



NOTICE OF SPECIAL MEETING OF THE COMMON COUNCIL
Tuesday, May 26, 2020
5:45PM
Virtual Meeting Agenda

Due to the Public Health Emergency caused by the COVID-19 Pandemic, this meeting will occur at a virtual location accessed by the below link or conference call. Committee members and the public should use the following information:

Link: <https://global.gotomeeting.com/join/372906445>

OR

Conference Telephone Number (AUDIO ONLY): [+1 \(571\) 317-3122](tel:+15713173122)

Access Code: 372-906-445

- **Members of the public who join the meeting will be asked for their name and address and whether they wish to speak during the Public Forum.**
- **The web link or conference call-in number may be accessed from any location.**
- **For members of the public unable to access this meeting online or via conference call, the Mayor and a staff member will be present in the Council Chambers, City Hall, 211 Walnut Street, Neenah, to assist those wishing to attend the meeting. The Council Chambers will be open to eight (8) people in addition to the Mayor and one staff person, consistent with the social distancing rules established under Emergency Order 12 (Safer at Home Order).**

- I. Roll Call.
- II. Ordinance 2020-07 Creating a Noncodified Ordinance to Provide For Covid-19 Temporary Outdoor Seating Areas and Authorize City Staff Review, Approval, and enforcement of Temporary Outdoor Seating Areas and Expansion of Licensed Premises for Taverns and Restaurants
- III. Any other such business as may legally come before the Council.
- IV. Adjournment.

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA), the City of Neenah will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. If you need assistance, or reasonable accommodation in participating in this meeting or event due to a disability as defined under the ADA, please call the Clerk's Office (920) 886-6100 or the **City's ADA Coordinator at (920) 886-6106 or e-mail attorney@ci.Neenah.wi.us** at least 48 hours prior to the scheduled meeting or event to request an accommodation.



M E M O R A N D U M

DATE: May 21, 2020
TO: Mayor Kaufert, Council President Stevenson and Council Members
FROM: Chris A. Haese, Director of Community Development and Assessment
RE: COVID-19 Temporary Outdoor Service/Beer Garden Ordinance

Attached for your review and consideration are three documents related to the allowance of the temporary outdoor service/beer garden areas for our restaurants and taverns. As I noted in the Council discussion of May 20, 2020, I believe our current ordinance, with minor modification, is well positioned to allow these types of service areas. The first document is our current Municipal Code which details the current requirements for the outdoor service areas. This document has been "redlined" to indicate the changes proposed that will allow expedited review and approval of temporary outdoor service areas. Items that would be removed have been crossed out, while areas added appear in red text. In summary the changes would provide the following:

- Review and approval of the temporary outdoor service areas would be completed by the Department of Community Development rather than the Committee/Council process currently in place for permanent service areas.
- The six-foot fence requirement for service areas within 150 feet of a residential property would be modified to allow alternative buffers such as landscaping or buildings.
- The fencing requirement of outdoor service areas would be relaxed to allow for other types of vertical demarcation such as rope or chain and to reduce the height requirement from four feet to three.
- Sidewalk cafés would be allowed to extend along the sidewalk area in front of abutting businesses provided written permission is provided by the owner/tenant of the abutting property.

The second document is a draft of the information that would be provided to business owners explaining the process and requirements for the temporary service areas. The actual permit application is still being refined and I hope to have a copy of the final version to you in time for Tuesday's meeting.

The final document is Ordinance 2020-07 which codifies the requirements and terms for the temporary outdoor service areas.

In addition to these items, we would also propose the following:

- No fee would be charged for the temporary outdoor service permits.
- The temporary permits would expire on October 1, 2020. Any continued use would require Council approval of the expanded liquor license service area.

Due to the limited time the Council will have during the meeting to consider this item, I would encourage you to contact me prior to the meeting with any questions or concerns.

Appropriate action at this time is to approve Ordinance 2020-07 authorizing COVID-19 Temporary Outdoor Service/Beer Gardens to assist local business during this world-wide pandemic.

