

Bill 2020E

A local law to amend the Code of the Village of Rockville Centre, in relation to temporary outdoor dining licenses.

Section one. Chapter 287 of the Code of the Village of Rockville Centre is hereby amended, by adding thereto a new Article, to be Article XII, to read as follows:

“Article XII. Temporary Outdoor Dining Licenses.

§287-53. Purpose and Intent.

- A. It is the purpose of the Board of Trustees in enacting this section to allow for the controlled utilization of certain outdoor spaces for dining activities, for a limited period of time, to assist business establishments in recovery from the effects of the COVID-19 pandemic emergency. The Board recognizes that the Village of Rockville Centre enjoys an attractive and thriving business community, including many restaurants in business and commercial districts. Occupancy of dining establishments may be limited to numbers less than those existing prior to the COVID-19 emergency, and such establishments may seek to provide additional areas for seating and service of patrons. In addition, patrons of local dining establishments may wish to patronize such establishments, and enjoy the benefits of dining outdoors. The Board finds that it is in the public interest to provide an opportunity for such establishments to provide outdoor dining space, on conditions which balance the public interest in maintaining the quality of life in the community, preserving the public health, safety and welfare of the community, and protecting the users, owners and occupants of surrounding properties. Accordingly, this article is enacted to provide a licensing procedure which would balance these needs and desires, encourage the orderly use of property and encourage the revitalization of these popular uses.
- B. The license criteria and conditions set forth herein are promulgated with these issues and concerns in mind, and with the intent to conditionally allow outdoor dining uses, including authorizing such uses on public property, while continuing to protect and promote the

community and environment which make such dining desirable. This license is not intended to support or encourage the establishment of restaurant uses on properties other than those on which such uses lawfully exist at the time of adoption of this article, and is intended only to provide for certain outdoor uses in conjunction with existing lawful restaurant uses, for a period of time which will facilitate economic recovery.

§287-54. Definitions. The following definitions are set forth for the administration of this section:

RESTAURANT - A use as defined in Village Code 340-2(47, provided that such use may be limited or circumscribed by conditions include in this article or in any license issued pursuant to this article.

SUPERINTENDENT – The Village Superintendent of Buildings

VILLAGE PROPERTY - Streets, sidewalks, and parking lots which belong to, or are leased or licensed to, the Village of Rockville Centre, or such portions thereof as may be permissible and appropriate locations for uses authorized pursuant to this article. .

§287-55. Temporary license authorized; issuance and limitations.

- A. Pursuant to the provisions of this article, the Superintendent may issue a temporary license for outdoor consumption of food or beverages on (a) any premises in the Village on which a lawful restaurant use exists, and/or (b) with the consent of the owner of such property, any premises or Village Property adjacent to, and within seventy-five (75) feet of, such lawful restaurant premises. Such license shall not be required for outdoor dining which is lawfully authorized and conducted pursuant to any license, permit or other governmental approval issued pursuant to any other provision of law prior to or during the period of time in which this article is in effect.
- B. Any temporary license issued pursuant to this article shall be valid for a period of thirty (30) calendar days, and may be re-issued for one or more successive thirty (30) calendar day periods, unless sooner terminated as provided in this article. The issuance of any

such license shall not be considered the grant of a property right, nor vest in any person or entity any property right or interest in property

- C. The use of any premises under a license issued pursuant to this article shall be subject to the terms and provisions of this article, and such other terms and conditions as may be determined from time to time by the Superintendent pursuant to this article.
- D. The use of any license issued pursuant to this article shall be subject to any and all reasonable terms and conditions determined or directed from time to time by the Superintendent, and the following terms and conditions:
 - a. such use shall be compliant with all other applicable State, federal, or local laws, rules, order and regulations, except to the extent otherwise specifically authorized in the license;
 - b. there shall be no amplification of music, voice, or other sound in conjunction with the outdoor use, and no sound shall be generated or transmitted by any aspect of the restaurant use or licensed outdoor use so as to be audible off the premises on which the use is conducted.
- E. Each application for a license shall be in writing, and shall contain all information deemed relevant or necessary by the Superintendent, including plans and other details of the proposed use, and the location, satisfactory to the Superintendent. Where the proposed licensed use the use of Village property, the application shall include documentation of insurance satisfactory to the Superintendent, including endorsements to any insurance policies, in which the Village, its officers, agents, employees and volunteers are required to be named as additional insureds.
- F. By the enactment of this article, the Board of Trustees hereby delegates to the Superintendent the authority to grant permission for, and consent to, use of Village Property as provided in this article. The Board of Trustees may terminate, rescind, or limit such authority at any time, by resolution, without public hearing or other notice.

