

ORDINANCE NUMBER 06 - 33

**ORDINANCE AMENDING TITLE XV, LAND USAGE,
CHAPTER 151, BUILDING REGULATIONS; CONSTRUCTION,
BY REVISING SECTION 151.027**

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to 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; and

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that Title XV, **Land Usage**, Chapter 151, **Building Regulations; Construction**, Section 151.027, be deleted and replaced with a new Section 151.027.

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

Section One. That **Title XV, Land Usage, Chapter 151, Building Regulations; Construction**, Section 151.027, in its current form, be amended by deleting Section 151.027 in its entirety and substituting in lieu thereof the following:

§ 151.027 SPECIFICATIONS FOR OUTSIDE DINING AREA REQUIRES A LICENSE.

(A) Outside dining areas are a privilege provided pursuant to a license. Said license may be granted by the Village Board upon recommendation from the Liquor Commission. If no alcohol is to be served, the license may be granted by the Village Board in its sole and exclusive discretion at their regular board meeting or any special board meeting. Outside dining areas permitted in this section are defined as those areas on private property. The issuance of this license does not waive any other

ordinance requirements. The intent is to provide outside dining areas that are beneficial to patrons, residents, and businesses in East Dundee, as determined by:

(1) The outside dining area shall be enclosed by a minimum 3-foot high wall, fence, or structure designed to be decorative and to prevent unauthorized entry. The maximum height of such fence or wall shall be 8 feet.

(2) At least five (5) feet of public right-of-way must be provided and maintained at all times for pedestrian traffic.

(3) At least ten (10) feet of public right-of-way traffic must be provided between the outdoor dining area and vehicular traffic.

(4) The outside dining area shall have ingress and egress for emergency purposes and for handicap accessibility.

(5) The outside dining area shall not have a covered roof, although umbrellas, awnings, screening, and the like may be allowed, and a limited roof structure may be permitted over any service bar.

(6) No signs shall be attached to any furniture, umbrellas, awnings, or other structure related to the operation of the outdoor dining area.

(7) No permanent fixtures are to be installed and only those fixtures authorized by the permit and shown in the diagram may be stored in the public right-of-way when the outdoor dining area is not in operation. Should the licensee not utilize the sidewalk as authorized for a period of 48 hours or more, all the tables and materials must be removed.

(8) A service bar or service window for the service of alcoholic beverages may be permitted in the outside dining area. Permission for the sale of alcoholic beverages must be secured from the Liquor Commission prior to issuance of an Outdoor Dining/Sidewalk Café Permit.

(9) Live entertainment shall be governed by the rules set forth in this chapter.

(10) Outside meal seating will be permitted; however, no alcohol shall be served or consumed in the outside seating area no later than 12:00 a.m. Sunday through Thursday, and 1:00 a.m. Friday and Saturday.

(11) The outside dining area seating shall not be used in subdivision (b) above for calculating the required number of seats for this liquor license classification.

(12) Seating for the outdoor dining area is to be restricted to the right-of-way approved by the Village.

(13) The outside dining area seating capacity when combined with the indoor seating capacity shall meet the requirements of the State Plumbing Code and Village Plumbing Ordinances with regard to restroom facilities.

(14) Persons issued a permit for an outdoor dining area/sidewalk café shall maintain the sidewalk area in a clean and safe condition. The permit holder shall clean said area at the end of each business day, so as not to have any food or drink leftovers remaining. The permit holder shall wash daily the sidewalk area approved by the Village for the outdoor dining area/sidewalk café removing any food or drink residue.

(15) If the outdoor dining area interferes with a public event planned on the public right-of-way, the public event shall take precedence. The Village will endeavor to notify the licensee thirty (30) days in advance of the scheduled event.

(16) Such other requirements as may reasonably be imposed by the Liquor Commission taking into account the unique circumstances of the licensee's premises and location.

(B) Every applicant for a permit to maintain, operate or conduct an outdoor seating area shall file an application with the Village Clerk upon a form provided by the Village Clerk and pay a filing fee as set forth in the Village Annual Fee Schedule, which shall not be refundable.

(C) Application/Policy Requirements.

(1) Permits for operation of an outdoor dining area will be issued for operation between April 15th and October 15th.

(2) The application for a permit to operate an outdoor dining area must include the following:

(a) A Certificate of Insurance in the amount of \$1,000,000 naming the Village of East Dundee as an additional insured, which must be renewed each year the outdoor dining area is in operation.

(b) A signed Hold Harmless Agreement.

(c) A diagram of the proposed layout of the outdoor dining area, including sizes of fixtures and their location. A layout is to be submitted for approval should the layout change in any way from the layout originally approved by the Village. The Village may reduce the requested number of tables to provide for safe pedestrian passage.

(d) A formal letter requesting permission including information such as dates and right-of-way requested is required for first-time applicants.

(D) The permit is not transferable in any manner.

(E) Periodic inspections and response to complaints will be conducted by the Building Official.

(F) Any violation of the requirements set forth herein will result in the following:

(1) First notice of violation will result in a written notice of correction.

(2) Second notice of violation will result in a suspension of the permit for a two week period.

(3) Third notice of violation will result in revocation of the permit for the remainder of the calendar year.

(G) All licenses issued in accordance with this Section shall be governed by the General Licensing Provisions as contained within Title IX, Business Regulations, Chapter 110, of the Village Code.

Section Two. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Three. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Four. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 21st day of August, 2006, pursuant to a roll call vote as follows:
AYES: Ruffalo, VanOstenbridge, Scarpelli, Jr., O'Leary, Gorman, Carlini, President Bartels

NAYES:

ABSENT:

Approved by me this 21st day of August, 2006.

Jerald Bartels

JERALD BARTELS, President

Published in pamphlet form this 24th day of August, 2006, under the authority of the President and Board of Trustees.

ATTEST:

Sue Norton
SUE NORTON, Village Clerk

Recorded in the Village Records on Aug 24, 2006.

