

ORDINANCE NO. 2020-08-042

RATIFICATION OF EMERGENCY ORDER 20-08

(Emergency Order Phase 4 Operating Guidelines Governing Seating and Occupancy in Bars and Restaurants and Use of Face Coverings)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, on March 16, 2020, the City Council adopted Ordinance No. 2020-03-015, Temporary Emergency Ordinance to Address the COVID-19 Pandemic; and

WHEREAS, on April 16, 2020, the City Council adopted Ordinance No. 2020-04-24 that reaffirmed Ordinance No. 2020-03-015; and

WHEREAS, currently Governor Pritzker’s Restore Illinois Plan for the region in which the City is located is in Phase 4 of that Plan;

WHEREAS, COVID-19 2020 Restaurant and Bar Establishment Safety Guidelines for Phase 4 have been issued by the Governor; and

WHEREAS, the Illinois Department of Public Health recently issued Emergency Rules concerning, among other issues, the mandatory use of face coverings (77 Ill. Adm. Code 690.50 *et seq.*); and

WHEREAS, the Champaign-Urbana Public Health District recently issued Ordinance No. 2020-08-05 that also addresses mandatory use of face coverings; and

WHEREAS, the City of Champaign has issued or will soon issue one or more emergency orders or ordinances that while provide for the same or similar effect as the City’s Emergency Order 20-08; and

WHEREAS, the City Council has reviewed Emergency Order 20-08 and believes that it benefits the public health, safety and welfare of residents, businesses and visitors in and to the City of Urbana.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

The City Council, after reviewing Emergency Order 20-08, hereby ratifies and confirms the said Emergency Order and the same shall remain in full force as provided in Section 9 of the said Emergency Order. Notwithstanding, the immediate foregoing, the City Council shall have the authority to repeal this Ordinance prior to the lifting or termination of the Governor's disaster declaration and the Mayor's Declaration of Emergency.

Section 2.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

PASSED BY THE CITY COUNCIL this 24th day of August, 2020.

AYES: Brown, Colbrook, Hursey, Laut, Roberts, Wu

NAYS: Miller

ABSTENTIONS:



Phyllis D. Clark, City Clerk



APPROVED BY THE MAYOR this 25th day of August, 2020.



Diane Wolfe Martin, Mayor

COVID-19 RELATED EMERGENCY ORDER



Under Authority of TEMPORARY EMERGENCY ORDINANCE NO. 2019-03-015

EMERGENCY ORDER NO. 20-08

PHASE 4 OPERATING GUIDELINES CONCERNING SEATING AND OCCUPANCY IN BARS AND RESTAURANTS AND FACE COVERINGS

Effective Date: Upon execution of this Emergency Order No. 20-08 by the Mayor.

EXPLANATION: This Emergency Order 20-08 (hereinafter, “Order”) provides enforceable guidelines concerning occupancy and seating in bars and restaurants and the wearing of face coverings (“Face Coverings”) generally pursuant to Phase 4 of Governor Pritzker’s Restore Illinois Plan, including the COVID-19 2020 Restaurant and Bar Establishment Safety Guidelines for Phase 4 of the Restore Illinois Plan, the Illinois Department of Public Health’s Emergency Rules to Enforce the Use of Face Coverings, and the Champaign-Urbana Public Health District Ordinance No. 2020-08-05.

AUTHORITY TO ISSUE EMERGENCY ORDER: Ordinance No. 2020-03-015 – Temporary Emergency Order to Address the COVID-19 Virus Pandemic, Section 13; Ordinance No. 2020-04-024 – Reaffirmation of Ordinance No. 2020-03-015 and Reissuance of Mayor’s Authority to Issue Temporary Declaration of Emergency; Governor Pritzker’s Restore Illinois Plan - Phase 4 Guidelines including COVID-19 2020 Restaurant and Bar Establishment Safety Guidelines for Phase 4 of the Restore Illinois Plan; and the Illinois Department of Public Health Emergency Rules to Enforce the Use of Face Coverings (77 Ill. Adm. Code 690.50 *et seq.*); Champaign-Urbana Public Health District No. 2020-08-05.

ISSUER OF EMERGENCY ORDER 20-08: Diane Wolfe Marlin, Mayor.