• ~~Sec. 4-106. Outdoor service/beer gardens.~~

COVID-19 TEMPORARY OUTDOOR SERVICE/BEER GARDENS

City of Neenah, Wisconsin

(a)

Introduction and definitions. No holder of a "Class B", Class "B" and/or "Class C" license or any license or permit issued by the State of Wisconsin Wis. Stats. ch. 125 may operate under said license(s) in any outdoor area, whether or not said outdoor area was included in a description of the premises, without first having obtained the permission of the ~~Common Council~~ Department of Community Development subject to the conditions of this section. Approval under this subsection by the ~~Common Council~~ Department of Community Development shall result in the outdoor area becoming a part of the description of the premises, with said outdoor area also being subject to all State and City laws, rules, regulations, and lawful orders governing "Class B", Class "B" and/or "Class C" premises, or any license or permit issued by the State of Wisconsin pursuant to Wis. Stats. ch. 125. As used in this subsection:

Outdoor area shall mean an area, whether or not enclosed by a roof, which is open to the elements, and which is not constructed for yearround use.

Outdoor premises shall mean a licensed premises located in an outdoor area.

(b)

Application. Application for an temporary outdoor extension of a "Class B", Class "B" and/or "Class C" license shall be made to the ~~City Clerk~~ Department of Community Development on forms furnished by the ~~City Clerk~~ Department. The application shall include a map describing the outdoor area sought to be included within the description of the licensed premises. In the event that such map is omitted and the "Class B", Class "B" and/or "Class C" license is granted and issued, said license shall not be deemed to include an outdoor area within the description of the licensed premises.

(c)

Requirements. Outdoor premises approved under this section are subject to the following requirements:

(1)

Outdoor premises may be permitted only on properties located in C-1 General Commercial, C-2 Central Business; PDD Planned Development; and I-1 Planned Business Center zoning districts as those terms are defined in the Chapter 26, Zoning, subject to the conditional site plan review requirement of Chapter 26.

(2)

Outdoor premises located within 150 feet of a property zoned R-1 or R-2 shall not be located in any actual or required yard area that directly abuts an adjoining property used for residential purposes, unless the following additional conditions are met:

a.

Provide a 20-foot buffer between outdoor premises and the adjoining lot containing the residential use;

b.

Provide a privacy fence (or similar sight and sound barrier) six feet in height separating the commercial property from the residential property;

c.

Prohibit amplified sound from any source.

(3)

Outdoor premises shall be completely surrounded by an attractive wall, fence, or vertical demarcation (fence, rope, chain, etc.) barrier at least four-three feet in height. The outdoor premises shall be attached to the main business premises and shall be constructed with a hard surface, such as decking material or paver brick. Openings in the outdoor area shall not require installation of gates, but in any opening where persons may pass from the outdoor area to an unlicensed area shall contain signs indicating that open intoxicants are prohibited beyond the licensed premises. In addition, signs shall be posted towards the area outside of the licensed outdoor area indicating that persons under age 21 are not permitted without legal guardian at least 21 years of age.

~~Temporary wind break. Between December 1 and March 31, windbreaks consisting of a minimum 3/16 inch thick clear acrylic material meeting all local and state codes and referenced standards may be installed on the perimeter of the outdoor premises. The temporary wind break shall comply with the requirements of Wis. Stat. § 101.123 so that the outdoor premises does not become an enclosed place as defined in Wis. Stat. § 101.123(1)(ak) when the temporary wind break is installed. No obstructions of any kind may be posted on the clear acrylic material.~~

(4)

~~If the outdoor premises are located in the front yard of the licensed premises, it shall be completely surrounded by an attractive wall or fence (minimum height of three feet).~~

(5)

Service in the outdoor premises shall be limited to persons seated at tables or at a bar.

(6)

The outdoor premises shall only be used for serving food and alcohol and no part of said area shall be used for recreational activities, including, but not limited to, volleyball, horseshoes, darts, and softball.

(7)

Lighting of the area must be shielded and not be of intensity or brilliance to create glare which is distracting to adjoining property owners or can become a hazard or danger to vehicular traffic.

