

Village of Minooka Outdoor Dining Permit Application Checklist

(Ordinance Regulating Outdoor Dining 2020-16)

- Legal Business Name _____
- Business Address _____
- Proof of Ownership (attach)
- Concept Plan (see below or attach)
- Proof of Liability Insurance naming the Village (if located on Village property) or Hold Harmless Agreement (attach)
- Liquor License Holder Additional Dram Shop Insurance for Proposed Area (attach)
- Other items?

Concept Plan Below

- *Fencing – outdoor dining area must be entirely enclosed by a fence of a height, design, and material that is acceptable to the Village*
- *Hours of operation shall be 6:00 AM to 9:00 PM, however, for existing liquor license holders hours of operation are dictated by the Village Liquor Ordinance*

****Additional question, please call Village Hall at 815.467.2151*

VILLAGE OF MINOOKA

ORDINANCE NO. 2020-16

AN ORDINANCE AUTHORIZING AND REGULATING OUTDOOR DINING PERMITS FOR
THE VILLAGE OF MINOOKA, WILL, GRUNDY, AND KENDALL COUNTIES, ILLINOIS,
IN RESPONSE TO THE CORONAVIRUS DISEASE 2019 PANDEMIC

ADOPTED BY THE
BOARD OF TRUSTEES OF THE
VILLAGE OF MINOOKA

THIS 26th DAY OF May, 2020

Published in pamphlet form by the authority of the Board of Trustees of the Village of Minooka,
Will, Grundy, and Kendall Counties, Illinois this 26th day of May, 2020

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND REGULATING OUTDOOR DINING PERMITS FOR THE VILLAGE OF MINOOKA, WILL, GRUNDY, AND KENDALL COUNTIES, ILLINOIS, IN RESPONSE TO THE CORONAVIRUS DISEASE 2019 PANDEMIC

WHEREAS, the Corporate Authorities of the Village of Minooka, Will, Grundy, and Kendall Counties, Illinois, have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, in late 2019, a new and significant outbreak of Coronavirus Disease 2019 (“COVID-19”) emerged in China; and

WHEREAS, COVID-19 is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and

WHEREAS, the spread of COVID-19 has necessitated widespread policies of isolation, quarantine, and social distancing; and

WHEREAS, on May 20, 2020, Illinois Governor J.B. Pritzker (the “Governor”) announced that he intends to permit food-service-industry businesses, including but not limited to bars and restaurants, to partially reopen on-premises services in the form of outdoor dining services (hereinafter “Outdoor Dining”) in the near future; and

WHEREAS, the Corporate Authorities anticipate that the Governor will subsequently issue an executive order authorizing Outdoor Dining and providing rules, regulations, and guidelines therefore; and

WHEREAS, the Corporate Authorities of the Village have determined that it is necessary and expedient to pass this Ordinance to set out the rules and regulations of the Village applicable to Outdoor Dining during the COVID-19 pandemic; and

WHEREAS, the Corporate Authorities of the Village have determined that the Outdoor Dining policy set forth in this Ordinance represents a reasonable compromise between the urgent need to allow food-service industry businesses to reopen and the immediate need to control and limit the spread of COVID-19 through social distancing.

NOW THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF MINOOKA, WILL, GRUNDY, AND KENDALL COUNTIES, ILLINOIS, PURSUANT TO ITS STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1. *Incorporation of Recitals.* The Corporate Authorities hereby find that all of the recitals contained in the preamble to this Ordinance are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2. *Outdoor Dining Permits Authorized.* The Village President is hereby authorized to issue Outdoor Dining Permits to any person or business engaged in the food-service industry (*i.e.* the “Applicant” or the “Permittee,” where appropriate) within the Village, provided that no such permit shall be issued unless the Applicant complies with all provisions of this Ordinance. The Outdoor Dining Permit shall permit the service of alcohol consistent with the Applicant’s existing and currently valid liquor license. In addition, no Outdoor Dining Permit shall be issued to any Applicant that is not a currently registered Village business. Every Outdoor Dining Permit issued pursuant to this Ordinance shall be temporary in nature and shall remain valid only until the permit is revoked or this Ordinance is repealed, at which time the permit shall be immediately and automatically revoked and withdrawn without the need for any further action on the part of the Corporate Authorities of the Village.

