

**CITY OF MILACA  
PUBLIC NOTICE  
SPECIAL CITY COUNCIL MEETING  
MEETING WILL BE CONDUCTED VIA ZOOM**

NOTICE IS HEREBY GIVEN that the Milaca City Council will call a Special meeting on;

**Friday May 15th, 2020, at 3:00 p.m.**

**The purpose of this Special Council Meeting is;**

**Discuss Businesses within the City of Milaca-follow up from Special Meeting  
Review Bids of CSAH 2 & 32 and project costs**

This Special Meeting was called by order upon action taken by City Council on this 11th day of May, 2020.

Attest:  
Tammy Pfaff  
City Manager  
City of Milaca

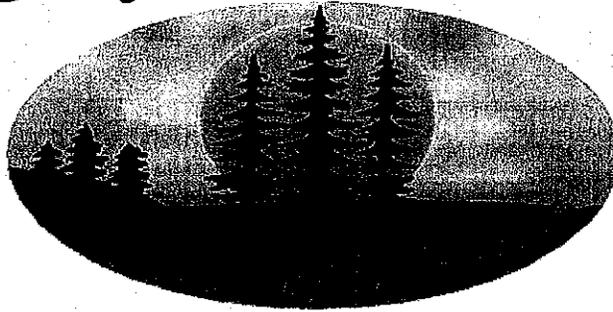
Posted this 11th Day of May, 2020

**CITY OF MILACA**  
**CITY COUNCIL SPECIAL MEETING-Via Zoom**  
**COUNCIL AGENDA**  
**May 15, 2020**  
**3:00 P.M.**

1. Call Meeting to Order 3:00 p.m.
2. Pledge of Allegiance
3. Roll Call- Present: Mayor-Pete Pedersen\_\_ Council Members; Dave Dillan\_\_  
Lindsee Larsen\_\_ Norris Johnson\_\_ Cory Pedersen\_\_  
Absent; \_\_\_\_\_
4. **Approval of Agenda** MB\_\_2<sup>nd</sup>\_\_ AIF\_\_ O\_\_  
**New Business-**
5. Letter to Governor Walz, and copies to state representatives. (Included Govenor's Emergency  
Executive Order 20-56 for review) MB\_\_2<sup>nd</sup>\_\_ AIF\_\_ O\_\_
6. Follow up discussion businesses and guidance from LMCIT, Alcohol and Gambling  
MB\_\_2<sup>nd</sup>\_\_ AIF\_\_ O\_\_
7. Resolution 20-21 –Declaring Milaca a Business Friendly Community MB\_\_2<sup>nd</sup>\_\_ AIF\_\_ O\_\_
8. County CSAH 2 & 32 Bids and Cost Review of project (Breakdown will be sent to council when  
received from Engineer.) MB\_\_2<sup>nd</sup>\_\_ AIF\_\_ O\_\_
9. Adjourn \_\_\_\_\_p.m. MB\_\_2<sup>nd</sup>\_\_ AIF\_\_ O\_\_

# City of Milaca

255 First Street East  
Milaca, MN 56353



320-983-3141  
320-983-3142 (fax)

[www.cityofmilaca.org](http://www.cityofmilaca.org)

May 15<sup>th</sup>, 2020

**Office of Governor Tim Walz & Lt. Governor Peggy Flanagan**  
130 State Capital  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

RE: Emergency Executive Order 20-56  
(Closure of Bars, Restaurants, Salons)

The City of Milaca recognizes the seriousness of the COVID-19 pandemic and efforts made by Federal, State, County and local governments to protect public health and slow the rate of transmission.

Small businesses, bars, restaurants, salons and countless individuals have been affected by the drastic economic slowdown and Stay at Home orders. The temporary closure of these small businesses, layoffs, job furloughs and terminations has ushered in serious and potentially permanent consequences for cities in the State of Minnesota. For local economies and small cities throughout Minnesota these businesses are "essential".

Each of these businesses are capable of implementing the strategies identified in the Center for Disease Control and Prevention's "Reopening Guidance for Cleaning and Disinfection Public Spaces, Workplaces, Businesses, Schools and Homes" released on May 6, 2020. With the record unemployment rate announced on Friday May 8, 2020, a balance for public safety and for economic security for the citizens of Minnesota is critical.

On behalf of the City Council of Milaca, we strongly encourage you to allow these businesses to resume safe operations, as soon as possible, following the CDC guidelines, just as big box stores and other declared essential sectors, have for the last two months.

Sincerely,

Mayor, Harold Pedersen, City of Milaca

Cc: David Unmacht, Executive Director, League of MN Cities  
Representative, Sandra Erickson  
Senator, Andrews Matthews

# STATE OF MINNESOTA

Executive Department



## Governor Tim Walz

### Emergency Executive Order 20-56

#### **Safely Reopening Minnesota's Economy and Ensuring Safe Non-Work Activities during the COVID-19 Peacetime Emergency**

**I, Tim Walz, Governor of the State of Minnesota**, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic continues to present an unprecedented and rapidly evolving challenge to our State. Since the World Health Organization ("WHO") characterized the COVID-19 outbreak as a pandemic on March 11, 2020, confirmed cases of COVID-19 in Minnesota have rapidly increased. On March 15, 2020, Minnesota detected the first confirmed cases caused by "community spread"—infections not epidemiologically linked to overseas travel. By March 17, 2020, all fifty states had reported a confirmed case of COVID-19, and on March 21, 2020, the Minnesota Department of Health ("MDH") announced the first confirmed fatality due to COVID-19 in Minnesota.

Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. After notifying the Legislature, on April 13, 2020 and again on May 13, 2020, I issued Executive Orders extending the peacetime emergency declared in Executive Order 20-01.

The need to slow the spread of the virus required the closure of certain non-critical businesses in our economy. Consistent with national trends, over 650,000 Minnesotans have applied for unemployment insurance since March 16, 2020. In Executive Order 20-33, seeking to balance public health needs and economic considerations, I directed the Commissioners of Health, Employment and Economic Development, and Labor and Industry to begin planning to allow more Minnesota workers to return to work when it is safe to do so. I explained that such a plan must include guidelines and requirements for appropriate social distancing, hygiene, and public health best practices. Executive Order 20-38 expanded exemptions related to outdoor recreational activities and facilities. Executive Orders 20-40 and 20-48 allowed for certain non-critical businesses to reopen after they had planned for and provided a safe work environment.

In light of our increased preparedness to treat those most vulnerable to COVID-19 and mitigate these ongoing economic impacts, this Executive Order continues our plan to safely reopen our economy by allowing even more non-critical businesses to reopen, provided that they follow guidance from MDH, the Department of Employment and Economic Development (“DEED”), and the Department of Labor and Industry (“DLI”). In particular, such businesses must ensure compliance with the Minnesota Occupational Safety and Health Act of 1973, Minnesota Statutes 2019, Chapter 182 (“Minnesota OSHA Standards”), in addition to guidelines related to COVID-19 set forth by MDH and the Centers for Disease Control and Prevention (“MDH and CDC Guidelines”).

Despite the progress we have made since declaring the COVID-19 peacetime emergency, certain establishments—including those in which people gather and linger, those with communal facilities, and those in which close physical contact is expected—continue to pose a public health risk. We must continue to carefully consider and prepare for the reopening of such businesses.

Likewise, certain non-work activities outside of the home are conducive to social distancing and hygiene, while others raise significant public health risks. Large social and other gatherings of people for extended time periods raise the risk of COVID-19 transmission from household to household. The risks of such transmission are diminished in transitory settings, such as retail establishments, where individual interactions and contact are more limited in duration.

In Minnesota Statutes 2019, section 12.02, the Minnesota Legislature conferred upon the Governor emergency powers “in order to (1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state.” Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the state’s emergency management as well as carry out the provisions of Minnesota’s Emergency Management Act.

Minnesota Statutes 2019, section 12.21, subdivision 3(7), authorizes the Governor to cooperate with federal and state agencies in “matters pertaining to the emergency management of the state and nation.” This includes “the direction or control of . . . the conduct of persons in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and . . . public meetings or gatherings.” Pursuant to subdivision 3 of that same section, the Governor may “make, amend, and rescind the necessary orders and rules to carry out the provisions” of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. Executive Order 20-48 is rescinded as of Sunday, May 17, 2020 at 11:59 pm.
2. Paragraphs 6 through 8 of this Executive Order are effective as of Sunday, May 17, 2020 at 11:59 pm and remain in effect through Sunday, May 31, 2020 at 11:59 pm.
3. **Masks and face coverings strongly encouraged.** I strongly encourage all Minnesotans to wear a manufactured or homemade cloth face covering when they

leave their homes and travel to any public setting where social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) and to follow face covering guidelines issued by MDH and the CDC until this Executive Order is rescinded. Such face masks and coverings are for source control (to help limit the person wearing the covering from infecting others). They are not yet known to be protective of the wearer and therefore are not personal protective equipment.

4. **At-risk persons.** All persons currently living within the State of Minnesota who are at risk of severe illness from COVID-19, as defined by Executive Order 20-55, are strongly urged to stay at home or in their place of residence and follow the provisions of Executive Order 20-55.

5. **Definitions.**

- a. "Home" and "homes" and "residence" and "residences" are broadly defined to include mobile homes, hotels, motels, shared rental units, shelters, and similar facilities, to the extent they are used for lodging.
- b. "Worker" and "workers" are broadly defined to include owners, proprietors, employees, contractors, vendors, volunteers, and interns.
- c. "Business" and "businesses" are broadly defined to include entities that employ or engage workers, including private-sector entities, public-sector entities, non-profit entities, and state, county, and local governments.
- d. "Critical Businesses" are all businesses whose workers qualified for a Critical Sector exemption under paragraph 6 of Executive Order 20-48.
- e. "Non-Critical Businesses" are all businesses that are not Critical Businesses and are not closed under Executive Orders 20-04, as amended by Executive Orders 20-08 and 20-18.

6. **Activities outside of the home.** Mindful that we must continue to limit social interactions to protect public health, individuals may leave their homes for activities, subject to the requirements and guidelines set forth below. These requirements may be clarified, as deemed necessary by the Governor, to ensure the health, safety, and security of all Minnesotans. Clarifications will be available for public review at the State's COVID-19 website (<https://mn.gov/covid19/>).

