

CITY OF VILLA GROVE  
DOUGLAS COUNTY, ILLINOIS

ORDINANCE NO. 2020-MC07

**AN ORDINANCE AMENDING TITLE XI OF THE  
MUNICIPAL CODE OF THE CITY OF VILLA GROVE  
(ADDING CHAPTER 115 FOR OUTDOOR CAFÉS)**

PASSED BY THE CITY COUNCIL AND  
APPROVED BY THE MAYOR OF THE  
CITY OF VILLA GROVE, ILLINOIS  
THIS TWENTY-SIXTH DAY OF MAY, 2020

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PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE MAYOR AND CITY COUNCIL OF THE CITY OF  
VILLA GROVE, DOUGLAS COUNTY, ILLINOIS, THIS TWENTY-SIXTH DAY OF MAY A.D. 2020.

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ORDINANCE NO. 2020-MC07

May 26, 2020

**AN ORDINANCE AMENDING TITLE XI OF THE  
MUNICIPAL CODE OF THE CITY OF VILLA GROVE  
(ADDING CHAPTER 115 FOR OUTDOOR CAFÉS)**

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**WHEREAS**, the City of Villa Grove, Douglas County, State of Illinois (the "City") is a duly organized and existing City created under the provisions of the laws of the State of Illinois, and is not operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto with full powers to enact ordinances for the benefit of the residents of the City and the City previously enacted the Code of Villa Grove; and

**WHEREAS**, the City Council of the City of Villa Grove previously established Business Regulations within its Code of Ordinances as Title XI; and

**WHEREAS**, the City Council has determined that in order to define how businesses may conduct business outside of their buildings that Title XI "Business Regulations" of the City Code of Ordinances be amended to add Chapter 115 as provided herein.

**NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL, CITY OF VILLA GROVE, DOUGLAS COUNTY, ILLINOIS, as follows:**

SECTION 1: Incorporation Clause. The Mayor and City Council of the City of Villa Grove, Illinois hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this ordinance.

SECTION 2: Code of Villa Grove Amendment. Title XI pertaining to Business Regulations is hereby amended to include Chapter 115 to read in entirety, as follows:

**§ 115.01 - Definition.**

“Outdoor café” shall be an outdoor food service area operated adjacent to and in conjunction with a restaurant. This definition shall include areas located on public property and/or private property.

**§ 115.20 - Permit required.**

(A) *Outdoor cafés on public right-of-way.* Notwithstanding any other provision in this Code it is unlawful for any person, firm, corporation, organization or association to operate an outdoor café in compliance with Chapters 110 and 111 of this Code or to use the public right-of-way for outdoor seating, as an extension of the establishment, or to provide entertainment in conjunction with such outdoor cafés or outdoor seating without obtaining an outdoor café permit. Outdoor café permits will be issued for outdoor cafés and/or outdoor seating on public right-of-way only to business establishments. Such permits may be purchased at any time during a calendar year, but all permits shall expire on December 31 of the same calendar year. No permit shall be issued to any business establishment which is not in compliance with all provisions of the Municipal Code of the City of Villa Grove.

(B) *Outdoor dining on private property.* A permit for outdoor dining on private property with a detailed site plan is required. No permit shall be issued to any business establishment which is not in compliance with all provisions of the Municipal Code of the City of Villa Grove. Outdoor dining is to operate in compliance with Sections 115.22—115.99 of this Code.

**§ 115.21 - Application and fee.**

All applicants for outdoor café permits and/or outdoor seating on the public right-of-way permits must complete an application in a form approved by the city which must be submitted to the City's

Administrative and Billing Office with an initial, non-refundable fee of \$150.00 or a non-refundable renewal fee of \$50.00 for those renewing a permit from the previous year where no substantial changes have been made to the site plan. Applicants applying for both permits simultaneously may pay one \$150.00 fee. All applications shall include the following information:

(A) Name of the proprietor and the business establishment for which the outdoor café permit and/or the outdoor seating on the public right-of-way permit is sought.

(B) The address and phone number of the proprietor and the business establishment.

(C) A detailed site plan showing all existing objects on the property and on the public right-of-way adjacent to the business establishment including a depiction of on-street parking adjacent to the business establishment, and the proposed location of each chair and table. When music or other entertainment is provided outdoors on the private property of the petitioner requesting the permit, the site plan shall include the area and placement of said music or entertainment.

(D) Permit applications for outdoor seating on the public right-of-way must include Certificates of Insurance in the following amounts: 1) Commercial General Liability Insurance—\$1,000,000, showing the City and its officers, employees, agents and volunteers as additional insureds, and containing a statement that said policies shall not be changed or canceled without 30 days written notice to the City of Villa Grove; 2) Workers' Compensation—statutory amount; and 3) if alcoholic beverages will be consumed or sold, dram shop insurance as required by the Illinois Liquor Control Act of 1934, shall be required.

