Naperville

OFFICE OF THE MAYOR
Steve Chirico

April 29, 2020

Amended Executive Order 2020 – 3

EXECUTIVE ORDER OF THE MAYOR OF THE CITY OF NAPERVILLE

RECITALS

1. **WHEREAS**, on January 30, 2020, the World Health Organization declared the COVID-19 outbreak to be a public health emergency of international concern; and

2. **WHEREAS**, on March 13, 2020, the President of the United States issued a proclamation on declaring a national emergency concerning the COVID-19 outbreak, and

3. **WHEREAS**, on March 9, 2020, the Governor of the State of Illinois issued a disaster proclamation due to the impact of the COVID-19 outbreak and activated the State Emergency Operations Center; and

4. **WHEREAS**, on March 16, 2020, the Governor of the State of Illinois issued Executive Order 2020-07, suspending on-premise consumption of food and beverages in places of public accommodation and prohibiting gatherings of 50 people or more; and

5. **WHEREAS**, on March 17, 2020, at an emergency Naperville City Council meeting a local state of emergency and disaster related to the COVID-19 outbreak was declared (see, *Mayor of Naperville's Declaration of a Local State of Emergency and Disaster* and *City of Naperville Ordinance 20-028 pertaining to a local state of emergency and disaster*); and

6. **WHEREAS,** effective Wednesday, March 18, 2020, all City of Naperville buildings have been closed to the public and many City staff began working remotely impacting City public business operations; and

7. **WHEREAS**, on March 19, 2020, as a result of Governor Pritzker's Executive Order 2020-07, the Illinois Liquor Control Commission ("ILCC") issued guidance on whether a license holder authorized to conduct on-premises alcoholic liquor sales only may sell alcoholic liquor for consumption off of the licensed premises. The guidance states that the ILCC will accept the decision of a local liquor control commission to authorize an on-premises only retailer to sell alcoholic liquor for consumption off the licensed premises and that state retail licenses that authorize

on-premises only sales will be authorized to sell alcoholic liquor for off-premises consumption if such sales are authorized by the local liquor control commission; and

8. **WHEREAS**, on March 20, 2020, the Governor of the State of Illinois issued Executive Order 2020-10, requiring that all non-essential business and operations cease and requiring all individuals currently living in the State of Illinois to stay at home or their place of residence except as necessary to perform essential activities; and

9. **WHEREAS**, on April 1, 2020, the Governor of the State of Illinois issued Executive Order 2020-18, extending and continuing prior executive orders, including the order for residents to stay at home or their place of residence except as necessary to perform essential activities through April 30, 2020; and

10. **WHEREAS**, hardships have been placed on businesses and residents because of the COVID-19 virus outbreak and the Governor of the State of Illinois' Executive Order 2020-10 requiring the closure of non-essential businesses; and

11. **WHEREAS**, the City of Naperville is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare, including taking immediate emergency measures to protect the public welfare in response to the COVID-19 outbreak;

THEREFORE, by the powers vested in me as the Mayor of the City of Naperville, and pursuant to 65 ILCS 5/11-1-6 of the Illinois Municipal Code, 20 ILCS 3305/11 of the Illinois Emergency Management Agency Act, Sections 10-1-1 and 1-8D of the Naperville Municipal Code, the Mayor of Naperville's Declaration of a Local State of Emergency and Disaster and City of Naperville Ordinance No. 20-028, I hereby order the following:

SECTION 1: **Recitals**. The Recitals set forth above are found to be true and correct and are hereby incorporated herein and made part hereof in their entirety by reference as though fully set forth in this Section1.

SECTION 2: **Package Sale of Alcoholic Liquor.** Section 3-3-11:1 of the Naperville Municipal Code is amended to allow Class A – Restaurant, Class B – Restaurant and Tavern, Class J – Hotel/Motel and Tavern, and Class P - Manufacturer liquor license holders to allow the sale of alcoholic liquor in its original package for off-

premise consumption by means of in-house delivery, third-party delivery, drive-through, curbside pick-up and carryout. Licensees remain responsible for complying with all other requirements of the Naperville Municipal Code and Illinois state law. This includes ensuring, at a safe social distance, that the alcoholic liquor is sold or delivered to an individual at least twenty-one years of age or older by verifying the ages and identities of the person(s) purchasing the packaged alcoholic liquor and/or receiving the packaged alcoholic liquor upon delivery.

SECTION 3: **Crowlers.** Section 3-3-11:1 of the Naperville Municipal Code is amended to allow Class B – Restaurant and Tavern liquor license holders to fill crowler containers with craft beer pursuant to and provided the licensee complies with 235 ILCS 5/6-6.5, et. seq.

SECTION 4: Insurance Requirements. Licensees are advised that dramshop/liquor liability insurance policies may need to be updated and/or revised to undertake the actions described in this Order. By undertaking the sale of alcoholic liquor in its original package, the Licensee certifies the sufficiency of their dramshop/liquor liability insurance policy and indemnifies the City of Naperville and its employees and agents from any and all liability related to any and all claims that arise directly or indirectly from this Order and any activities undertaken by the Licensee pursuant to this Order.

SECTION 5: **Sole Discretion.** The Mayor of the City of Naperville, in his sole discretion, shall have the authority to approve, suspend, revoke, or make conditional any activities permitted under this Order, at any time, if deemed necessary in the interest of public health, safety or welfare.

SECTION 6: **Duration.** This Order shall be effective until this Order is terminated as such date as later provided in writing, by the Liquor Commissioner. All amendments, activities, and authorizations permitted pursuant to this Order shall cease and become void upon termination of this Order. Any action or prosecution of a violation of this Order and any Code section impacted by this Order shall continue in full force and effect.

SECTION 7: **Savings clause**. If any provisions of this Executive Order or its application to any person or circumstance is held invalid or unenforceable by any court of competent jurisdiction, this invalidity or unenforceability does not affect any other provisions or application of this Executive Order, which can be given effect without the invalid or unenforceable provision or application. To achieve this purpose, the provisions of the Executive Order are declared to be severable.

SECTION 8: **Effective Date.** This Executive Order shall be in full force and effect from 12:00 A.M. on the date listed atop page one of this Order.

APPROVED this 28th day of April 2020.

Steve Chirico
Mayor