- a. **Guidelines.** Individuals engaging in activities outside of the home must follow the requirements of this Executive Order and MDH and CDC Guidelines. Individuals engaging in outdoor activities must follow the Minnesota Department of Natural Resources ("DNR") and MDH guidelines on outdoor recreation and guidelines for facilities and the public ("Outdoor Recreation Guidelines") available at DNR's website (<https://www.dnr.state.mn.us/covid-19.html>).

- b. **Unnecessary travel strongly discouraged.** Consistent with federal guidance and to protect our neighbors, Minnesotans are encouraged to stay close to home and are strongly discouraged from engaging in unnecessary travel.
- c. **Gatherings.** All gatherings of more than 10 people are prohibited. Gatherings are groups of individuals, who are not members of the same household, congregated together for a common or coordinated social, civic, community, faith-based, leisure, or recreational purpose—even if social distancing can be maintained. This prohibition includes planned and spontaneous gatherings, public and private gatherings, and indoor and outdoor gatherings. Examples of prohibited gatherings include, but are not limited to, social, civic, community, faith-based, or leisure events, sporting or athletic events, performances, concerts, conventions, fundraisers, parades, fairs, and festivals that bring together more than 10 people from more than one household. Prohibited gatherings do not include commercial activity by workers and customers of Critical and Non-Critical Businesses.
  - i. **Legislative and other governmental meetings.** The limits on gatherings in this Executive Order do not apply to legislative and other governmental meetings. Remote meetings are strongly encouraged whenever possible.
  - ii. **The Judicial Branch.** The limits on gatherings in this Executive Order do not apply to proceedings held by the Minnesota Judicial Branch. Proceedings held by the Judicial Branch are subject to the policies established by the chief justice and will occur as directed by court order. Individuals may appear as directed by a Minnesota state court, including to serve as a juror, appear as a party, as a witness, or as legal counsel on behalf of a party, or otherwise to comply as directed by a court order, subpoena, or summons.
  - iii. **Federal activities.** Nothing in this Executive Order will be construed to limit, prohibit, or restrict in any way the operations of the federal government or the movement of federal officials in Minnesota while acting in their official capacity, including federal judicial, legislative, and executive staff and personnel.
  - iv. **Drive-in gatherings.** To enable safe congregation of more than 10 people, drive-in gatherings are permitted, provided that all participants remain within their own vehicles and follow guidelines provided by MDH and available at MDH's website (<https://www.health.state.mn.us/diseases/coronavirus/>).

d. **Tribal Activities and Lands.**

- i. Activities by tribal members within the boundaries of their tribal reservations are exempt from the restrictions in this Executive Order but may be subject to restrictions by tribal authorities.
- ii. Activities within the boundaries of federal land held in trust for one of the 11 Minnesota Tribal Nations are exempt from the restrictions in this Executive Order but may be subject to restrictions by tribal authorities.
- iii. Activities by tribal members to exercise their federal treaty rights within the boundaries of their treaty territory (also known as “ceded territory”) are exempt from the restrictions in this Executive Order but may be subject to restrictions by applicable tribal authorities.
- iv. Tribal members may travel to and from their tribal reservations in accordance with applicable tribal law.

7. **Workers and businesses.** Workers and businesses are subject to the requirements set forth below.

- a. **Extension of temporary closure of bars, restaurants, and other places of public accommodation.** The closure of bars, restaurants, and other public accommodations set forth in Executive Order 20-04, as amended by Executive Orders 20-08 and 20-18, is extended until May 31, 2020 at 11:59 pm. Barbershops and salons may continue to conduct retail product sales in accordance with the requirements for Non-Critical Businesses set forth below.
- b. **Plan to reopen bars, restaurants, and other places of public accommodation.** The Commissioners of Health, Employment and Economic Development, and Labor and Industry are directed to develop a phased plan to achieve the limited and safe reopening of bars, restaurants, and other places of public accommodation beginning on June 1, 2020. This plan will be ready for presentation to the public no later than May 20, 2020.
- c. **Continue to work from home whenever possible.** Any worker who can work from home must do so.
- d. **Critical Businesses.** Businesses whose workers qualified for a Critical Sector exemption under paragraph 6 of Executive Order 20-48 may continue to operate in the same manner as provided in Executive Order 20-48.
  - i. **Child care businesses and youth programming.** Child care providers and other businesses providing care and programming to children and youth of Critical Businesses, including workers in child care centers, family child care, certified centers, youth summer programming (including day camps but not overnight camps), and

other activities and facilities, are Critical Businesses. These businesses are encouraged to prioritize enrollment for workers in Critical Businesses according to guidance provided by the Children's Cabinet and other agencies. This category continues to include workers in a personal home, such as family, friend, and neighbor care necessary for workers to continue to perform their duties. These settings must adhere to MDH and CDC Guidelines.

- e. **Non-Critical Businesses.** If it has not done so already, a Non-Critical Business choosing to open or remain open must establish and implement a COVID-19 Preparedness Plan ("Plan"). Each Plan must provide for the business's implementation of Minnesota OSHA Standards and MDH and CDC Guidelines in their workplaces. These requirements are set forth in guidance published by DEED and DLI ("Plan Guidance") available on DEED's website (<https://mn.gov/deed/safework/>).