SECTION 3. *Compliance with Applicable Federal, State, and Local Authorities Required.* Nothing in this Ordinance is intended or shall be construed to alter, amend, limit, or countermand any order, regulation, or guideline of any lawful authority of the United States, the State of Illinois, or the Counties of Will, Grundy, and/or Kendall (the “Applicable Authorities”), including but not limited to any and all executive orders of the Governor and any regulations, rules issued in connection therewith whether by the Governor or the Illinois Department of Public Health, and/or guidelines promulgated by the Centers for Disease Control and Prevention. If and to the extent that any provision of this Ordinance conflicts with any order of any such authority, the order of said authority shall prevail to the extent necessary to avoid the conflict. Every Applicant/Permittee shall at all times operate their business, including but not limited to the outdoor dining area, in full compliance with all orders and directives of the Applicable Authorities.

SECTION 4. *Intent of Ordinance; Interpretation; Suspension of Conflicting Ordinances and Resolution.* The express intent of this Ordinance is to provide a mechanism by which Applicants can legally and safely operate outdoor dining areas within the Village in compliance with this Ordinance and any other applicable laws, orders, rules, or regulations. Nothing in this Ordinance is intended to permanently suspend, rescind, repeal, limit, or avoid any existing ordinance, resolution, rule, regulation, license or practice of the Village; however, to the extent that the provisions of this Ordinance conflict with any existing ordinance, resolution, rule, regulation, license or practice of the Village, the provisions of this Ordinance shall control only to the extent necessary to avoid the conflict. Any ordinance, resolution, rule, regulation, license or practice of the Village that directly conflicts with the policies set forth in this Ordinance shall be considered suspended only for the duration of this Ordinance. It is the express intent of the Corporate Authorities of the Village that this Ordinance be liberally interpreted to permit Applicants to secure Outdoor Dining Permits and thereafter operate in accordance herewith for the duration of this Ordinance.

SECTION 5. *Application.* Any Applicant that wishes to operate an outdoor dining area shall submit an application for an Outdoor Dining Permit to the Village Clerk. The Application shall include the following information:

- a. The legal name of the business entity filing the application (*i.e.* the Applicant); and
- b. All business addresses of the Applicant located within the corporate boundaries of the Village; and

- c. Proof of ownership, leasehold, and/or owner's approval for each property on which an outdoor dining area is proposed; and
- d. A concept plan that complies with the requirements of Section 6 of this Ordinance, *infra*; and
- e. Proof of adequate liability insurance that includes coverage for the proposed location of the outdoor dining area and a certificate of insurance or hold harmless agreement in compliance with Section 9 herein; and
- f. In the case of any Applicant holding a Village liquor license: proof of adequate dram shop liability insurance that includes coverage for the proposed location of the outdoor dining area; and
- g. Any other information that the Village deems necessary.

SECTION 6. *Concept Plan; Outdoor Dining Area Requirements.* The Concept Plan required by this Ordinance shall show with particularity:

- a. All existing lot lines for the property on which the outdoor dining area is proposed; and
- b. All permanent improvements on and around the property on which the outdoor dining area is proposed; and
- c. The particular location in which the Applicant proposes to operate its outdoor dining area; and
- d. Any and all temporary improvements that will be made in connection with the outdoor dining area.

In addition, the Concept Plan shall include or be accompanied by a fencing plan that includes fencing dimensions, materials, and specifications.

