

EXECUTIVE ORDER NO. 20-5

**EXECUTIVE ORDER OF THE VILLAGE PRESIDENT OF VERNON HILLS
ALLOWING FOR PACKAGE SALES OF LIQUOR EITHER BY CURBSIDE OR
RESIDENTIAL DELIVERY WITH FOOD ORDERS
(COVID-19 – June 3, 2020)**

WHEREAS, the Village of Vernon Hills ("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 "novel coronavirus," is a dangerous disease which has spread around the world, including in the United States, the State of Illinois and Lake County; 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 13, 2020, the President of the Lake County Board of Commissioners issued a disaster proclamation in Lake County, Illinois related to the COVID-19 pandemic; and

WHEREAS, on March 9, 2020, Governor Pritzker of the State of Illinois (the "Governor") issued a disaster proclamation in the State of Illinois related to the COVID-19 pandemic, and on March 20, 2020, the Governor issued a statewide stay-at-home order aimed at stopping the spread of COVID-19; 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, on March 30, 2020, the President of the United States of America recommended the country continue the practice of "social distancing" through April 30, 2020, including avoiding gatherings greater than ten (10) persons at a time, and limiting travel outside of the home for essential purposes only; and

WHEREAS, on May 29, 2020, the Governor issued a fourth consecutive disaster proclamation in response 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 Vernon Hills 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 Thursday, March 19, 2020, the Village President and Board of Trustees adopted an ordinance entitled "An Ordinance Amending the Vernon Hills Village Code With Regard to the Village President's Authority to Declare a State of Emergency Pursuant to 65 ILCS 5/11-1-6" which created new Section 6-2 of the Village Code of Ordinances, entitled "Village President's Authority to Declare a State of Emergency," 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 March 19, 2020, the Village President signed the initial Declaration of Emergency 20-1, declaring a state of emergency in the Village of Vernon Hills which was most recently extended on June 2, 2020 by Declaration 20-06; and

WHEREAS, as of the time of the signing of Declaration 20-06, the Village President has determined that the state of emergency originally declared on March 19, 2020 has not been resolved and that all of the findings made in Declaration of Emergency 20-01 supporting the need for a Declaration of Emergency are remade for purposes of this Declaration 20-06; and

WHEREAS, COVID-19 continues to be a dangerous disease which has spread around the world, including in the United States, the State of Illinois and Lake County and is a direct and serious threat to the public's health, safety and welfare; 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 constitutes a disaster; and

WHEREAS, On May 5, 2020, the Governor announced Restore Illinois, a 5-Phase Plan to allow the reopening of Illinois; and

WHEREAS, On June 2, 2020, the Governor signed House Bill 2682 into law which Bill allows for the delivery or carry out sale of mixed drinks by local liquor license holders in compliance with 235 ILCS 5/6-28.8.

NOW, THEREFORE, by the powers vested in me as the Village President of the Village of Vernon Hills and as the Local Liquor Control Commissioner, and pursuant to Section 11-1-1 (Police Powers) and Section 11-1-6 (Extraordinary Powers; Executive Orders and State of Emergency) of the Illinois Municipal Code (65 ILCS 5/11-1-1 and

5/11-1-6); Vernon Hills Ordinance 2020-025; and the Vernon Hills Declaration of a Local State of Emergency and Disaster 20-6 , I order the following:

SECTION 1: Recitals. The Recitals set forth above are found to be true and correct and are incorporated herein and made part hereof in their entirety by reference as though fully set forth in this Section.

SECTION 2: Beer, Wine and Mixed Drink Sales in Conjunction with Food Order for Pick-Up, Curbside Delivery or Residential Delivery. To support our local restaurants and acting in my capacity as the Village President and the Liquor Control Commissioner, I am approving a temporary amendment to the Class A and Class E liquor license classifications to allow holders of Class A and Class E liquor licenses to sell pre-packaged beer, wine, and mixed drinks as defined in 235 ILCS 5/6-28.8(a), attached hereto as Exhibit A, for off-premise consumption only in conjunction with food ordered for carry-out service, curb-side delivery or residential delivery. The beer or wine must be sold in their original containers. Mixed drinks must be sold in their original containers as defined by 235 ILCS 5/6-28.8(a).

SECTION 3: Checking for Proper Identification. All deliveries made to a residence or to a curbside vehicle shall be made by an employee of the license holder who is at least 21 years of age and Basset trained. The delivery representative must observe the appearance of the delivery recipient at a safe distance and examine the recipient's identification to ensure the recipient is over twenty-one and, to the extent possible, ensure that the recipient is not intoxicated. If such observations of the recipient or recipient's identification cannot be accomplished, the alcoholic liquor shall be returned for a full refund.

SECTION 4: Duration. The temporary amendment to the Class A and E licenses shall expire upon the earlier of:

- a. The end of the Governor's disaster proclamation regarding COVID-19;
- b. Repeal of this Executive Order by an ordinance of the Mayor and Board of Trustees or by executive order of the Mayor; or
- c. This Executive Order being superseded by State law or an executive order of the Governor of the State of Illinois.

SECTION 4: Filing. That this declaration shall be filed with the Village Clerk upon its execution by the Mayor.



Roger Byrne

Roger Byrne-Village President

Mark Fleishhauer

Mark Fleishhauer-Village Clerk

EXHIBIT A

235 ILCS 5/6-28.8

(235 ILCS 5/6-28.8 new)

Sec. 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.

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 6/2/2020