  - i. **Required Plan content.** As set forth in the Plan Guidance, at a minimum, each Plan must adequately address the following areas:
    - A. **Require work from home whenever possible.** All Plans must ensure that all workers who can work from home continue to do so.
    - B. **Ensure that sick workers stay home.** All Plans must establish policies and procedures, including health screenings, that prevent sick workers from entering the workplace.
    - C. **Social distancing.** All Plans must establish social distancing policies and procedures.
    - D. **Worker hygiene and source control.** All Plans must establish hygiene and source control policies for workers.
    - E. **Cleaning, disinfection, and ventilation protocols.** All Plans must establish cleaning, disinfection, and ventilation protocols for areas within the workplace.
  - ii. **Customer facing businesses.** All Non-Critical Businesses that are customer facing (*i.e.*, businesses that have in-person customer interactions) must include additional Plan provisions to keep the public and workers safe as set forth in the Plan Guidance available on DEED's website (<https://mn.gov/deed/safework/>). This includes requirements that workers and customers must maintain physical distancing of 6 feet and that store occupancy must not exceed 50 percent of the normal occupant capacity as determined by the fire marshal. In customer facing businesses that share common areas, such as malls, all Plans must similarly include a facility occupancy that

must not exceed 50 percent of the normal occupant capacity as determined by the fire marshal and provide an enhanced sanitizing, cleaning, and disinfecting regimen consistent with Minnesota OSHA Standards and MDH and CDC Guidelines for those common areas. All Plans must also include signage in common areas to discourage gathering.

- iii. **Household services businesses.** All Non-Critical Businesses that provide household services (*e.g.*, housecleaning, maid services, and piano tuners) must also develop Plan provisions intended to keep customers and workers safe as set forth in the Plan Guidance available on DEED's website (<https://mn.gov/deed/safework/>).
- iv. **Optional template.** A template COVID-19 Preparedness Plan, which covers the above requirements, is available as part of the Plan Guidance, available on DEED's website (<https://mn.gov/deed/safework/>).
- v. **Certification and signature.** Senior management responsible for implementing the Plan must sign and certify the Plan, affirming their commitment to implement and follow the Plan.
- vi. **Dissemination and posting.** Each Non-Critical Business must provide its Plan, in writing, to all workers, and the Plan must be posted at all of the business's workplaces in locations that will allow for the Plan to be readily reviewed by all workers. Where physical posting is impracticable, the Plan can be posted electronically, provided that the Plan is received by all workers and remains available for their review.
- vii. **Training.** Each Non-Critical Business must ensure that training is provided to workers on the contents of its Plan and required procedures, so that all workers understand and are able to perform the precautions necessary to protect themselves and their co-workers. This training should be easy to understand and available in the appropriate language and literacy level for all workers. Businesses should also take steps to supervise workers and ensure that workers understand and adhere to necessary precautions to prevent COVID-19 transmission. Documentation demonstrating compliance with this training requirement must be maintained and made available to regulatory authorities and public safety officers, including DLI, upon request.
- viii. **Compliance.** Employees and management must work together to ensure compliance with the Plan, implement all protocols, policies, and procedures, and create a safe and healthy work environment.
- ix. **Availability to regulatory authorities and public safety officers.** Non-Critical Businesses do not need to submit their Plans for

preapproval. Upon request, Non-Critical Businesses must make their Plans available to regulatory authorities and public safety officers, including DLI.

- x. In the event of a complaint or dispute related to a Non-Critical Business's Plan, DLI is authorized to determine whether the Plan adequately implements Minnesota OSHA Standards and MDH and CDC Guidelines in its workplaces.
  - f. Executive Order 20-54 remains in full force and effect. All work must be conducted in a manner that adheres to Minnesota OSHA Standards and MDH and CDC Guidelines, including social distancing and hygiene practices. Under existing law and authority, DLI may issue citations, civil penalties, or closure orders to places of employment with unsafe or unhealthy conditions, and DLI may penalize businesses that retaliate against employees who raise safety and health concerns.
8. **Outdoor recreational activities and associated facilities.** Notwithstanding Executive Orders 20-04, 20-08, and 20-18, the below facilities are permitted to be open and do business, provided that they adhere to paragraph 6 of this Executive Order and the Outdoor Recreation Guidelines available at DNR's website (<https://www.dnr.state.mn.us/covid-19.html>). This permission **does not extend to** charter boats, launches, or facilities that involve prohibited gatherings or people in groups or close proximity (e.g., mini golf, pools, commercial outdoor racetracks, and concert venues). **Indoor facilities** associated with outdoor recreational facilities covered by Executive Orders 20-04, 20-08, and 20-18, must comply with those Executive Orders, and all indoor facilities associated with outdoor recreational facilities must also conform with the provisions of paragraph 7 of this Executive Order. I encourage public outdoor recreational facilities be open for families and children, and direct all individuals utilizing such facilities to follow the Outdoor Recreation Guidelines. All outdoor recreational activities and facilities must comply with Minnesota law, including but not limited to license and permit requirements, invasive species regulations, and park rules.
- a. Minnesota State Parks, Trails, State Forests, State Recreation Areas, Wildlife Management Areas, Scientific and Natural Areas, and other State managed recreational lands.
  - b. Locally, regionally, and privately managed parks and trails.
  - c. State, regional, or local public water accesses.
  - d. Public and private marinas and docks that provide storage, docking, and mooring services to slip owners, seasonal renters, and the general public, as well as facilities that provide safety-related services including fueling, emergency dockage, and sanitary pump-out stations.

