



Legislation Text

File #: 21-0796, Version: 1

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Waive the first reading and pass the ordinance temporarily extending certain executive order regulations regarding off-premises consumption liquor sales by non-package licensed establishments, 30-minute downtown on-street parking, and outdoor dining on public and private property (six positive votes required)

DEPARTMENT: Legal Department

SUBMITTED BY: Michael DiSanto, City Attorney

BOARD/COMMISSION REVIEW:

N/A

BACKGROUND:

On April 21, 2020, the City Council passed Ordinance 20-040 which extended the Naperville Declaration of Emergency throughout any extension of the Gubernatorial Disaster Proclamation. Once the Gubernatorial Disaster Proclamation expires, the City's Declaration of Emergency and the mayor's outstanding executive orders will expire concurrently.

The last Gubernatorial Disaster Proclamation (2021-11) was issued by Governor Pritzker on May 28, 2021 and will be in effect for 30 days, until June 26, 2021. It is expected that as early as June 11, 2021 Governor Pritzker will issue a determination that Illinois has reached Phase 5 of the Restore Illinois Plan and can fully reopen. It is unknown at this time whether the Gubernatorial Disaster Proclamation will remain in effect beyond June 11, 2021. The governor could take one of three actions:

1. Terminate the Gubernatorial Disaster Proclamation concurrent with the transition to Phase 5;
2. Allow the existing Proclamation to expire on June 26, 2021; or
3. Extend the Proclamation into Phase 5.

DISCUSSION:

Since the onset of the local state of emergency and disaster related to the COVID-19 outbreak was declared, Mayor Chirico has issued multiple executive orders, and amendments to prior executive orders, pursuant to his emergency authority. Many of the previously issued mayoral executive orders have expired or been terminated, but three remain in effect and their extension will be important to the community during Phase 5.

City staff recommends that the City Council temporarily extend three executive order regulations as explained below.

Executive Order 20-03: Package Liquor Sales by non-package liquor licensed establishments

Executive Order 20-03 and its amendments were enacted to assist licensed liquor establishments that were required to close due to the statewide shutdown. It allows the sale of packaged goods by on-premises liquor licensees and the sale of “to-go cocktails” (i.e., mixed-drinks created by bartenders) for off-premises consumption. The sale of “to-go cocktails” by restaurants that were not licensed for the sale of packaged alcohol was allowed due to a change in the state law.

On June 2, 2021, Governor Pritzker signed into a law a three-year extension allowing restaurants to engage in the sale of only “to-go cocktails” but not other packaged alcohol such as beer and wine.

The mayor, as liquor commissioner, supports temporarily extending the local authorization for the sale of “to-go cocktails” until January 1, 2022 so local restaurants can recoup some of the costs incurred from buying equipment for this purpose.

During the extension period, the Liquor Commission will consider whether to recommend a permanent change via a text amendment to the Liquor Code. Any such amendment would require approval by the City Council.

Executive Order 20-09: 30-minute on-street parking in the Downtown

Executive Order 20-09 was put in place to help ease hardships on Downtown businesses that had to modify operations due to the COVID-19 pandemic. By modifying the standard two-hour on-street parking regulations to 30-minutes, the executive order intended to increase the ability to efficiently fulfill curbside pick-up orders while still accommodating longer-term parking within the Downtown parking lots and garages.

Prior to the pandemic, there were a limited number of short-term loading zone spaces in the Downtown. Demand for additional high-turnover spaces to facilitate quick trips has grown in recent years as online ordering has increased. As such, there is interest in maintaining the 30-minute spaces permanently; however, this needs further evaluation.

City staff supports extending the 30-minute on-street parking in the Downtown until January 1, 2022 so that both the City and the Downtown Naperville Alliance (DNA) can study the acceptance of these restrictions and consider whether this change should be made permanent. City staff will partner with the DNA through the summer and fall and, if a permanent change is desired, an amendment to the Municipal Code will be brought to the City Council for consideration later this year.

Executive Order 20-10: Allowing outdoor dining on public and private property

On May 28, 2020, Executive Order 2020-10 was issued. It relaxed the City’s outdoor seating regulations as allowed in Phase 3 of the Restore Illinois Plan. Specifically, it allowed for the temporary expansion of seating on public and private property; provided for the temporary, limited use of on-street parking stalls; and permitted tents to be erected within parking areas that would otherwise be prohibited. Recently, the Department of Public Works (DPW) installed outdoor dining areas adjacent to many restaurants in the on-street parking stalls in the Downtown. This was an investment of both time and money, and thus far this year has been successful and well-received by businesses and patrons. DPW will remove the outdoor spaces by October 1, 2021 prior to the beginning of fall leaf collection.

This is another change that City staff and DNA would like to evaluate. Staff recommends extension of the outdoor dining on public property in the Downtown until October 1, 2021.

Staff expects that many private businesses will remove temporary outdoor seating areas as indoor dining options and parking needs return to normal. However, for those businesses that choose to continue use of these temporary spaces, staff also recommends extending the temporary outdoor dining on private property until October 1, 2021.

Those businesses that seek approval to reinstall new outdoor seating areas in 2022 will be required to go through the standard permitting review and approval process.

Executive Order 20-11: Ability to conduct open meetings remotely

Although still in effect, City staff is working with the boards and commissions to return all of them to in-person meetings by July 31, 2021. As such, no City Council action is needed regarding Executive Order 20-11.

FISCAL IMPACT:

Corresponding sales tax increases related to relaxed regulations.