

**SPECIAL MEETING
BRainerd City Council**

Wednesday, May 27, 2020
6:00 p.m.

In accordance with the requirements of Minn. Stat. Section 13D.021, Jennifer Bergman, the City Administrator, has determined that an in-person meeting is not practical or prudent because of a health pandemic declared under Chapter 12 of the Minnesota Statutes.

Members of the public may monitor the meeting via phone.
Meeting Number: 1-844-992-4726
Access Code: 964 732 921

1. Call to Order
2. Role Call
3. Approval/Change of Agenda
4. Consideration of Temporary Extensions to Premises
5. Adjourn

Any individual needing special accommodations or that desires more information about the above items, please call 218/828-2307.

MEMO



TO: Mayor and City Council

FROM: David Chanski, Community Development Director

DATE: May 22, 2020

RE: Temporary Extensions of Premises

On Wednesday, May 20, Governor Walz announced the State's guidelines for the reopening of dine-in service for restaurants and bars. While the Department of Employment and Economic Development (DEED) has issued an 8-page guide for safely reopening restaurants and bars, two primary restrictions have been put into place:

1. All indoor restaurant service remains closed. Outdoor seating only is allowed at this time.
2. Businesses must limit the number of customers and clients necessary to allow for the required social distancing and not exceed required percentage of occupancy where required.
 - a. Number of customers at any one time is limited to the number for whom physical distancing of 6 feet can be maintained between tables, not to exceed 50.
 - b. A limit of two customers may be seated together at the counter for service at any one time.
 - c. A limit of four customers may be seated together at a table at any one time, unless the customers are a household, then the limit is six customers.

Additionally, establishments that serve alcohol are still required to adhere to the standards set forth in Minnesota State Statute Section 340A, which requires retail alcoholic beverage licensed premises to be compact and contiguous. Unfortunately, many of our bars and restaurants do not currently have dedicated patios, and the physical location of many of these establishments precludes the construction of a patio.

Crow Wing County Attorney Don Ryan has issued a legal opinion on liquor license temporary extension of premises (see attached). Crow Wing County is requesting that municipalities follow the guidelines in Mr. Ryan's opinion in an effort to keep some conformity of regulation throughout the county. Therefore, staff is making the following recommendations:

1. Allow all restaurants and bars to temporarily extend their premises outside as long as it is compact and contiguous. This would include the expansion of current outside licensed premises areas.

- a. Establishments who do not have the spatial ability to extend their premises within their property and do not currently have an outdoor dining area, may request to use immediately adjacent right-of-way for an extension of premises.
 - b. If an extension of premises using right-of-way is requested, the proprietor must receive permission in writing from all immediately adjacent properties prior to submitting such an application.
 - c. No extension of premises within the right-of-way shall be located on a public sidewalk and shall not extend out further than ten (10) feet from the curb.
 - d. No glass products are allowed in extensions of premises within the right-of-way.
2. In order to receive a temporary extension of premises, a proprietor must submit an application for a Temporary Extensions of Premises Permit to City of Brainerd Community Development Department and receive approval for their plan.
3. The application must include a diagram of the temporary extended premises to be created. This is to include at least measurements in feet showing the perimeter of the temporary extended area, entrance/exit, table layout, and how the area relates to the overall footprint of the original licensed premises/property. Applications shall also include:
 - a. A copy of the applicant's COVID-19 Preparedness Plan.
 - b. Hours of operation.
 - c. Lighting plan.
 - d. Noise mitigation plan that adheres to Section 2014 of the City Code.
 - e. Location of fire extinguishers.
 - f. Parking plan (if current parking is affected by proposed extension of premises).
4. Extensions of premises shall be inspection by the City of Brainerd Fire Marshall and Building Official before any service can take place.
5. Temporary membrane structures, tents, and/or canopies shall only be allowed by special permit from the City of Brainerd Fire Department
6. If the proprietor holds any kind of liquor license, the license holder must also provide the Community Development Department a current Certificate of Liquor Liability showing that the liquor liability insurance coverage will extend to the temporary extended premises (including any public property) for the duration of the time allowed.
7. The temporary extended premises must be attached to the original licensed premises and enclosed (roped off, temporally fenced in, or chained off) so access (entering/exiting) is controlled. When possible, it is preferred this be through the original licensed premises.
8. The City of Brainerd Fire Marshall shall set the occupancy for all extensions of premises. The occupancy of all existing outdoor dining areas shall not be increased outside of direct approval of the Fire Marshall.
 - a. Occupancy shall not exceed that of the premises' current occupancy.
9. The designated temporary extended premises must remain for the duration of the time allowed (i.e. if a parking lot is temporarily extended premises, the license holder can't change back and forth from parking lot to temporary extended premises).