- e. Public and private golf courses and outdoor driving ranges.
  - f. Ski areas.
  - g. Off-highway vehicles, snowmobiles, and watercraft repair shops, sales facilities, and showrooms.
  - h. Lake service providers to install, repair, and remove docks, boatlifts, and other water related equipment or deliver boats.
  - i. Bait and tackle shops.
  - j. Outdoor shooting ranges and game farms.
  - k. Outdoor recreational equipment rental outlets. Equipment may be rented but only if the equipment can be effectively sanitized between uses. Such outlets must implement clear check-in and check-out procedures that minimize contact between customers and workers. Any rentals must be conducted in accordance with the Outdoor Recreation Guidelines.
  - l. Dispersed and remote camping sites for single household use. A dispersed campsite is a single campsite, not in a developed campground, used for overnight camping. A remote campsite is a designated backpack or watercraft campsite, not in a developed campground, used for overnight camping. Both private and public developed campgrounds remain closed to recreational camping.
  - m. Outdoor tournaments, competitions, practices, and sports that allow for social distance, do not require group gatherings prohibited by paragraph 6.c, and that adhere to the Outdoor Recreation Guidelines.
  - n. Small one-on-one or one-on-two person guided and instructional activities such as guided fishing, birding, or outdoor fitness training. Guided and instructional activities must be conducted in accordance with the Outdoor Recreation Guidelines.
  - o. Any other outdoor recreation activities and facilities that may be designated in the Outdoor Recreation Guidelines.
9. Minnesotans must respect the efforts of employers or businesses to protect the safety of their workers and customers by complying with those businesses' social distancing and hygiene instructions. Employers must post social distancing and hygiene instructions at entrances and in locations that can be easily seen by customers and visitors.
10. I urge all Minnesotans to voluntarily comply with this Executive Order. Pursuant to Minnesota Statutes 2019, section 12.45, an individual who willfully violates this Executive Order is guilty of a misdemeanor and upon conviction must be punished by

a fine not to exceed \$1,000 or by imprisonment for not more than 90 days. Any business owner, manager, or supervisor who requires or encourages any of their employees, contractors, vendors, volunteers, or interns to violate this Executive Order is guilty of a gross misdemeanor and upon conviction must be punished by a fine not to exceed \$3,000 or by imprisonment for not more than a year. In addition to those criminal penalties, the Attorney General, as well as city and county attorneys, may seek any civil relief available pursuant to Minnesota Statutes 2019, section 8.31, for violations of this Executive Order, including civil penalties up to \$25,000 per occurrence from businesses and injunctive relief. Nothing in this Executive Order is intended to encourage or allow law enforcement to transgress individual constitutional rights.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 13, 2020.



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**Tim Walz**  
Governor

Filed According to Law:

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**Steve Simon**  
Secretary of State

Approved by the Executive Council on May 13, 2020:

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**Alice Roberts-Davis**  
Secretary, Executive Council

## Tammy Pfaff

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**From:** Steve Carlson <scarlson@the-insurance-shoppe.com>  
**Sent:** Wednesday, May 13, 2020 2:43 PM  
**To:** Tammy Pfaff  
**Cc:** Zac Zillmer  
**Subject:** FW: Bars and restaurants want to open regardless of the governors order

Tammy,

I just got off the phone with Jim Duerre (our underwriter at the LMCIT) regarding your questions regarding bars & restaurants reopening.

1. The first thing he mentioned was Chris Smith attorney at the League will be contacting the attorney for the City of Milaca.
2. He then explained that the city should require the bars & restaurants have \$1,000,000 GL Limits & Liquor liability limits.
3. Regarding Jiggers (which is asking to use the city owned parking lot to serve their customers food & liquor outside). City would need to require Jiggers to have GL limits of \$1,000,000 and list the city as an "additional insured". Jiggers would also need to get their liquor liability policy endorsed to allow liquor sales outside and specifically endorse the location of the (city owned parking lot) to Jiggers LL policy. He also stated that the City of Milaca be listed on the LL Policy as an "additional insured". The city should have a written contract with Jiggers agreeing to indemnify the City of Milaca in the event of any loss.

I hope this, along with the call from Chris Smith provides some guidance.

Thanks!

Steven Carlson



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410 Central Ave S Milaca, MN 56353  
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Please note that your requests to change, alter, or secure insurance coverage via any form of electronic mail, phone, in person, drop box, or communication sent via USPS, Fed Ex, UPS, Speedy Delivery, or similar service, must be confirmed by an agency representative before coverage applies. This electronic message and any attachment is intended exclusively for the individual or entity to which it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any unauthorized disclosure, copying, distribution or use of this electronic message or any attachment is prohibited. If you have received this message in error, please return it to the sender and delete this original from your system.

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**From:** Tammy Pfaff [mailto:tpfaff@milacacity.com]  
**Sent:** Tuesday, May 12, 2020 10:52 AM  
**To:** Steve Carlson  
**Subject:** RE: Bars and restaurants want to open regardless of the governors order

Thank you, I appreciate it.