SECTION 7. *Outdoor Dining Area Restriction.* All operation of any outdoor dining area permitted pursuant to this Ordinance shall be limited as follows:

- a. Location: The outdoor dining area shall be located adjacent to and operated as part of the Applicant/Permittee's business premises and shall further be entirely located on hard surfaces (*i.e.* concrete, asphalt, or brick materials).
- b. Fencing: Every outdoor dining area permitted pursuant to this Ordinance shall be entirely enclosed by a fence of a height, design, and material that is acceptable to the Village. Every outdoor dining area fence shall provide for emergency exits as required by the Village.
- c. Hours of operation: no outdoor dining area may be open to the public prior to six o'clock (6:00) a.m. or after nine o'clock (9:00) p.m., provided however, that the hours of operation for any outdoor dining area operated by any existing liquor licensee of the Village shall be

determined by the provisions of the Village's liquor ordinance as applicable to said licensee; and

- d. Capacity: at the time that any Outdoor Dining Permit is issued by the Village, said permit shall include a maximum occupancy for said outdoor dining area. The maximum occupancy shall be determined in cooperation with local fire and health officials and shall fully address safety concerns related both to social distancing and to the possibility of fire.
- e. Noise: noise emitting from any outdoor dining area authorized and permitted by this Ordinance may not unreasonably disturb the surrounding area. Noise limits for outdoor dining areas are as follows (as measured from the property line of the receiving property):

<u>Receiving property type</u>	<u>Daytime (6:00 am to 8:00 pm)</u>	<u>Nighttime (8:01 pm to 5:59 am)</u>
Residential	60 dB	50 dB
Commercial	65 dB	--

- f. Bar Areas Prohibited: No bar area (including but not limited to service bars) shall be permitted in any outdoor dining area.
- g. Indoor Premises Closed: The indoor business premises of the Permittee shall be closed to the public except for (i) carryout orders and (ii) restroom visits. All social distancing guidelines must be observed at all times within the Permittee's indoor premises.
- h. Temporary Lighting: Each Permittee must provide adequate lighting for its outdoor dining area(s). All temporary lighting fixtures installed in connection with an outdoor dining area shall be directed in a manner to not impair visibility on nearby streets and to not shine into nearby residences.
- i. Temporary Barriers and Fixtures: The Permittee may install temporary safety barriers and other necessary temporary plumbing, electrical, and lighting fixtures, but the Permittee may not install any permanent barrier or plumbing, electrical, or lighting fixture without securing all required building permits and approvals from the Village.

SECTION 8. *Issuance of Permit; Duration; Revocation; Restoration of property.*

- a. The Village President or his designee shall review the Applicant's application and supporting documents (including the concept plan) and shall have authority to grant the application, deny the application, or request that the Applicant submit additional or alternative plans or information. Once the Village President, or his designee, approves the Applicant's application and concept plan, he shall issue an Outdoor Dining Permit to the Applicant.
- b. Every permit issued pursuant to this Ordinance shall be valid and effective so long as this Ordinance remains in effect and shall thereafter be rescinded, revoked, and/or withdrawn as of the date on which this Ordinance is repealed by the Corporate Authorities. It is the express intent of the Corporate Authorities of the Village that the permits authorized by this

Ordinance are and shall be a temporary and extraordinary measure designed to help Permittees conduct business during the COVID-19 pandemic; that said, once the Corporate Authorities determine that this measure is no longer necessary and repeal this Ordinance, every Permittee will be responsible for reverting the outdoor dining area to the condition it was in before their Outdoor Dining Permit was issued.

- c. The Corporate Authorities of the Village may revoke any permit issued pursuant to this Ordinance for cause while this Ordinance remains in effect, but only after providing the permittee with notice and an opportunity to be heard. Any violation of this Ordinance or any law, rule, regulation, or order of any Applicable Authority (*see* Section 3, *supra*) shall constitute cause sufficient to justify the revocation of an outdoor dining permit issued pursuant to this Ordinance.
- d. Any person or entity that receives an Outdoor Dining Permit pursuant to this Ordinance shall be required to return the outdoor dining area to the condition it was in prior to issuance of said permit within ninety (90) days of either:
 - i. Revocation of said person's/entity's Outdoor Dining Permit for cause (*see* Section 8(c), *supra*); or
 - ii. The repeal of this Ordinance by the Corporate Authorities of the Village (*see* Sections 2 and 8(b), *supra*).

