

**ORDINANCE NUMBER 20 - 26**

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS ADOPTING AND APPROVING SALES AND DELIVERIES OF “TO GO” COCKTAILS AND MIXED DRINKS REGULATIONS IN EXECUTIVE ORDER 20-5 ISSUED BY THE VILLAGE PRESIDENT UNDER A DECLARATION OF A STATE OF EMERGENCY (COVID-19 – JUNE 12, 2020)**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, on March 23, 2020, the Village President and Board of Trustees adopted Ordinance 20-07 entitled “An Ordinance of the Village of East Dundee, Cook and Kane Counties, Illinois Amending the Village of East Dundee Village Code Authorizing the Village President to Declare a State of Emergency if Needed,” which created Section 33.13(H) of the Village of East Dundee Village Code (“Village Code”), authorizing the Village President to declare a state of emergency in the Village pursuant to Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6; and

**WHEREAS**, on June 12, 2020, the Village President declared a state of emergency in the Village due to the threats to the public’s health, safety and welfare from the COVID-19 pandemic pursuant to the “Declaration of a Continued State of Emergency in the Village of East Dundee, Cook and Kane Counties, Illinois (COVID-19 – June 12, 2020),” attached hereto as **EXHIBIT A** and made a part hereof (“Declaration”); and

**WHEREAS**, on June 12, 2020, the Village President issued Executive Order 20-5 pursuant to the Declaration, entitled “Executive Order Regarding Sales and Deliveries of “To Go” Cocktails and Mixed Drinks Under a Declaration of a State of Emergency in the Village of East Dundee, Cook and Kane Counties, Illinois (COVID-19 – June 12, 2020),” attached hereto as **EXHIBIT B** and made a part hereof (“Executive Order 20-5”); and

**WHEREAS**, pursuant to Section 33.13(H)(2)(h) of the Village Code, the expiration of the Declaration and Executive Order 20-5 shall be no later than the adjournment of the first regular meeting of the Village President and Board of Trustees after the Declaration was issued; and

**WHEREAS**, the Village President and Board of Trustees desire to adopt and extend the outdoor dining regulations in Executive Order 20-5, in order to better protect and preserve the public’s health, safety and welfare with regard to the COVID-19 pandemic;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation.** That the recitals above shall be and are hereby incorporated in this Section 1 as if restated herein.

**SECTION 2: Adoption and Approval of Executive Order; Village Code Amendments.** That the Village President and Board of Trustees adopt and approve the regulations on sales and deliveries of “to go” cocktails and mixed drinks in Executive Order 20-5, by amending the Village Code as follows:

**Amendment One:**

Section 116.01(B) of the Village Code, entitled “Definitions” is amended to add the following definitions:

“**COCKTAIL** or **MIXED DRINK** means any beverage obtained by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, such as fruit juice, lemonade, cream, or a carbonated beverage.

[...]

**SEALED CONTAINER** means a rigid container that contains a mixed drink, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident. “Sealed container” does not include a container with a lid with sipping holes or openings for straws or a container made of plastic, paper, or polystyrene foam.”

**Amendment Two:**

Section 116.05(K) of the Village Code, entitled “Sales and Deliveries of “To-Go” Cocktails and Mixed Drinks” is created and shall read as follows:

“During a disaster proclamation regarding public health by the Governor of the State of Illinois pursuant to Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, that covers the Village, a cocktail or mixed drink placed in a sealed container by a Class A licensee, a Class E licensee or a Class I licensee at the licensee’s location may be transferred and sold for off-premises consumption if the requirements of 235 ILCS 5/6-28.8, as amended from time to time, are met, which requirements are incorporated as set forth herein. The transfer and sale of cocktails or mixed drinks in sealed containers herein shall only be permitted if, and for so long as, 235 ILCS 5/6-28.8 is in effect.”

**SECTION 3: Continuation.** That all provisions of the Village Code not amended herein shall remain in full force and effect.