Good afternoon,

The extension of the Governor's Stay at Home has created some questions on the ability of local jurisdictions to make affirmative decisions not to enforce the orders.

Although we understand the challenges and difficulties communities and businesses are facing during the pandemic, the League urges cities to exercise restraint against adoption of resolutions or other actions which may expose the city and its officials to civil and criminal liability. Rather, we encourage you to reach out to your state and federal elected officials and provide information and examples of the specific negative impacts happening in your communities now and in the future due to COVID-19 rules, guidelines and restrictions.

Q: Does a city have the ability to be less restrictive than state law?

A: No, a city does not have authority to change a state law or be less restrictive than state law, unless the law specifically allows for it. Local units of government, including counties and their officers, have only those powers that are granted by the legislature either expressly or by reasonable implication. See, e.g., *Cleveland v. Rice Co.*, 238 Minn. 180, 56 N.W.2d, 641 (1952)

Q: What is the role of cities when citizens and businesses question the constitutionality of Governor Walz's Orders?

A: Minnesota House Research has an outline of the overall relationship between the different levels of government and constitutional protections that is important for this conversation. "All local governmental units are "creatures of the state" and subject to state law. The U.S. Constitution is silent on local government. Control of local government is not one of the enumerated federal powers of the Constitution, nor is it expressly prohibited to the states. It is, therefore, a residual power left to the states and people by the Tenth Amendment. Furthermore, local units of government do not have recourse to the federal constitution in order to resist state legislative interference or control. *Williams v. Mayor and City Council of Baltimore*, 289 U.S. 36, 40, 53 S.Ct. 431, 432 (1933) ("A municipal corporation, created by a state for the better ordering of government, has no privileges or immunities under the Federal Constitution which it may invoke in opposition to the will of its creator.")" Full document is available here: <https://www.house.leg.state.mn.us/hrd/pubs/ss/sslcstre1.pdf>

Q: Are there ramifications for not enforcing the executive order?

A: Maybe. The city will want to consider all implications, including potential liability for damages and civil penalties, for its decisions. First, if the state brings legal action it's very unlikely there would be any LMCIT coverage for this type of litigation. In other words, the city will be paying the costs of defense out of its own pocket. Second, while immunity defenses are available, and the risk may be reduced because of previous court decisions and the difficulty of proving causation, there is some possibility a city is exposing itself to claims for damages if there is a wave of illnesses or deaths in the community. Third, there's potentially criminal liability for individual city officials if the Attorney General or county attorney seek enforcement. Again, the defense costs would not be covered by LMCIT. Here is one statute potentially available to state prosecutors:

609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE.

A public officer or employee who does any of the following, for which no other sentence is specifically provided by law, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

- (1) intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the office or employment within the time or in the manner required by law

Q: If the city does not enforce the stay at home order, will the state?

A: Maybe. The Minnesota Attorney General has communicated that he will enforce executive orders, if necessary, but the state has not provided any other specific insights on how it will enforce the order if a local government makes an affirmative decision to not enforce. However, Minnesota Statute, section 12.28 requires all emergency management organization to execute and enforce orders and rules made by the governor under a declared state emergency. The penalties listed in EO 20-48 associated with a conviction for violating the stay at home executive order are:

“Any business owner, manager, or supervisor who requires or encourages any of their employees, contractors, vendors, volunteers, or interns to violate this Executive Order is guilty of a gross misdemeanor and upon conviction must be punished by a fine not to exceed \$3,000 or by imprisonment for not more than a year. In addition to those criminal penalties, the Attorney General, as well as city and county attorneys, may seek any civil relief available pursuant to Minnesota Statutes 2019, section 8.31, for violations of this Executive Order, including civil penalties up to \$25,000 per occurrence from businesses and injunctive relief.” See Executive Order 20-48 (pages 21-22).

Q: If the city does not enforce the executive orders, are business “safe” from penalties?

A: Not necessarily. While city action refusing to enforce the governor’s order may also give local businesses the idea that they are free to open without risk of penalties, that is not necessarily the case. Businesses owners and employees who act in violation of the order could still face criminal charges or administrative penalties (such as license revocation) if they open their businesses in violation of the order. Such penalties could be brought by brought by the state, county, or local board of health without action by the city.

Q: Can the city do anything to show support for local businesses?

A: Yes. One way some cities are considering is by passing a resolutions that acknowledge their support for local businesses and encouraging the Governor to relax restrictions. This is a permissible action for a city council to consider doing if they believe that is what is best for their community. The League does not have any samples of this type of resolution.

We hope this information is helpful. Please let me know if there are additional questions we can assist with.

Kind regards,

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This response is intended to convey general information and should not be taken as legal advice or as a substitute for competent legal guidance. Consult your city attorney for advice regarding specific situations.

# MINNESOTA DEPARTMENT OF PUBLIC SAFETY



## Office of the Commissioner

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March 26, 2020

### The Department of Public Safety's Guidance to Local Law Enforcement Agencies Related to the Enforcement of Executive Order 20-20

On March 25, 2020, Governor Walz' issued Executive Order 20-20 ("EO") directing Minnesotans to stay at home except for specific reasons. DPS is providing recommendations to assist your agencies with their enforcement efforts.