(8)

Sound from any source that is emitted from the outdoor area and measured at any border of the real property on which the licensed premises is located shall not exceed 75 dB(A) from 7:00 a.m. to 9:00 p.m. and 65 dB(A) from 9:00 p.m. until closing.

(9)

Three or more noise complaints filed against the owner of an outdoor premises during a license period (July 1 to June 30), and verified by the Police Department, shall constitute sufficient grounds to revoke the outdoor premises permit granted under this section, subject to the hearing requirement under [Section 4-96](#).

(d)

Sidewalk cafés. Outdoor premises may be located on public sidewalks, subject to approval by the ~~Common Council~~Community Development Department. Sidewalk cafés shall comply with the following requirements:

(1)

Sidewalk cafés may be permitted only on properties located in C-2 Central Business zoning districts as that term is defined in [Chapter 26](#), Zoning.

(2)

Sidewalk cafés shall be permitted only in those areas where a minimum of six feet of sidewalk width will remain for safe passage of pedestrians and changes of direction of travel along the sidewalk will not exceed more than 30 degrees. In no instance shall sidewalk café furniture be located in such a manner so as to block access for the pedestrians or in a manner that the street furniture would constitute a tripping hazard or other hazard to pedestrians.

(3)

Sidewalk cafés shall be located within the extended limits of the property to which the sidewalk café license is granted provided all other requirements can be met. Sidewalk cafés can be located within the extended property limits of properties directly abutting the licensed business provided express written approval is provided from the adjacent property owner and/or owner.

(4)

Service in the sidewalk cafés shall be limited to persons seated at tables or at a bar. Appropriate signage must be affixed to each table notifying customers that alcoholic beverages may only be in possession while seated within the approved sidewalk café.

(5)

Each sidewalk café serving alcohol beverages shall be responsible for policing the area of the sidewalk café to be sure that customers are of the legal drinking age and that alcohol beverages are not removed from the premises, or left unattended.

(6)

In order to reduce or eliminate unsightly items, sidewalk café furniture must be kept in a state of good repair and condition and free from the following conditions: rust, chipped or peeling paint or finishes, delaminating or peeling materials, missing hardware, rotting materials, poor craftsmanship or construction that would cause the item to be structurally unsound and thereby pose a health or safety hazard, or any other condition that the Department of Community Development deems to be contrary to the purposes of promoting visually appealing and structurally sound sidewalk furniture.

(7)

Liability insurance naming the City as an unrestricted additional insured on the sidewalk café owner's insurance policy for the licensed sidewalk café site will be required, including insurance to cover liquor liability, to the extent specified by and on forms approved by the City Attorney's Office.

(8)

No sidewalk café furniture shall be placed, installed, used or maintained as follows:

a.

Within ten feet of any marked or unmarked crosswalk or access ramp.

b.

Within five feet of any fire hydrant.

c.

Within ten feet of any driveway.

d.

Within five feet ahead of and 15 feet to the rear of any sign marking a designated bus stop, measured along the edge of pavement.

e.

On or within two feet of any water valve, manhole, or other similar structure.

f.

Within the vision-clearance triangle as defined in the Neenah Zoning Code (Municipal Code [Chapter 26](#)).

g.

At any location that is closer to the center of the street than a location at the widest point of the street, measured at the curb line (i.e. bump outs).

h.

Windblown devices such as balloon, banners, or other similar item shall not be attached or otherwise made part of the sidewalk café furniture and no advertising shall be permitted on sidewalk café furniture.

i.

Sidewalk café furniture shall be stored indoors overnight and/or when the business is closed.

j.

Umbrellas, flags, heaters and such tall equipment/furniture shall not interfere with pedestrians below a height of seven feet on a sidewalk.

k.

Advertising on sidewalk café furniture is prohibited, except for the placement of the permittee's business name in an unobtrusive or incidental manner, not to exceed two inches in height by eight inches in width (three inches in height by eight inches in width on umbrellas), with a limit of one per piece of sidewalk café furniture; incidental logos that are affixed by the manufacturer and do not advertise the permittee's business.