**SECTION 4: Severability.** That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 5: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict with this Ordinance shall be and the same are hereby repealed.

**SECTION 6: Effect.** That this Ordinance shall be in full force and effect upon its adoption, approval and publication in pamphlet form as provided by law.

**ADOPTED** this 15th day of June, 2020 pursuant to a roll call vote as follows:

AYES: Trustees Lynam, Selep, Wood, Mahony, Andrsen and Kunze

NAYES: None

ABSENT: None

**APPROVED** by me this 15th day of June, 2020.



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Lael Miller, Village President

**ATTEST:**

Katherine Holt  
Katherine Holt, Village Clerk

Published in pamphlet form this 15th day of June, 2020 under the authority of the Village President and Board of Trustees.

Recorded in the Village records on June 15, 2020.

**EXHIBIT A**  
**DECLARATION**

(attached)

**DECLARATION NO. 20-4**

**DECLARATION OF A CONTINUED STATE OF EMERGENCY IN THE  
VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS  
(COVID-19 – JUNE 12, 2020)**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government as provided by Article VII, Section 7 of the Illinois Constitution of 1970; and

**WHEREAS**, COVID-19, also known as the “coronavirus,” is a dangerous disease which has spread around the world, including in the United States, the State of Illinois and Cook and Kane Counties; and

**WHEREAS**, COVID-19 is a direct and serious threat to the public’s health, safety and welfare; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared the COVID-19 virus a pandemic; and

**WHEREAS**, on March 10, 2020, the President of the Cook County Board of Commissioners issued a disaster proclamation in Cook County, Illinois related to the COVID-19 pandemic; and

**WHEREAS**, on March 17, 2020, the President of the Kane County Board of Commissioners issued a disaster proclamation in Kane County, Illinois related to the COVID-19 pandemic; and

**WHEREAS**, on March 9, 2020, the Governor of the State of Illinois issued a disaster proclamation in the State of Illinois related to the COVID-19 pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a nationwide emergency under Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 52 U.S.C. 5121, *et seq.*, related to the COVID-19 pandemic; and

**WHEREAS**, COVID-19 pandemic is a contagious disease that is likely to cause loss of life, loss of productivity, hardship and suffering to persons residing in or doing business in and around the Village; and

**WHEREAS**, Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6, provides that the corporate authorities of the Village of East Dundee may grant the Village President the extraordinary power and authority to exercise, by executive order during a state of emergency, such of the powers of the Village’s corporate authorities as may be reasonably necessary to respond to the emergency; and

**WHEREAS**, on March 23, 2020, the Village President and Board of Trustees adopted Ordinance 20-07, entitled “An Ordinance of the Village of East Dundee, Cook and Kane Counties, Illinois Amending the Village of East Dundee Village Code Authorizing the Village President to Declare a State of Emergency if Needed,” which

created Section 33.13(H) of the Village Code, which authorizes the Village President to declare a state of emergency in the Village pursuant to Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6; and

**WHEREAS**, declaration of a state of emergency in the Village is necessary in order to allow the Village to assist in preventing the loss of life and injuries, alleviating damages, loss, hardship and suffering related to the COVID-19 pandemic;

**NOW, THEREFORE, BE IT DECLARED**, under oath by the Village President of the Village of East Dundee, Cook and Kane Counties, Illinois:

**SECTION 1: Incorporation.** That the recitals above shall be and are incorporated in this Section 1 as if restated herein.

**SECTION 2: Declaration of a State of Emergency.** That a state of emergency is declared in the Village of East Dundee, Cook and Kane Counties, Illinois pursuant to Section 33.13(H) of the Village Code.

**SECTION 3: Executive Orders.** That the Village President is authorized to exercise, by executive order, such powers of the Village President and Board of Trustees as the Village President deems reasonably necessary to allow the Village to respond to the emergency.

**SECTION 4: Procedures, Protocols and Regulations Subject to Suspension.** That the Village Administrator shall present requests to the Village President for approval of executive orders described in Section 3 above. Executive orders may address any Village regulations reasonably necessary to allow the Village to respond to the emergency.