Beginning on March 27, 2020 at 23:59, all persons currently living within the state of Minnesota are ordered to stay at home or their place of residence until April 10, 2020. The EO includes seven justifications why someone may leave their home:

1. **Relocation to ensure safety.** Individuals whose homes or residences are unsafe or become unsafe, including individuals who have suffered or are at risk of domestic violence or for whom the safety, sanitation, or essential operations of the home or residence cannot be maintained, are allowed and urged to leave their home or residence and relocate to a safe alternative home or residence. Victim advocates are included in those exempted as Critical Sector staff by this order.
2. **Health and safety activities.** Individuals may seek emergency services, obtain medical services, supplies, and medications, and visit a health care or dental professional or facility, or a veterinarian. Individuals may also donate blood.
3. **Outdoor activities.** Individuals may also engage in outdoor activities (*e.g.*, walking, hiking, running, biking, hunting, or fishing), and may go to available public parks, excluding outdoor play equipment, consistent with remaining at least six-feet apart from individuals not within the individual's household.
4. **Necessary supplies and services.** Individuals may obtain food, including delivery or carry-out services, beverages, and other grocery items, gasoline, supplies needed to work from home, and products needed to maintain the safety, sanitation, and essential operation of homes and residences or businesses. Individuals may also visit and use the services of laundromats and dry cleaners.
5. **Essential and interstate travel.** Individuals may travel to return to a home or place of residence from outside this state and may travel into and out of this state.
6. **Care of others.** Individuals may care for a family member, friend, or pet in another household, and may transport family members, friends, or pets as allowed by this Executive Order, including the transport of children pursuant to shared custody

Alcohol  
and Gambling  
Enforcement

Bureau of  
Criminal  
Apprehension

Driver  
and Vehicle  
Services

Emergency  
Communication  
Networks

Homeland  
Security and  
Emergency  
Management

Minnesota  
State Patrol

Office of  
Communications

Office of  
Justice Programs

Office of  
Pipeline Safety

Office of  
Traffic Safety

State Fire  
Marshal

orders. This also includes child care providers, educators, and others who continue to care for emergency workers.

7. **Displacement.** Individuals without a home are exempt from the restrictions in this executive order, and they may move between emergency shelters, drop-in centers, and encampments. Encampments should not be subject to sweeps by state or local governments, as such sweeps increase the potential risk and spread of COVID-19.

In the event that local law enforcement may be sent to a home or a place of business based on a report of a violation of this EO or other EOs, DPS recommends that officers first attempt to investigate through voluntary cooperation of the homeowner, tenant, or business and provide a reminder or copy of this EO. Treat these encounters as you would a loud party or disturbance call.

There are no ID cards or placards to distinguish “Critical Sector” businesses or their employees. Some “Critical Sector” groups are creating letters to aid in identification in the event of a stop. The EO does not encourage or recommend that an officer stop a person (or vehicle) simply for being out of their home, the reason should be related to other criminal conduct. For example, traffic stops for speeding should still be conducted and fight on the street should still be responded to.

Officers must use their discretion when responding to calls regarding alleged violations of the EO. It is intended that the EO is applied when a gathering has become “a threat to the public peace, health, safety or general welfare,” recognizing that social distancing should also be a guide. For example, a gathering of nine people in various rooms should be handled differently than 50 people at a kegger or house party.

In instances of a complaint or observed violation of the EO, it is necessary for the responding officers to first determine whether a violation has really occurred. If there is no apparent violation, the officer should contact the complaining party to obtain any additional information supporting the alleged complaint.

The enforcement clause of the EO allowing for a misdemeanor citation is not intended to be invoked for all violations, but rather for those who refuse to, or fail to, comply with the officer's attempts to gain compliance. People with more than two violations or refusals to comply with this EO may be taken into custody and charged with a misdemeanor. Citing Minn. Stat. § 12.45. Officers can also invoke other statutes and local ordinances at the discretion. Local sheriffs have asked that arrests be a last resort as they are trying to prioritize the jail population for violent and felony offenders.

DPS recommends that an officer's response to a citizen's complaint of a violation of the EO be handled in the following manner:

- (a) Upon arriving the responding officer will contact a responsible person in the following priority:
  1. Property owner
  2. The person in control of the property
  3. The host of the party; and

(b) Explain the EO and the department's enforcement policy to the responsible party and that a fine may be assessed if the violation continues. Further advise that if a return call is necessary, a report will be written, a misdemeanor citation may be issued, and others in violation or seen committing any violation(s) of the law will be subject to arrest and/or additional citation. Obtain responsible party's name, date of birth and phone number (if applicable, photo identification may be requested),

(c) If a second or subsequent call *is* necessary, a report should be written or a citation for violation of the Executive Order issued. If the gathering or event warrants a second enforcement response, it will be the discretion of the officer or their supervisor to determine whether to disperse the party participants.

As always, accurate report writing will be crucial in these matters.