(Ord. No. 1264, § 1, 6-4-2004; Ord. No. 1321, § 1, 3-15-2006; Ord. No. 2011-8, §§ 1, 2, 6-1-2011; Ord. No. 2019-15, § 1, 6-19-2019)

~~• **Sec. 4-107. – Temporary extension of premises for outdoor events.**~~

~~[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)~~

~~The Common Council may temporarily extend a "Class B", "Class B", "Class C" License and/or any permit or license issued under Wis. Stats. ch. 125, by the State of Wisconsin to an outdoor area adjacent to the licensed premises for up to three events, an event lasting no more than three consecutive days, in any calendar year subject to the following conditions:~~

~~License holders wishing to temporarily extend their premises to an outdoor area shall file an application with the City Clerk and pay a fee established by the Common Council. The application shall be filed at least 25 days prior to the date of the temporary extension of premises and shall be approved by the Common Council after review and recommendation by the Public Services and Safety Committee. The application shall include a detailed map showing the location of the temporary extension.~~

~~a.~~

~~In the event that an application is filed less than 25 days prior to the date of the temporary extension due to unforeseen or extenuating circumstances, and there is insufficient time to obtain Common Council approval, the Mayor may order the issuance of the temporary extension provided the applicant otherwise qualified for the extension and the adjacent licensed premises has operated without complaint or incident, verified by the Neenah Police Department, for the prior 24 months. Notwithstanding the foregoing, complaints or incidents not involving the owner, manager or employee of the adjacent licensed premises and called in to the Neenah Police Department shall not be considered a complaint under this section. In the event the Mayor exercises his powers under this section, (s)he must inform the Council within 48 hours or before the event, whichever is earlier.~~

~~(2)~~

~~The temporary extension shall be surrounded by a fence at all times that intoxicating beverage are sold and/or consumed in the temporary extension. Entrance and exit from the temporary extension of premises shall be allowed only through the licensed premises adjacent to the temporary extension, or through a gate which when not being operated is part of the fence.~~

~~a.~~

~~For purposes of this section fence shall mean a barrier at least three feet high which does not allow a person to access the enclosed area other than through designated locations. The fence must be sufficiently solid as to not allow a person to go under the fence to access the area.~~

~~(3)~~

~~A licensed bartender shall be present in the temporary extension of premises at all times that it is operational.~~

~~(4)~~

~~Operation of the temporary extension limited to the hours Sunday through Thursday between 8:00 a.m. to 10:00 p.m. and any amplified sound (music or speech) shall only be allowed between the hours of 9:00 a.m. and 9:00 p.m. Fridays and Saturdays between 8:00 a.m. to 10:30 p.m. and any amplified sound (music or speech) shall only be allowed between the hours of 9:00 a.m. and 10:00 p.m.~~

Introduction

The Common Council has authorized the Community Development Department to assist local businesses to obtain necessary approvals to temporarily expand their outdoor seating areas through October 1, 2020. These areas may be needed to assist businesses to comply with social distancing guidelines as the local economy attempts to safely re-open and successfully recover from the COVID-19 health emergency during the summer and fall months of 2020. If the seating area is desired for permanent or long-term use the established municipal code standards and processes will need to be applied for through the City Clerk's Office.

Temporary Use Permit Review Process/Procedure

Completed applications and submittals need to be directed electronically only (i.e. email) to the Department of Community Development (communitydevelopment@ci.neenah.wi.us). Applications may be denied or put on hold if all required information is not submitted in detail. The Department will review each project and will approve, approve conditionally, or deny the submission in writing. Each application will need the following in order to be processed and reviewed: 1) A Completed Application. 2) A detailed site plan illustrating where the outdoor seating area will be located; number of tables, seats, etc. Additionally it will need to demonstrate where surrounding property lines, street rights-of-way, parking lot, and driveways are located. 3) Additional pictures, attachments and/or renderings that will help the committee best understand the proposal in greater detail. 4) Acknowledgement this is a temporary approval for the remaining outdoor seating timeframe (to October 1 st 2020). 5) Acknowledgement that if the temporary seating area does not comply with the required standards, the approval may be revoked.

Permit Application

The applications currently used (see following links) for Outdoor Extensions will be modified to address the modified requirements.

