
  - 4. Activity shall not disturb the lawful use and enjoyment of nearby properties.
  - 5. Businesses shall allow for adequate and safe pedestrian and parking accessibility.
  - 6. Adequate safeguards, including barriers or fencing, around the outdoor seating area shall be provided for security, crowd control, lighting control and the protection of minors.
  - 7. Separate queue areas for restroom visits and pick-up shall be provided as needed.
  - 8. The area where service shall be provided shall be owned, leased, or licensed to the licensee.
  - 9. The licensee must provide measures not to interfere with the operations of adjacent businesses and provide for the safety of its customers.
  - 10. All food and beverages served must meet all required health and safety standards.
- L. In addition to the provisions of this Ordinance, during the COVID-19 pandemic and throughout Phase III of the Restore Illinois Plan, business establishments must comply with all guidelines related to operating its business as provided for herein or by the Village Code, including but not limited to ensuring proper social distancing is maintained by:
  - 1. Ensuring that there are six (6) feet between customer tables and/or other seating areas and that all parties or groups shall be limited to six (6) or fewer people; and
  - 2. Indoor spaces where 50% or more of a wall can be removed via the opening of windows, doors, or panels provided that all dining tables must be located within eight (8) feet from such opening; and

3. Compliance with all other social distancing measures and restrictions and requirements of the Restore Illinois Plan, including but not limited to the wearing of face masks by all employees or contractors and customers, except when the customers are consuming food or alcohol.

**Section 13. Restrictions.**

A. Outdoor seating elements:

1. Shall be located and maintained in accordance with the approved site plan; and
2. Shall be in compliance with all zoning and other regulations of the Village, where applicable; and
3. Shall not obstruct normal ingress and egress from the business's establishment; and
4. Shall meet all provisions of the current Federal Americans with Disabilities Act (ADA) Standard and the Illinois Accessibility Code.

B. The following items or actions are prohibited in the outdoor seating on the public right-of-way area:

1. Outdoor seating elements in locations not approved by the Village or otherwise not in compliance with this Ordinance; and
2. Any and all electrical appliances; and
3. Any other equipment or objects deemed unsafe by the Village or that may pose a risk of harm to the general public.

C. The following provisions are required for business establishments where the service or consumption of alcoholic beverages will take place in conjunction with outdoor seating on the public right-of-way:

1. The business establishment shall have a valid liquor license issued by the Village, that allows for the service of the type of alcoholic beverages being served.
2. Alcoholic beverage consumption shall only be permitted within the designated outdoor seating area, or any other portion of the business establishment to which the liquor license relates. The permit holder shall not allow or permit any customer, employee or other person to remove alcoholic beverages from the area designated in the outdoor seating area permit, other than to another location within the business establishment to which the liquor license relates except that said alcoholic beverages shall not be allowed in areas closed as a result of the Restore Illinois Plan related to the COVID-19 pandemic.

3. To ensure that consumption of alcoholic beverages is limited to the designated outdoor seating areas and operated in compliance with this Code, outdoor seating areas in the public right-of-way shall be regularly monitored and bussed by an employee or contractor of the business establishment.
4. The hours during which patrons may occupy the outdoor seating area shall not extend beyond the hours of operation of the other portions of the business establishment. Notwithstanding the foregoing, the outdoor seating area shall not be occupied between the hours of 10:00 p.m. and 8:00 a.m. All patrons of the business as well as staff or contractors must be out of the building or the outdoor dining area no later than fifteen (15) minutes after closing, or by 10:15 p.m.

**Section 14. Closure of Rights-of-Way.**

Business establishments wishing to operate with an Auxiliary Outdoor Dining Permit may apply to the Village for certain street or other rights-of-way closures provided that the applicant must clearly indicate why and how such a right-of-way closure would enable and enhance the ability of the applicant to operate its business during Phase III of the Restore Illinois Plan. The Corporate Authorities hereby determine that the portion of the street on Euclid Avenue from Pershing Road to the alley immediately south of Pershing Road shall be closed to through traffic. The Corporate Authorities further delegate the decision(s) to allow for any additional closures of the rights-of-way to the President in consultation with applicable Village personnel and officers.

**Section 15. Penalty; enforcement; revocation.**

A. Any person, firm or corporation who violates the provisions of this Ordinance may be fined no more than \$750.00 for each day on which the violation occurs or continues to occur. In addition, a permit issued pursuant to this Ordinance may be revoked as a result of any such violation. The Village retains the discretion to issue warnings to persons, firms, and corporations not in compliance with this Ordinance.

B. The Village, upon determining that the method or manner of use of the outdoor seating area or the conduct of persons serving within or using same pose an immediate threat to the public health, safety or welfare, shall have the power and authority to cause the outdoor dining elements to be removed immediately and to revoke the permit issued pursuant to this Ordinance and to take all other actions allowed by law.

**Section 16. Headings.** The headings of the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance.

**Section 17. Severability.** The provisions of this Ordinance are hereby declared to be severable and should any provision of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.



**Section 18. Superseder.** All code provisions, ordinances, resolutions, rules and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

**Section 19. Effective Date.** This Ordinance shall be effective and in full force immediately upon passage and approval.

PASSED this 2<sup>nd</sup> day of June, 2020.

AYES: Trustees Hrejsa, Kapolnek, Milenkovic, Torres & White

NAYS: None

ABSENT: None

PRESENT: Trustee Savopoulos

APPROVED by me this 2<sup>nd</sup> day of June, 2020.

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Jeff Walik, President

ATTESTED AND FILED in my  
office this 2<sup>nd</sup> day of June, 2020.

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Audrey McAdams, Village Clerk