### **Additional EOs**

- Effective March 27, 2020 at 23:59, the Governor ordered that schools will remain closed through April 30, 2020.
- Effective March 27, 2020 at 23:59, the Governor ordered the businesses listed below to close onsite sale operations until April 30, 2020 at 17:00:
  - a. Restaurants, food courts, cafes, coffeeshouses, and other places of public accommodation offering food or beverage for on-premises consumption. Delivery and curbside take-out services are permitted, as allowed by license. This excludes institutional and in-house food cafeterias for businesses, hospitals, and long-term care facilities;
  - b. Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs, and other places of public accommodation that offer alcoholic beverages for on-premises consumption;
  - c. Hookah bars, cigar bars, and vaping lounges offering their products for on-premises consumption;
  - d. Theaters, cinemas, museums, and indoor and outdoor performance venues;
  - e. Gymnasiums, fitness centers, recreation centers, indoors sports facilities, indoor exercise facilities, exercise studios, and spas;
  - f. Amusement parks, arcades, bingo halls, bowling alleys, indoor climbing facilities, skating rinks, trampoline parks, and other similar recreational or entertainment facilities; and
  - g. Facilities of country clubs, golf clubs, boating or yacht clubs, sports or athletic clubs, and dining clubs.

Many restaurants and bars must obtain two licenses, one from the State and one from the municipality in which they are located. Both local and state regulatory agencies may investigate violations of the EO.

Local law enforcement may be sent to a home or a place of business based on a report that they are in violation of this EO. DPS recommends that officers attempt to investigate through voluntary cooperation of the homeowner, tenant, or business owner and remind them of this EO. Treat these gatherings as you would treat a loud party or disturbance call. Have people safely disperse. Officers should inform them of the violation and ask that they cease and desist. Officers should document the incident by preparing a police report. Failure to comply

should be documented in the police report, ideally by a photo of an open container, sample contents, or a purchase.

Businesses that fail to cooperate or have documented violations shall be reported to the Minnesota Department of Public Safety's Alcohol Gambling Enforcement (AGE) division. The owner/manager of a business with more than two violations or refusals to comply with the EO may be taken into custody and charged with a misdemeanor. Minn. Stat. § 12.45. In addition to the criminal charge, the business is subject to "a fine of up to \$2,000 for each violation" in accordance with Minn. Stat. § 340A.402. Cases may be pursued either criminally through local city or county attorneys and/or civilly by AGE.

Tribal properties are sovereign and exempt from this EO, but may be subject to restrictions made by tribal authorities. They issue their own liquor licenses and only notify AGE to have a required retail identification card issued. Minn. Stat. § 340A.4055. If AGE receives notification of a violation, they will investigate once the business reopens and may issue administrative penalties where appropriate. Minn. Stat. § 340.340

Carpe Diem  
Commissioner John M. Harrington

**CITY OF MILACA  
STATE OF MINNESOTA**

**RESOLUTION NO. 20-21**

**A RESOLUTION DECLARING MILACA, MINNESOTA AS A BUSINESS-FRIENDLY COMMUNITY AND ENCOURAGING GOVERNOR WALZ TO ALLOW FOR THE SAFE REOPENING OF MINNESOTA BUSINESSES**

**WHEREAS**, the Milaca City Council is urging Governor Walz to allow businesses, including “non-critical” businesses, in the City of Milaca to reopen; and

**WHEREAS**, the “Stay at Home Order” is to be lifted on Executive Order 20-48 is rescinded as of Sunday, May 17, 2020 at 11:59 pm., but now has been changed to “Stay Safe MN” are effective as of Sunday, May 17, 2020 at 11:59 pm and remain in effect through Sunday, May 31, 2020 at 11:59 pm.; and

**WHEREAS**, the City has in place an emergency order that has been continued three times as a result of the Governor’s continuing “Stay at Home” order; and

**WHEREAS**, the “Stay at Home Order” has caused undue hardship and financial loss to many small businesses, some whom will never recover from this catastrophe, as businesses continue to have financial strain due to health and business insurance, taxes, rent, utilities and other costs, with no source of revenue to cover those costs; and

**WHEREAS**, all businesses can reasonably reopen as the “Stay at Home Order” is not a one size fits all solution. “Critical” businesses, such as hardware and grocery stores, can stay open but must successfully follow the guidelines handed down by the MN Department of Health and the CDC; our City’s non-critical businesses are just as capable of following those same guidelines; and

**WHEREAS**, we firmly believe that all our businesses can reopen safely, and still provide adequate protection to our most vulnerable citizens.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Milaca, Minnesota, respectfully requests that our non-critical businesses be allowed to reopen as soon as possible as we are concerned that some of those businesses may no longer be viable by May 31st.

**BE IT FURTHER RESOLVED**, the City Council shall monitor the status of the Governor's Stay at Home Orders and the COVID-19 situation in general with regard to Ordinance No. 457 which declared the original local emergency, and the Ordinance Nos. 458 and 460 which continued the local emergency, and shall terminate said ordinances at the appropriate time.

**BE IT FURTHER RESOLVED**, that each business must prepare and post a Preparedness Plan on-site prior to reopening. The Plan must address the items contained in the MN Department of Health and CDC guidance.

**BE IT FURTHER RESOLVED**, that the City of Milaca has limited resources and staffing, and cannot commit to actively monitoring compliance with regard to the executive orders.

Whereupon said resolution was declared duly passed and adopted, and was signed by the Mayor, and attested by the City Manager dated this 15<sup>th</sup> day of May, 2020.

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Harold Pedersen, Mayor

ATTEST:

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Tammy Pfaff, City Manager