Outdoor Extension Application

<https://www.ci.neenah.wi.us/wp-content/uploads/2015/01/OutdoorExtensionApplicationofClass-B-Jun-25-2012.pdf>

Sidewalk Café Application

<https://www.ci.neenah.wi.us/wp-content/uploads/2020/02/OutdoorSidewalkCafeApplicationUpdated-February-2020.pdf>

Insurance Agreement

<https://www.ci.neenah.wi.us/wp-content/uploads/2020/02/OutdoorSidewalkCafe-Insurance-Ageement-February-2020.pdf>



211 Walnut Street
Neenah, WI 54956

AN ORDINANCE: By Public Services and Safety Committee
Re: Creating an Ordinance to Provide For Covid- 19 Temporary Outdoor Seating Areas and Authorize City Staff Review and Approval of Temporary Outdoor Seating Areas and Expansion of Licensed Premises for Taverns and Restaurants

ORDINANCE NO. 2020-07
Introduced: _____
Committee/Commission Action: _____

AN ORDINANCE

WHEREAS, a novel strain of the coronavirus, named COVID- 19 spread throughout numerous countries including the United States during the late winter and spring of 2020 resulting in Federal, State and Local Declarations of Emergency and Emergency Orders that limited in person business transactions, closed some businesses, required changes to business operations and had for many businesses a dramatic economic impact; and

WHEREAS, the Common Council for the City of Neenah recognizes the need to continue to prevent exposure to and spread of the COVID-19 coronavirus by increasing social distancing during the COVID-19 pandemic and recovery period; and

WHEREAS, the Common Council recognizes that restaurants, bars and taverns within the City of Neenah may have particular difficulty providing recommended social distancing and operating profitably within the confines of their buildings and may wish to provide additional or alternative seating outdoors; and

WHEREAS, the Common Council for the City of Neenah wishes to provide temporary relief to restaurants, bars and taverns by adjusting certain local code requirements related to such businesses during the COVID- 19 pandemic and recovery period to allow those businesses to utilize parking areas, open spaces and adjacent properties during this limited period to maximize their service area; and

WHEREAS, the Common Council wishes to provide a temporary use permit that may be issued by city staff upon the applicant meeting certain criteria and avoiding the delay of council, board or commission approvals for this temporary use; and

WHEREAS, the Common Council wishes to authorize the Director of Community Development and Assessment to temporarily expand the " licensed premises" for establishments holding an alcohol beverage license for areas and during the period of time subject to the temporary use permits authorized by this ordinance.

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Notwithstanding any provision contained within the City of Neenah Municipal Code, during the period of emergency and recovery period in response to COVID- 19 Coronavirus, and for the period ending no later than October 1, 2020, the appropriate city staff are hereby authorized and directed to implement a program for issuance of Temporary Use Permits as provided in the attachment to this ordinance. The Temporary Use Permits Ordinance is adopted as follows:

**COVID-19 TEMPORARY OUTDOOR SERVICE/BEER GARDENS
City of Neenah, Wisconsin**

- I. *Introduction and definitions.* No holder of a "Class B", Class "B" and/or "Class C" license or any license or permit issued by the State of Wisconsin Wis. Stats. ch. 125 may operate under said license(s) in any outdoor area, whether or not said outdoor area was included in a description of the premises, without first having obtained the permission of the Department of Community Development subject to the conditions of this ordinance. Approval under this subsection by the Department of Community Development shall result in the outdoor area becoming a part of the description of the premises, with said outdoor area also being subject to all State and City laws, rules, regulations, and lawful orders governing "Class B", Class "B" and/or "Class C" premises, or any license or permit issued by the State of Wisconsin pursuant to Wis. Stats. ch. 125. As used in this subsection:
 - A. *Outdoor area* shall mean an area, whether or not enclosed by a roof, which is open to the elements, and which is not constructed for yearround use.
 - B. *Outdoor premises* shall mean a licensed premises located in an outdoor area.
- II. *Application.* Application for a temporary outdoor extension of a "Class B", Class "B" and/or "Class C" license shall be made to the Department of Community Development on forms furnished by the Department. The application shall include a map describing the outdoor area sought to be included within the description of the licensed premises. In the event that such map is omitted and the "Class B", Class "B" and/or "Class C" license is granted and issued, said license shall not be deemed to include an outdoor area within the description of the licensed premises.