**SECTION 5: Duration.** That the state of emergency declared herein shall expire upon the earlier of (a) the adjournment of the next regular meeting of the Village President and Board of Trustees, which is scheduled for June 15, 2020, or (b) withdrawal of this Declaration by the Village President.

**SECTION 6: Filing.** That this declaration shall be filed with the Village Clerk upon its execution by the Village President.

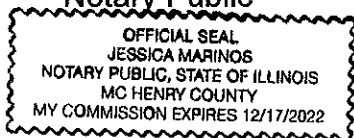


Lael Miller, Village President

Subscribed and sworn to before me  
this 12 day of June, 2020.



Notary Public



**EXHIBIT B**  
**EXECUTIVE ORDER 20-5**  
(attached)

**EXECUTIVE ORDER NO. 20-5**

**EXECUTIVE ORDER REGARDING SALES AND DELIVERIES OF  
“TO GO” COCKTAILS AND MIXED DRINKS IN THE  
VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS  
(COVID-19 – JUNE 12, 2020)**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government as provided by Article VII, Section 7 of the Illinois Constitution of 1970; and

**WHEREAS**, COVID-19, also known as the “coronavirus,” is a dangerous disease which has spread around the world, including in the United States, the State of Illinois and Cook and Kane Counties; and

**WHEREAS**, COVID-19 is a direct and serious threat to the public’s health, safety and welfare; and

**WHEREAS**, on June 12, 2020, the Village President declared a state of emergency in the Village in Declaration 20-4, entitled “Declaration of a Continued State of Emergency in the Village of East Dundee, Cook and Kane Counties, Illinois (COVID-19 – June 8, 2020)” (“Declaration”); and

**WHEREAS**, the Declaration was made pursuant to authority granted to the Village President in Section 33.13(H) of the Village of East Dundee Village Code and pursuant to Section 11-1-6 of the Illinois Municipal Code, 65 ILCS 5/11-1-6; and

**WHEREAS**, the Village President has determined that it is necessary to make this Executive Order to best protect the public’s health, safety and welfare regarding the COVID-19 pandemic;

**NOW, THEREFORE, BE IT ORDERED**, by the Village President of the Village of East Dundee, Cook and Kane Counties, Illinois:

**SECTION 1: Incorporation.** That the recitals above shall be and are incorporated in this Section 1 as if restated herein.

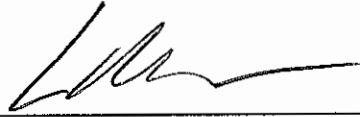
**SECTION 2: Executive Order.** That limited sales and deliveries of “to go” cocktails and mixed drinks is permitted in the Village as set forth in, and to the extent allowed in, the “Sales and Delivery of “To Go” Mixed Drinks Regulations” attached hereto as **EXHIBIT A** and made a part hereof (“Mixed Drinks Regulations”).

**SECTION 3: Intent; No Vested Rights.** That the intent of this Executive Order is to provide limited relief from the cocktails and mixed drinks sales and delivery requirements in the Village of East Dundee Village Code and this Executive Order shall be interpreted to implement this intent. This Executive Order grants no vested rights and



no person or entity shall have any claim to vested rights in any relief granted in this Executive Order.

**SECTION 4: Duration.** That this Executive Order shall expire upon the earlier of (a) the Declaration ending or (b) withdrawal of this Executive Order by the Village President.



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Lael Miller, Village President

Date: June 12, 2020

**EXHIBIT A**  
**MIXED DRINKS REGULATIONS**  
(attached)

Holders of Class A, E and I liquor licenses issued by the Village of East Dundee ("Village") may sell and deliver "cocktails" or "mixed drinks," as defined in 235 ILCS 5/6-28.8, on a "to go" basis, subject to the following requirements:

1. Sales and deliveries shall comply with the requirements of the Village of East Village Code, except as allowed in 235 ILCS 5/6-28.8, a copy of which is attached hereto and made a part hereof.
2. Sales and deliveries shall comply with 235 ILCS 5/6-28.8.