1. Definitions. For the purposes of this Order, the below terms have the following meanings:

- a. “City” shall mean the City of Urbana, Illinois.
- b. “C-UPHD Ordinance” shall mean the Champaign-Urbana Public Health District Ordinance No. 2020-08-05 - COVID-19 Face Coverings and Gathering Restrictions Ordinance.
- c. “Enforcement Officer” shall any member of the police and law enforcement departments of Urbana, Champaign, Champaign County, State of Illinois, or University of Illinois or C-U Public Health District or employees of a governmental jurisdiction as designated and delegated by the City of Urbana.
- d. “Establishment” shall mean a restaurant, bar, and restaurant/tavern that sells food and/or alcoholic liquor for on-premises consumption or for carry out. “Establishment” shall not include any restaurant, bar or restaurant/tavern that only sells alcoholic liquor and/or food for off-premises consumption where delivery of such alcoholic liquor and/or food is at curbside or beyond.
- e. “Face Covering” shall mean a mask or cloth covering that is worn so as to completely cover the nose and mouth of the wearer.

f. "IDPH Emergency Rules" shall mean the Illinois Department of Public Health Emergency Rules to Enforce the Use of Face Coverings (77 Ill. Adm. Code 690.50 *et seq.*).

g. "Social Distancing" shall mean a radius of at least a six (6) feet that separates two or more individuals from each other.

h. "State Guidelines" shall mean the COVID-19 2020 Restaurant and Bar Establishment Safety Guidelines for Phase 4 of the Restore Illinois Plan issued by the Illinois Department of Commerce and Economic Opportunity.

2. State Guidelines, IDPH Emergency Rules, C-UPHD Ordinance Applicable. All Establishments and other businesses, services, facilities, and organizations that are open to the public and/or their employees shall comply with the State Guidelines, IDPH Emergency Rules, and C-UPHD Ordinance. The State Guidelines, IDPH Emergency Rules, and C-UPHD Ordinance are incorporated into this Order and any violation of any of them shall constitute a violation of this Order.

3. Order of Superiority in Governing Requirements. In the event that any part of the C-UPHD Ordinance conflicts with any part of the IDPH Emergency Rules, the C-UPHD Ordinance shall govern. In the event that any part of this Order conflicts with any part or parts of the C-UPHD Ordinance and/or the IDPH Emergency Rules, and/or the State Guidelines, pursuant to the City's home rule authority (Ill. Const. 1970, Art. VII, § 6;), this Order shall govern.

4. Guidelines for Establishments: Face Coverings, Seating, Entry Age.

a. Face Coverings in Establishments. In compliance with the C-UPHD Ordinance, Guidelines, and IDPH Emergency Rules, patrons of Establishments must wear Face Coverings when not eating or drinking in the Establishment and/or when leaving the patron's seat as provided in Section 3.c. of this Order.

b. Patrons Must be Seated. All patrons present in an Establishment must have a seat in the Establishment, whether a chair, booth, picnic-style table, or bar stool, and must remain seated except for the limited and temporary purposes described in Section 3.c. of this Order. The sale, service, and consumption of alcoholic liquor and/or food on an Establishment's premises shall be allowed for seated patrons only. Standing area occupancy shall not be allowed, either in indoor or outdoor service areas.

c. Exceptions to Seating; Face Covering Required While Standing. Patrons of an Establishment may stand only for limited purposes, including using the restroom, placing an order at a designated service area, picking up an order for carry out, or while entering or exiting the Establishment. Use of selected games is also permitted, provided that no more than two (2) patrons may stand to use any individual arcade game, dart board, pool table, or similar game or entertainment device at a time and those patrons shall maintain proper social distancing at all times. Patrons must return to their seats when their use of the game concludes. All of these limited purposes do not include eating or drinking. Any patron that is standing in an Establishment must be wearing a Face Covering at all times.

d. Enforcement: Security Cameras. Pursuant to the investigation of a specific complaint, or upon the observation or reasonable belief of any Enforcement Officer that an unsafe or unsanitary environment exists or recently existed, any Establishment must provide

immediate and unrestricted access to footage from its security camera systems upon request by an Enforcement Officer or by any authorized agent of the City of Urbana Local Liquor Commissioner's Office, or an agent of the Champaign-Urbana Public Health District.

e. Limited Entry Age for Liquor Establishments. For those Establishments that hold a Class A liquor license issued by the City, effective beginning at 9:00 p.m. on Thursday, August 20, 2020, the entry age for entering into such Class A liquor license holders shall be 21 and over after 9:00 p.m. each day. Class A liquor license holders must cause any patrons under the age of 21 to leave the premises by no later than 9:00 p.m.

f. Requirement for Establishments to Enforce Order; Notice to Patrons. Each Establishment shall be responsible for enforcing the requirements set forth in this Order on the Establishment's premises. The Establishment shall prominently post such requirements regarding seating and Face Coverings at each entrance to the Establishment and upon any table for the seating of patrons.

g. Patron Responsible. Notwithstanding anything to the contrary in this Section 3, patrons may be deemed to violate this Order if they are found not to be wearing Face Coverings while in an Establishment.