- G. In granting any license pursuant to this article, including a license which pertains to the use of Village Property, the Superintendent is authorized and directed to include reasonable and appropriate conditions to protect the safety and well-being of persons and property, maintain public order, permit safe and reasonable passage for pedestrians and vehicles, and otherwise promote the general welfare. Such conditions may include, without limitation, restrictions as to days and times of permitted usage, number of persons authorized to be on any licensed site, and number and location of tables and seating, and any other conditions which, in the reasonable judgment of the Superintendent, are necessary to foster compliance with any applicable law, rule, order or regulation.
- H. No licensed use may cause unreasonable nuisance or annoyance to owners, occupants or users of adjacent properties, including Village Property.
- I. If a licensed use is also subject to terms and conditions of any other license, permit or approval issued by any governmental agency, the use must comply with all such terms and conditions. A temporary license issued pursuant to this article shall not be construed or considered to have altered or amended any term of condition of any such other license, permit or approval.
- J. Sale and consumption of food or drink in outdoor dining spaces shall be available to seated patrons only .
- K. The number of seats allowed for a licensed outdoor use shall be the lesser of the number determined by application of the following formula:
- a. 15 square feet per seat. This calculation will take into account only that space which will be designated for the proposed outdoor dining use. No interior space or other outdoor space shall be included in this calculation, or
 - b. Such minimum area of space per seat as shall otherwise be established by any applicable law, rule or regulation.
- L. Each outdoor dining area shall be located and configured in such a fashion as to allow an unobstructed width of public right-of-way, including sidewalks, suitable for pedestrian passage, and shall not

obstruct emergency exits or otherwise create or maintain hazardous conditions.

- M. No food shall be cooked or prepared in an outdoor dining area, provided that this provisions shall not prevent the mixing of ingredients.
- N. The outdoor dining area shall not be used for any purpose other than the permissible service of food and beverage by wait staff, and consumption at tables and chairs in the outdoor dining area. The service of alcoholic beverages alone shall only be permitted if provided by wait staff for consumption at authorized tables and chairs in the outdoor dining area. Any service bar shall be for wait staff use only.
- O. All equipment, furniture and furnishings associated with the outdoor dining use shall be temporary in nature and shall be stored indoors or off site at all periods of time when no license is in effect.
- P. No structure shall be erected or used in furtherance of, or in relation to, any use authorized by a license issued pursuant to this article without the licensee first having obtained all permits required by law. All structures and uses shall comply with all applicable property, building, fire and safety codes.
- Q. In issuing any license pursuant to this article, the Superintendent may, in the exercise of sole discretion, allow the installation of suitable non-permanent enclosures to protect patrons of a permitted outdoor use from inclement weather conditions, provided that such authority shall not include authorization for any building or structure which would violate any applicable property, building, fire or safety code. No such enclosure shall be affixed to any property without the consent of the owner of such property.
- R. No license shall be issued or renewed pursuant to this article except upon payment of a license fee as may be established, or amended, from time to time by resolution of the Board of Trustees.

§287-56. Suspension, revocation or non-renewal.

- A. To the extent any license issued pursuant to this article authorizes any use of Village Property, such license is revocable by the Superintendent or the Board of Trustees at any time, with or without cause.
- B. Each license issued pursuant to this article may be revoked, or suspended, by the Superintendent or the Board of Trustees at any time upon a determination of violation of law or any terms or conditions applicable to the license.
- C. Any person aggrieved by the suspension or revocation of, or denial of or refusal to renew, any license pursuant to this article, or any condition imposed by the Superintendent in issuing or enforcing any license, may appeal to the Village Board of Trustees in writing, within ten (10) days after notice of any such suspension, revocation or denial. The Board of Trustees shall consider and determine any such appeal expeditiously.
 - a. Filing of an appeal pursuant to this section shall not constitute or create a stay of the decision being appealed. Any person seeking such a stay shall make written application to the Mayor, who may, in the sole exercise of discretion may grant such stay, with or without conditions, for a period of time as determined by the Mayor, provided that no such period shall extend beyond the date the Board of Trustees issues a decision on any appeal.”

Section two. Severability. If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances. The Board of Trustees of the Village of Rockville Centre hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section three. Effective Date. This law shall take effect immediately upon filing pursuant to the Municipal Home Rule Law, and shall remain in effect until December 31, 2020, provided, however, that the Board of Trustees, by resolution, may extend the term of this law for one or more additional periods of time, none of which shall continue in effect after December 31, 2021.

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