(E) Permit applications for outdoor seating on the public right-of-way must include a signed indemnification statement on the form provided by the City. An inspection of the property to document existing conditions of public improvements shall be performed by the City prior to issuance of an outdoor café permit and/or an outdoor seating on the public right-of-way seating permit. Applications should be filed at least two weeks prior to scheduled use to allow sufficient time for such inspection.

## **§ 115.22 - Regulations.**

All permit holders shall be subject to the following regulations:

(A) The outdoor café area and the outdoor seating on the public right-of-way area and outdoor dining on private property area shall be maintained clean and free from refuse or clutter at all times regardless of the source of such refuse and clutter. Refuse from any outdoor seating area shall not be disposed of in public waste receptacles.

(B) Outdoor seating elements (as defined in § 115.23 below) shall not be permanently attached and shall be removed when not in use during cold weather months (generally October through March). Any outdoor seating elements owned by the business establishment, that are intended to be placed within the public right-of-way outside of established business hours, shall be identified within the annual permit application, and shall be subject to review by the City Administrator, or their designee. If approved, the City reserves the right to require the establishment to remove or modify the outdoor seating elements, if deemed necessary by the City at any time.

(C) For outdoor seating on the public right-of-way, all public improvements shown on the site plan, including, but not limited to, pavers, benches, light poles and trees shall be maintained in the condition in which they existed immediately prior to the issuance of the permit, excluding normal wear and tear. The permit holder shall immediately report any damage to such public improvements to the Administrative and Billing Office. The City shall repair or replace such public improvement at its discretion and shall charge the cost of repair or replacement to the permit holder unless the damage can be clearly shown to have resulted from a cause not related to the issuance of the outdoor seating on the public right-of-way permit. All outdoor seating elements of outdoor cafés on public rights-of-way and outdoor dining on private property shall meet all provisions of the current Federal Americans with Disabilities Act (ADA) Standard and the Illinois Accessibility Code.

(D) Activities involving the outdoor seating on the public right-of-way shall be conducted in a manner that does not interfere

with pedestrians, parking or traffic.

(E) Outdoor café permits and/or outdoor seating on the public right-of-way permits shall be posted in a conspicuous place inside the business establishment.

(F) The source of music or other entertainment provided outdoors in conjunction with an outdoor café or outdoor seating in the public right-of-way permit or outdoor dining on private property permit, shall be located only on the private property of the permit holder and shall be provided, with noise levels maintained in strict compliance with the provision of § 94.01 of this Code or any other codes which may be established with regard to noise or public nuisances. Furthermore, all outdoor music or entertainment shall cease by 10:30 p.m. on Sunday through Thursday, and by 11:30 p.m. on Friday and Saturday.

(G) Outdoor seating areas on private property shall be permitted for establishments in which the designated seating area is on the same lot of record as the business establishment and located within the buildable area of the property. For outdoor seating within public rights-of-way, the outdoor seating area shall be limited to the areas designated on the permit, and shall not be located in front of any other business establishment or use unless the permit holder provides authorization to the village, from the adjacent business owner or occupant stating that he/she/it consents to the sidewalk seating elements being placed in front of his/her/its business establishment or use.

(H) Business establishments must meet all provisions as set forth within the Smoke Free Illinois Act.

(I) Business establishments must provide public restrooms for patrons, as required by this Code.

(J) Business establishments shall be entitled to remove or exclude persons from the outdoor seating on the public right-of-way area during the hours of business operation, and are authorized to give notice to any such persons to prevent such entry, in the same manner as applicable to the non-public right-of-way portion of the business establishment.

**§ 115.23 - Restrictions.**

(A) Tables, chairs, temporary fencing, decorations and umbrellas (the "outdoor seating elements"):

(1) Shall be located so that a four-foot wide unobstructed walkway, as measured from the outdoor seating element to any other obstructions on the opposite side of the unobstructed walkway, is maintained at all times;

(2) Shall be located in accordance with the approved site plan, shall generally be immediately adjacent to the building and in no instance less than 42 inches from the back of curb, except that outdoor seating elements can be located closer than 42 inches from the back of curb when there is no parallel parking adjacent to them (said modification to these requirements may be varied by the City Administrator, or their designee, if granting such approval provides for a better design and layout of the seating area);

(3) Shall not obstruct normal ingress and egress from the business's establishment.

(4) Shall not be of a design and/or weight that will create a wind-blown hazard, and,

(5) Shall meet all provisions of the current Federal American with Disabilities Act (ADA) Standard and the Illinois Accessibility Code.

(B) The following items or actions are prohibited in the outdoor seating on the public right-of-way area and the outdoor dining on private property area:

(1) Outdoor seating elements in locations not approved by the City Administrator, or their designee, and

(2) Electrical appliances.