5. General Requirement to Wear Face Covering.

a. Individuals. Any individual who is over age two and able to medically tolerate a Face Covering shall completely cover their nose and mouth with a Face Covering when in a public place and unable to consistently maintain Social Distancing from all other persons in the public place. Parents and guardians shall cause the individuals under their care to comply with this Subsection when the individual is over the age of two and medically able to tolerate a Face Covering. This Section applies whether in an indoor space, such as a store or other building that is not used for residential purposes, or in an outdoor space.

b. Business Requirement. Any business, service, facility, or organization, other than an Establishment, that is open to the public or employees shall require employees, customers, patrons, and other individuals on the premises who are over the age of two and medically able to tolerate a Face Covering shall wear Face Coverings when on the premises and unable to consistently maintain Social Distancing.

c. Employee Duty and Reasonable Efforts. Employees and owners of businesses, services, and facilities shall have a duty to enforce the Face Covering requirements of this Order, and failure to comply with and enforce this Order shall constitute a violation of this Order. Employees of the businesses, services, facilities, or organizations that take reasonable efforts to require employees, customers, patrons and other individuals on the premises to wear Face Coverings shall be in compliance with this Order. Reasonable efforts to comply shall be determined based on the totality of the circumstances and include, but are not limited to:

- (1) Posting signage requiring Face Coverings over the nose and mouth to be worn on while on the premises;
- (2) Providing Face Coverings to those not wearing a Face Covering;

(3) Giving verbal warnings to persons not wearing Face Coverings when on the premises;

(4) Requesting and causing a person to leave the premises if not wearing a Face Covering; and

(5) The quantity of persons observed to be without Face Coverings while on the premises.

d. Enforcement of Individuals. Prior to taking any enforcement action under Sections 3 and 4 of this Order, the Enforcement Officer shall first order the person to use a Face Covering. Failure to comply with said order in a timely manner, or subsequent removal of or allowing of a Face Covering shall constitute a violation of this Order.

6. Violation; Penalty.

a. Establishments that Sell or Service Alcoholic Liquor. Any Establishment that is licensed by the City to sell alcoholic liquor for on-premises consumption that is found to be in violation or to have violated this Order shall be subject to the penalties provided for in Urbana City Code Chapter 3 (Alcoholic Liquors) and may be subject to the maximum fine assessable for each day the said Establishment is found to be in violation of this Order.

b. Other Establishments, Businesses, Services, and Facilities. Any Establishment that does not sell alcoholic liquor for on-premises consumption and any business, service and/or facility that is found to be in violation or to have violated this Order shall be subject to the penalties provided for in Urbana City Code Section 15-18 (Reckless Conduct) and may be subject to the maximum fine assessed for each day the said Establishment, business, service, or facility is found to be in violation of this Order.

c. Individuals. Any individual that is found to be in violation or to have violated this Order shall be subject to the penalties provided for in Urbana City Code Section 15-18 (Reckless Conduct) and may be subject to the maximum fine assessed for each day the said individual is found to be in violation of this Order.

7. Violations of Guidelines, Emergency Rules, and/or C-UPHD Ordinance. Any violation of the State Guidelines, IDPH Emergency Rules, and/or C-UPHD Ordinance shall constitute a violation of this Order and shall be subject to the penalty provisions provided herein.

8. Code in Effect. All other sections of the Urbana City Code not in conflict with this Order shall remain in full force and effect, and are made applicable to this Order.

9. Duration of Emergency Order 20-08: This Order shall expire on the later of (i) when the Governor issues an emergency order or suspends an existing emergency order such that the COVID-19 2020 Restaurant and Bar Establishment Safety Guidelines for Phase 4 of the Restore Illinois Plan shall cease to be effective without the institution of more strict safety guidelines; or (ii) when the City Council repeals its Ordinance Nos. 2020-03-015 and 2020-04-024; or (iii) when the Mayor repeals or terminates her Temporary Declaration of Emergency or this Order.

DATE: 19 August 2020

Diane Wolfe Marlin
Diane Wolfe Marlin, Mayor

ATTEST: Phyllis D. Clark by
Phyllis Clark, City Clerk

Wendy A. Hunt
Deputy Clerk