**Public Act 101-631**

**235 ILCS 5/6-28.8. Delivery and carry out of mixed drinks permitted.**

(a) In this Section:

“Cocktail” or “mixed drink” means any beverage obtained by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, such as fruit juice, lemonade, cream, or a carbonated beverage.

“Original container” means, for the purposes of this Section only, a container that is filled, sealed, and secured by a retail licensee’s employee at the retail licensee’s location with a tamper-evident lid or cap.

“Sealed container” means a rigid container that contains a mixed drink, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident. “Sealed container” does not include a container with a lid with sipping holes or openings for straws or a container made of plastic, paper, or polystyrene foam.

“Tamper-evident” means a lid or cap that has been sealed with tamper-evident covers, including, but not limited to, wax dip or heat shrink wrap.

(b) A cocktail or mixed drink placed in a sealed container by a retail licensee at the retail licensee’s location may be transferred and sold for off-premises consumption if the following requirements are met:

(1) the cocktail is transferred within the licensed premises, by a curbside pickup, or by delivery by an employee of the retail licensee who:

(A) has been trained in accordance with Section 6-27.1 at the time of the sale;

(B) is at least 21 years of age; and

(C) upon delivery, verifies the age of the person to whom the cocktail is being delivered;

(2) if the employee delivering the cocktail is not able to safely verify a person’s age or level of intoxication upon delivery, the employee shall cancel the sale of alcohol and return the product to the retail license holder;

(3) the sealed container is placed in the trunk of the vehicle or if there is no trunk, in the vehicle’s rear compartment that is not readily accessible to the passenger area;

(4) the sealed container shall be affixed with a label or tag that contains the following information:

(A) the cocktail or mixed drink ingredients, type, and name of the alcohol;

(B) the name, license number, and address of the retail licensee that filled the original container and sold the product;

(C) the volume of the cocktail or mixed drink in the sealed container; and

(D) the sealed container was filled less than 7 days before the date of sale.

(c) Third-party delivery services are not permitted to deliver cocktails and mixed drinks under this Section.

(d) If there is an executive order of the Governor in effect during a disaster, the employee delivering the mixed drink or cocktail must comply with any requirements of that executive order, including, but not limited to, wearing gloves and a mask and maintaining distancing requirements when interacting with the public.

(e) Delivery or carry out of a cocktail or mixed drink is prohibited if:

(1) a third party delivers the cocktail or mixed drink;

(2) a container of a mixed drink or cocktail is not tamper-evident and sealed;

(3) a container of a mixed drink or cocktail is transported in the passenger area of a vehicle;

(4) a mixed drink or cocktail is delivered by a person or to a person who is under the age of 21; or

(5) the person delivering a mixed drink or cocktail fails to verify the age of the person to whom the mixed drink or cocktail is being delivered.

(f) Violations of this Section shall be subject to any applicable penalties, including, but not limited to, the penalties specified under Section 11-502 of the Illinois Vehicle Code.

(f-5) This Section is not intended to prohibit or preempt the ability of a brew pub, tap room, or distilling pub to continue to temporarily deliver alcoholic liquor pursuant to

guidance issued by the State Commission on March 19, 2020 entitled "Illinois Liquor Control Commission, COVID-19 Related Actions, Guidance on Temporary Delivery of Alcoholic Liquor". This Section shall only grant authorization to holders of State of Illinois retail liquor licenses but not to licensees that simultaneously hold any licensure or privilege to manufacture alcoholic liquors within or outside of the State of Illinois.

(g) This Section is not a denial or limitation of home rule powers and functions under Section 6 of Article VII of the Illinois Constitution.

(h) This Section is repealed one year after the effective date of this amendatory Act of the 101st General Assembly[, which is June 6, 2020].