Any permittee may request, and the Corporate Authorities of the Village may grant, up to one extension of the timeframe in which said permittee must restore their business premises, provided that such extension must be granted by resolution and may not exceed an additional ninety (90) days. No extension shall be granted except for good cause shown.

SECTION 9. *Insurance or Indemnification.* Where the Outdoor Dining Area results in encroachments on the public right of way, the Applicant shall provide either:

- a. A certificate of insurance naming the Village, its officers, appointed and elected officials, volunteers, agents as additional insureds on a commercial general liability policy (including the broad or extended liability endorsement) during the term of the Outdoor Dining Permit with limits of not less than \$1,000,000 for combined single limit bodily injury and property damage liability per occurrence (the insurer shall be subject to the approval of the Village), or
- b. An indemnification and hold harmless agreement in a form provided by the Village for any and all claims, actions, causes of action, demands, costs, including attorney's fees, resulting from or relating to Applicant's operation of the Outdoor Dining Area.

SECTION 10. *Invalidity of a Provision.* In the event that any provision or provisions, portion or portions, or clause or clauses of this Ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 11. *Clerk to Publish.* That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 12. *Effective Date.* That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PRESENTED and **PASSED** by the Board of Trustees on a roll call vote on the 26 day of May, 2020 with 6 Trustees voting aye, 0 Trustees voting nay, 0 Trustees abstaining, and with 0 Trustees absent, President BRENNAN voting —: said vote being: HOUCHENS aye, MARTIN aye, THOMPSON aye, PARRISH aye, HRECHKO aye, and OFFERMAN aye.

Orsola Evola (mp)
ORSOLA EVOLA, VILLAGE CLERK

APPROVED this 26th day of May, 2020.



Patrick J. Brennan
PATRICK J. BRENNAN, VILLAGE PRESIDENT

Orsola Evola (mp)
ORSOLA EVOLA, VILLAGE CLERK

STATE OF ILLINOIS)
)
COUNTIES OF WILL) §§

I, Orsola Evola, Village Clerk of the Village of Minooka, Counties of Will, Grundy, and Kendall and State of Illinois, DO HEREBY CERTIFY that the attached is a true, perfect, and complete copy of Ordinance number _____, “AN ORDINANCE AUTHORIZING AND REGULATING OUTDOOR DINING PERMITS FOR THE VILLAGE OF MINOOKA, WILL, GRUNDY, AND KENDALL COUNTIES, ILLINOIS, IN RESPONSE TO THE CORONAVIRUS DISEASE 2019 PANDEMIC,” which was adopted by the Village Corporate Authorities at a meeting held on the ____ day of _____, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand in the Village of Minooka, Counties of Will, Grundy, and Kendall and State of Illinois, on this ____ day of _____, 2020.

ORSOLA EVOLA, VILLAGE CLERK

(SEAL)



STATE OF ILLINOIS)
) SS
COUNTY OF GRUNDY)
COUNTY OF WILL)
COUNTY OF KENDALL)

I, the undersigned, Clerk of the Village of Minooka, State of Illinois, do hereby certify that the foregoing is a true and correct copy of Ordinance (2020-16) entitled “An Ordinance Authorizing and Regulating Outdoor Dining Permits for The Village of Minooka, Will, Grundy, and Kendall Counties, Illinois, in Response To The Coronavirus Disease 2019 Pandemic” which was duly passed on roll call vote by a vote of 6 ayes, and 0 nays with 0 absent of the President and Board of Trustees of the Village of Minooka on the date shown on the ordinance.

I do further certify that I am the legal custodian of all papers, documents and records of said Village.

I do further certify that there are six trustees of the Village authorized by law to be elected.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Minooka this 26th day of May, 2020.


Orsola Evola, Village Clerk