III. *Requirements.* Outdoor premises approved under this section are subject to the following requirements:

- A. Outdoor premises may be permitted only on properties located in C-1 General Commercial, C-2 Central Business; PDD Planned Development; and I-1 Planned Business Center zoning districts as those terms are defined in the Chapter 26, Zoning, subject to the conditional site plan review requirement of Chapter 26.
- B. Outdoor premises located within 150 feet of a property zoned R-1 or R-2 shall not be located in any actual or required yard area that directly abuts an adjoining property used for residential purposes, unless the following additional conditions are met:
 - (1.) Provide a 20-foot buffer between outdoor premises and the adjoining lot containing the residential use;
 - (2.) Provide a privacy fence (or similar sight and sound barrier) six feet in height separating the commercial property from the residential property;
 - (3.) Prohibit amplified sound from any source.
- C. Outdoor premises shall be completely surrounded by vertical demarcation (fence, rope, chain, etc.) at least three feet in height. The outdoor premises shall be constructed with a hard surface, such as decking material or paver brick. Openings in the outdoor area shall not require installation of gates, but in any opening where persons may pass from the outdoor area to an unlicensed area shall contain signs indicating that open intoxicants are prohibited beyond the licensed premises. In addition, signs shall be posted towards the area outside of the licensed outdoor area indicating that persons under age 21 are not permitted without legal guardian at least 21 years of age.
- D. Street furniture located in the Outdoor Premises shall be arranged so as to encourage observance of social distancing guidelines.
- E. Service in the outdoor premises shall be limited to persons seated at tables or at a bar.
- F. The outdoor premises shall only be used for serving food and alcohol and no part of said area shall be used for recreational activities, including, but not limited to, volleyball, horseshoes, darts, and softball.
- G. Lighting of the area must be shielded and not be of intensity or brilliance to create glare which is distracting to adjoining property owners or can become a hazard or danger to vehicular traffic.

- H. Sound from any source that is emitted from the outdoor area and measured at any border of the real property on which the licensed premises is located shall not exceed 75 dB(A) from 7:00 a.m. to 9:00 p.m. and 65 dB(A) from 9:00 p.m. until closing.
 - I. Three or more noise complaints filed against the owner of an outdoor premises during a license period (July 1 to June 30), and verified by the Police Department, shall constitute sufficient grounds to revoke the outdoor premises permit granted under this section, subject to the hearing requirement under Section 4-96.
- IV. *Sidewalk cafés*. Outdoor premises may be located on public sidewalks, subject to approval by the Community Development Department. Sidewalk cafés shall comply with the following requirements:
- A. Sidewalk cafés may be permitted only on properties located in C-2 Central Business zoning districts as that term is defined in Chapter 26, Zoning.
 - B. Sidewalk cafés shall be permitted only in those areas where a minimum of six feet of sidewalk width will remain for safe passage of pedestrians and changes of direction of travel along the sidewalk will not exceed more than 30 degrees. In no instance shall sidewalk café furniture be located in such a manner so as to block access for the pedestrians or in a manner that the street furniture would constitute a tripping hazard or other hazard to pedestrians.
 - C. Street furniture located in the Sidewalk Café shall be arranged so as to encourage observance of social distancing guidelines.
 - D. Sidewalk cafés shall be located within the extended limits of the property to which the sidewalk café license is granted provided all other requirements can be met. Sidewalk cafés can be located within the extended property limits of properties directly abutting the licensed business provided express written approval is provided from the adjacent property owner and/or owner.
 - E. Service in the sidewalk cafés shall be limited to persons seated at tables or at a bar. Appropriate signage must be affixed to each table notifying customers that alcoholic beverages may only be in possession while seated within the approved sidewalk café.
 - F. Each sidewalk café serving alcohol beverages shall be responsible for policing the area of the sidewalk café to be sure that customers are of the legal drinking age and that alcohol beverages are not removed from the premises, or left unattended.
 - G. In order to reduce or eliminate unsightly items, sidewalk café furniture must be kept in a state of good repair and condition and free from the

following conditions: rust, chipped or peeling paint or finishes, delaminating or peeling materials, missing hardware, rotting materials, poor craftsmanship or construction that would cause the item to be structurally unsound and thereby pose a health or safety hazard, or any other condition that the Department of Community Development deems to be contrary to the purposes of promoting visually appealing and structurally sound sidewalk furniture.