(C) The following provisions are required for business establishments where the service or consumption of alcoholic

beverages will take place in the outdoor cafe or outdoor seating on the public right-of-way or outdoor dining on private property:

(1) The business establishment shall have a valid liquor license issued by the village, that allows for the service of the type of alcoholic beverages being served.

(2) Alcoholic beverage consumption shall only be permitted within the designated outdoor seating area, or any other portion of the business establishment to which the liquor license relates. The permit holder shall not allow or permit any customer, employee or other person to remove alcoholic beverages from the area designated in the outdoor cafe or outdoor seating area in the right-of-way permit or outdoor dining on private property permit, other than to another location within the business establishment to which the liquor license relates.

(3) To ensure that consumption of alcoholic beverages is limited to the designated outdoor seating areas and operated in compliance with this Code, outdoor cafes and outdoor seating areas on the public right-of-way and private property shall be regularly monitored and bussed by an employee or contractor of the business establishment.

(4) The hours during which patrons may occupy the outdoor café or outdoor seating on the public right-of-way or outdoor dining on private property shall not extend beyond the hours of operation of the other portions of the business establishment. Notwithstanding the foregoing, the outdoor café or outdoor seating on the right-of-way or outdoor dining on private property shall not be occupied during the following times:

Between 12:00 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; between the hours of 1:30 a.m. and 6:00 a.m. on Saturday; and between the hours of 12:00 a.m. and 12:00 p.m. (noon) on Sunday.

(5) Outside seating areas on private property, not in conjunction with outdoor seating on the public right-of-way, shall be fenced or screened in a manner that prevents patrons from congregating outside of the designated seating area. Fencing shall be of a wood or metal design and may be permanently secured to the ground or removable during the period in which outdoor seating is not open. Said fencing shall also meet the design and ingress/egress provisions as required by this Code. Modification to these requirements may be varied by the City Administrator, or their designee, if granting such approval provides for a better design and layout of the outdoor seating area.

**§ 115.24 - Enforcement; revocation.**

(A) Any person, firm or corporation who violates the provisions of §§ 115.20, 115.21, 115.22 or 115.23 of this Code shall be fined not less than \$100.00 nor more than \$750.00 for each day on which the violation occurs or continues to occur. In addition, the outdoor café permit and/or the outdoor seating on the public right-of-way permit and/or the outdoor dining on private property permit may be revoked as a result of any such violation.

(B) The City Administrator, the Chief of Police, or their designees of the City, upon determining that the method or manner of use of the outdoor café or the outdoor seating or the conduct of persons serving within or using same pose an immediate threat to the public health, safety or welfare shall have the power and authority to cause the outdoor dining elements to be removed immediately and to revoke the permit issued pursuant to §§ 115.20 and 115.21 of this Code.

**§ 115.99 - Penalty.**

(A) Revocation or termination of a Douglas County Board of Health permit shall result in a concurrent termination of the City's license granted under this Chapter.

(B) Any person, firm, or corporation violating any provision of §§ 115.10 through 115.13 shall be fined not less than \$100.00

nor more than \$750.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 3: State Law Adopted. All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this Ordinance are hereby incorporated herein by reference.

SECTION 4: Other Actions Authorized. That the Mayor, City Clerk and City Employees are hereby authorized and directed to do all things necessary, essential, or convenient to carry out and give effect to the purpose and intent of this Ordinance.

SECTION 5: Acts of City Officials. That all acts and doings of the officials of the City, past, present and future which are in conformity with the purpose and intent of this Ordinance, are hereby in all respects, ratified, approved, authorized and confirmed.

SECTION 6: Headings. The headings for the articles, sections, paragraphs and sub-paragraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation of construction of any substantive provisions of this ordinance.

SECTION 7: Severability. The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, sub-paragraph, section, or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, sub-paragraph, section, or part thereof had not been included.

SECTION 8: Superseder and Publication. All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded. A full, true and complete

copy of this Ordinance shall be published in pamphlet form as provided by the Illinois Municipal Code, as amended.

SECTION 9: Effective Date. This Ordinance shall be in full force and effect upon passage and approval, as provided by the Illinois Municipal Code, as amended.

**PRESENTED, PASSED, APPROVED AND ADOPTED** BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VILLA GROVE, ILLINOIS, at its regular meeting on this twenty-sixth day of May, A.D., 2020, by a roll call vote as follows:

Blaney, Thelma I. yea

Hooker, Anthony L. yea

Eversole-Gunter, Cassandra A. X

Johnson, Derek S. yea

Garrett, Ryan P. yea

Pangburn, Matthew M. yea

Griffith, Darrel M. yea

APPROVED:

Cassandra A. Eversole-Gunter  
CASSANDRA A. EVERSOLE-GUNTER  
Mayor

ATTEST:



Michelle L. Osborne  
MICHELLE L. OSBORNE  
City Clerk

SEAL