



TO: Mayor Chuck Barney
Members of the City Council

FROM: Lance A. Lang, Principal Planner

DATE: May 24, 2018

SUBJECT: OUTDOOR DINING PERMIT – 10 NORTH MAIN

I. RECOMMENDED ACTION.

1. Recommend approval of the encroachment permit to occupy public right-of-way for a seasonal outdoor dining area at 10 Main Street North for the restaurant.
2. Recommend approval of the documents submitted as part of the application, including, but not limited to; the site plan, drawings, photographs, written descriptions, copies of health department licensure and insurance, all to be made part of the permit.
3. Authorize the length of time for which the permit will be valid. The maximum allowable time period is three (3) years. **Staff recommends one year- see comments Page 2.**

Upon further discussion amongst staff, it would be prudent to require an encroachment agreement between the City and the applicant much in the same manner that we currently require agreements for right-of-way encroachments of other types. Instead of issuing a piece of paper that serves as a permit for outdoor dining, the applicant will receive a copy of the executed encroachment agreement. Planning Staff is developing a boilerplate agreement for outdoor dining encroachment based on the current encroachment agreement format

II. DEPARTMENT CONTACT PERSONS

Lance A. Lang, Principal Planner 857-4108

III. DESCRIPTION

A. Background

In February 2017 the City Council approved Ordinance No.5151 amending Chapter 28, “Streets, Sidewalks, and Public Grounds,”to allow encroachment agreements associated with permits for outdoor dining areas in the Central Business District.

B. Proposed Project

BAB LLC dba 10 North Main has made application and submitted the required support information and fees for such a permit. The proposal includes the following amenities:

- Six (6) heavy plastic tables with three (3) heavy plastic foldable chairs at each table.
- A barrier made of plastic chain links stretched between upright plastic stanchions forty-two inches (42”) in height. The stanchion bases are filled with sand for stability.
- The area to be sectioned off measures forty-two inches (42”) wide by twenty feet (20’) long on each side of the front door to the restaurant..
- The distance from the enclosed area to the curb for pedestrian circulation is approximately ten feet (10’).
- Proof of insurance and required health licenses are provided.

- The outdoor seating area will be operated in the evenings and on weekends. When not in operation the tables, chairs, barrier, etc. will be stored inside the building.

NOTE: The applicant has applied for an outdoor dining area measuring forty-two inches (42”) in width. The ordinance allows outdoor dining areas of forty-two inches and less to be approved by the Planning Director with no requirement for City Council review. However, approval by the Planning Director is limited to a one (1) year timeline. The City Council can approve a permit valid for up to three (3) years. The applicant is aware of this, and has requested review by the Council because she wants the permit to be issued for a period of time exceeding one (1) year. Since this is a new program, staff recommends that permits be issued for one year only so that we can evaluate performance and make any necessary adjustments before issuing multi-year permits. Think of the initial year as a trial run or test case scenario.

IV. IMPACT:

A. Strategic Impact:

For some time now the City Council, City staff, downtown business owners and patrons, and others have expressed interest in the revitalization project in the Central Business District. With the streets, sidewalks, utilities and other infrastructure improvements completed primarily last year and due to be finalized this year this is a great opportunity to encourage more patronage in the downtown area.

B. Service/Delivery Impact:

The permitting system to allow limited encroachment into the right-of-way provides a method whereby City staff and the elected officials can provide enhanced opportunities for the citizens of Minot to enjoy the downtown area.

C. Fiscal Impact:

This approach utilizes the existing sidewalk areas in downtown. No major changes are required. There is no cost to the City. The permit application fee is \$35.00 making this an affordable option for downtown business owners who may be interested in this program. The City Council may consider charging a fee for the privilege of occupying the City right-of-way to do business and hence make a profit. A flat fee or certain percentage of sales could be payable to the City with the terms and conditions set forth in the encroachment agreement.

V. ALTERNATIVES

Alt 1. The Council could ask the applicant to modify the proposal.

Alt 2. The City Council could deny the permit request.

VI. TIME CONSTRAINTS

Council’s approval of the recommendation will allow the applicant to move forward with the outdoor dining area taking advantage of the warm summer evenings that have recently arrived. Delay of the permit will delay the operation of the outdoor dining area during prime outdoor activity season.

It is suggested that the applicants apply sooner in the spring in anticipation of outdoor dining weather rather than waiting until the weather warms up and becomes conducive to dining on the sidewalk.

VII. LIST OF ATTACHMENTS

- Outdoor Dining Application/Encroachment Permit
- Written description of proposed amenities
- Photograph of area proposed for outdoor dining
- First District Health Department approval
- Certificate of Liability Insurance