- H. Liability insurance naming the City as an unrestricted additional insured on the sidewalk café owner's insurance policy for the licensed sidewalk café site will be required, including insurance to cover liquor liability, to the extent specified by and on forms approved by the City Attorney's Office.
- I. Sidewalk café furniture shall be placed, installed, used or maintained subject to the following conditions:
 - (1.) Not closer than ten feet of any marked or unmarked crosswalk or access ramp.
 - (2.) Not closer than five feet of any fire hydrant.
 - (3.) Not closer than ten feet of any driveway.
 - (4.) Not closer than five feet ahead of and 15 feet to the rear of any sign marking a designated bus stop, measured along the edge of pavement.
 - (5.) On or within two feet of any water valve, manhole, or other similar structure.
 - (6.) Within the vision-clearance triangle as defined in the Neenah Zoning Code (Municipal Code Chapter 26).
 - (7.) At any location that is closer to the center of the street than a location at the widest point of the street, measured at the curb line (i.e. bump outs).
 - (8.) Windblown devices such as balloon, banners, or other similar item shall not be attached or otherwise made part of the sidewalk café furniture and no advertising shall be permitted on sidewalk café furniture.
 - (9.) Sidewalk café furniture shall be stored indoors overnight and/or when the business is closed.
 - (10.) Umbrellas, flags, heaters and such tall equipment/furniture shall not interfere with pedestrians below a height of seven feet on a sidewalk.

- (11.) Advertising on sidewalk café furniture is prohibited, except for the placement of the permittee's business name in an unobtrusive or incidental manner, not to exceed two inches in height by eight inches in width (three inches in height by eight inches in width on umbrellas), with a limit of one per piece of sidewalk café furniture; incidental logos that are affixed by the manufacturer and do not advertise the permittee's business.

V. Temporary Nature of Extension. The application for a temporary extension of premises authorized by this ordinance shall contain a statement that the applicant acknowledges the temporary nature of the permit and agrees to remove the extension granted herein on or before October 1, 2020.

Section 2. Enforcement. The Director of Community Development and Assessment or designee shall be empowered to enforce the terms of this ordinance through the issuance of citations, orders, cease and desist orders, or permit suspension and/or summary permit revocation in the event of a serious violation exposing the public to a threat of injury or illness. Suspension or permit revocation shall not be issued except following notice and an opportunity to cure, said notice period not to exceed 48 hours.

Section 3. Appeals of Determinations under this Ordinance. Any party aggrieved by the determination of the Director may appeal such determinations in accordance with the provisions of Wis. Stat. Ch. 68, except that due to the short term nature of the permits issued hereunder, the time periods specified in Wis. Stat. Ch. 68 shall be reduced by two-thirds (e.g., 30 days shall be reduced to 10 days, 15 days shall be reduced to five (5) days), but in no event, less than five (5) business days.

Section 4. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 5. Suspension of Conflicting Provisions of Municipal Code. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby suspended during the effective period of this Ordinance. All provisions of the City Ordinances, Council Rules and General Rules of Order not specifically altered by these temporary rules shall remain in effect.

Section 6. No codification. Due to the temporary nature of this Ordinance, it shall not be codified in the Neenah Code of Ordinances.

Section 7. Effective and Sunset Dates. This ordinance shall take effect immediately and shall automatically repeal on October 1, 2020.

Moved by: _____

Adopted: _____

Approved: _____

Published: _____

Approved:

Dean R. Kaufert, Mayor

Attest:

Stephanie A. Cheslock, Deputy City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney James G. Godlewski
211 Walnut Street
Neenah, WI 54956
State Bar No. 1005210