- a. Extensions of premises within the downtown right-of-way shall be dismantled no later than 4:30a.m. and reassembled no sooner than 10:00a.m. each Wednesday for street sweeping.
- 10. Appropriate and Adequate parking to accommodate parking must be maintained at all times.
- 11. All aspects of Governor Walz's current and future Executive orders, as well as CDC and MN Department of Health requirements must also be complied with as part of the temporary premises extension.
- 12. The temporary extension of premises will be allowed from the date granted by the Community Development Department through October 31, 2020 or until further occupancy guidelines permitting indoor occupancy are issued by the State of Minnesota.
- 13. The Community Development Department has the right to revoke or alter any Temporary Extension of Premises Permit for violation of these guidelines or by recommendation of the City of Brainerd Police Department or Fire Department.

RESOLUTION

No. ____:20

WHEREAS, Executive Order 20-04 closed all bars and restaurants in the State of Minnesota to ingress, egress, use, and occupancy by members of the public due to the COVID-19 pandemic, effective March 17, 2020; and

WHEREAS, Executive Order 20-56 will lift certain occupancy restrictions on bars and restaurants effective June 1, 2020; and

WHEREAS, the Department of Employment and Economic Development has issued guidelines limiting the service of bars and restaurants to outdoors only; and

WHEREAS, many bars and restaurants within the City of Brainerd do not have permitted areas for outdoor dining nor have spatial flexibility to construct such a space within a compact and contiguous area; and

WHEREAS, the restrictions put in place by executive order have put many of our bars and restaurants in dire financial condition; and

WHEREAS, the City of Brainerd seeks to partner with our business community and help them survive this pandemic,

BE IT RESOLVED, the City Council of the City of Brainerd, Minnesota, hereby temporarily lifts the restrictions on patios and outdoor dining areas as outlined in Section 515 of the City Code and empowers the Community Development Department to issue, manage, and revoke Temporary Extension of Premises Permits in accordance to the guidelines adopted by the City Council, effective June 1, 2020, until October 31, 2020, or until further occupancy guidelines permitting indoor occupancy are issued by the State of Minnesota.

Adopted this ____ day of May 2020

GABE JOHNSON
President of the Council

Approved this ____ day of May 2020

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator



Donald F. Ryan, County Attorney

Crow Wing County Attorney's Office
213 Laurel Street, Suite 31
Brainerd, MN 56401
don.ryan@crowwing.us
Phone: 218.824.1025 Fax: 218.824.1026

May 21, 2020

Debby Erickson
Administrative Services Director
326 Laurel Street
Brainerd, MN 56401

Dear Director Erickson:

On May 20, 2020 Governor Walz's announced, consistent with Executive Order 20-56, that Bars and Restaurants will be allowed to begin to partially open for as of June 1, 2020. The reopening is going to be a phased in process beginning with allowing outside seating only in phase 1. In doing so Governor Walz called upon municipalities and licensing entities to be creative in working with these business as they reopen to assist in providing financial stability to them. Balancing COVID-19 public health requirements with supporting our local businesses, and consistent with Governor Walz's executive orders, it is my opinion that Crow Wing County can and should implement the following as of June 1, 2020:

- 1) Allow all liquor license holders to temporarily extend their licensed premises outside as long as it is compact and contiguous. This would include the expansion of current outside licensed premises areas.
- 2) In order to get a temporary premises extension, a license holder must apply with Crow Wing County Administrative Services and received approval for their plan.
- 3) The application can be in letter format and must include a diagram of the temporary extended premises to be created. This is to include at least measurements in feet showing the perimeter of the temporary extended area, entrance/exit, table layout and how the area relates to the overall foot print of the original licensed premises/property.
- 4) The entire perimeter of the temporary extended premises must be attached to the original licensed premises and enclosed (roped off, temporally fenced in or chained off) so access (entering/exiting) is controlled. When possible it is preferred this be through the original licensed premises.
- 5) The designated temporary extended premises must remain for the duration of the time allowed (i.e. if a parking lot is a temporary extended premises, the license holder can't change back and forth from parking lot to temporary extended premises).
- 6) Appropriate and Adequate off street parking to accommodate customer parking must be maintained at all times.

Our Vision: Being Minnesota's favorite place.

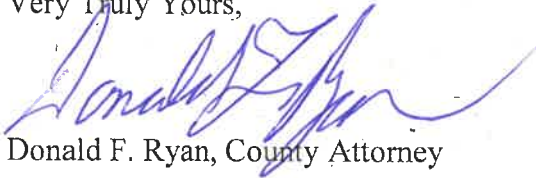
Our Mission: Serve well. Deliver value. Drive results.

Our Values: Be responsible. Treat people right. Build a better future.

- 7) License holder must also provide Crow Wing County Administrative Services a current Certificate of Liquor Liability showing that the liquor liability insurance coverage will extend to the temporary extended premises for the duration of the time allowed.
- 8) The temporary extension of premises will be allowed from the date granted by Crow Wing County Administrative Services through October 31, 2020 unless further extended.
- 9) All aspects of Governor Walz's Executive orders, as well as CDC and MN Dept. Health requirements must also be complied with as part of the temporary premises extension.

Should you have any questions or concerns about the above legal opinion, please feel free to contact me at any time.

Very Truly Yours,



Donald F. Ryan, County Attorney

DFR:lm