

MAYOR BRANDON BOCHENSKI
GRAND FORKS, NORTH DAKOTA

EMERGENCY ORDER 2020-19.4

1. INTRODUCTION.

1.1 Pursuant to the Declaration of Public Health Emergency dated March 16, 2020, that has been confirmed and extended by City Council resolutions on April 13, 2020, June 1, 2020, July 6, 2020 and September 8, 2020 and the authority set forth in Grand Forks City Code of 1987 § 2-0301, I, Brandon Bochenski, Mayor of the City of Grand Forks, North Dakota, hereby is the following:

2. FACTUAL FINDINGS/BACKGROUND.

2.1 A novel coronavirus, now designated COVID-19, was detected in Wuhan City, Hubel Province, China;

2.2 On January 27, 2020 the United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency because of COVID-19;

2.3 On January 30, 2020 the World Health Organization declared the outbreak of COVID-19 as a public health emergency of international concern advising countries to prepare for the containment, detection, isolation and case management, contact tracing and prevention of onward spread of the virus;

2.4 On March 11, 2020 the World Health Organization declared COVID-19 a global pandemic.

2.5 On March 13, 2020 President Donald J. Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States.

2.6 On March 13, 2020 Governor Doug Burgum declared a state of emergency in the State of North Dakota in response to the public health crisis resulting from the international spread of COVID-19.

2.7 Former Mayor Michael R. Brown issued a Declaration of Public Health Emergency on March 16, 2020.

2.8 As of November 4, 2020 the Centers for Disease Control and Prevention report that there are more than 9 million confirmed cases of COVID-19 and more than 230,000 deaths attributable to COVID-19 in the United States.

2.9 As of November 4, 2020, the North Dakota Department of Health reports more than 9,200 current active COVID-19 cases, more than 560 deaths attributable to COVID-19, and more than 49,000 total positive individuals in the State of North Dakota since the pandemic began.

2.10 The existence of COVID-19 poses an imminent proximate threat to public health

due to the introduction of a contagious, infectious or communicable disease.

2.11 Proactively implementing preparedness, containment, mitigation measures and other efforts to slow the transmission and reduce the impact of the virus is in the best interests of the residents of Grand Forks.

2.12 The conditions warranting the Declaration of Public Health Emergency have continued as described in the Declaration of Public Health Emergency, dated March 16, 2020, that has been confirmed and extended by City Council resolutions on April 13, 2020, June 1, 2020, July 6, 2020 and September 8, 2020.

2.13 The Mayor has been in communication with experts and community institutional partners regarding the measures to mitigate against the spread of the virus.

2.14 In seeking to protect the best interests of the City of Grand Forks and its citizens to reduce the possibility of exposure to COVID-19, control the risk and promote health, measures were undertaken that were employed to, and appeared to assist, in preventing, controlling and reducing the spread of and rate of positivity of the disease.

2.15 One of these measures was the issuance of Emergency Orders 2020-19, 2020-19.1 and 2020-19.2, that are currently not effective, which emergency orders appeared to assist in reducing the exposure to COVID-19, controlled the risks from this disease and promoted the health, safety and welfare of the citizens of Grand Forks.

2.16 However, the North Dakota Department of Health reported that as of November 4, 2020 within Grand Forks County the following data: more than 1,000 active cases, (the second highest total since the pandemic statistics have been kept), a 14 day rolling average cumulative positivity rate of exceeding 16.5%, (the highest rate since April, 2020), a daily positivity rate exceeding 10%, and positivity rates per 10,000 people for a fourteen day period and per 100,000 people for a seven day period to be the highest since the pandemic statistics have been kept; and the Grand Forks Health Department has reported similar data.

2.17 Reducing the possibility of exposure to disease, controlling the risk, promoting health, and undertaking measures to prevent or control the spread of disease continues is in the best interests of the City of Grand Forks.

2.18 Given the increase of positivity of COVID-19, individuals, including the students attending the University of North Dakota, engaging in social activities involving the sale and/or dispensing of alcoholic beverages, whether the sale and dispensing of alcoholic beverages is through on-sale or off-sale within the City of Grand Forks, may spread the disease, and therefore the ability to reduce the possibility of exposure to disease to COVID-19, control the risk from this disease and promote health and welfare of the residents of the City of Grand Forks necessitates further mitigation efforts to reduce or minimize this possible mechanism for the spread of the disease is justified.

2.19 Currently, Grand Forks City Code of 1987 § 21-0221(1), provides the following:

No license holder shall dispense or permit the consumption of alcoholic beverages on licensed premises between 2:00 a.m. and 11:00 a.m. on

Sundays, between the hours of 2:00 a.m. and 8:00 a.m. on all other days of the week, or on Christmas Day or after 6:00 p.m. on Christmas Eve. No license holder shall dispense off-sale between 2:00 a.m. and 11:00 a.m. on Sundays or after 2:00 a.m. on Thanksgiving Day.

3. ORDER TEMPORARILY MODIFYING AND SUSPENDING GRAND FORKS CITY CODE OF 1987 § 21-0221(1) AND ALL LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES.

3.1 Based upon the findings and background above, and pursuant to Grand Forks City Code of 1987 §2-0301, I have determined the City and various parts of the City have suffered and are continuing to suffer from a natural or manmade disaster as result of the COVID-19 pandemic.

3.2 Based upon the findings and background above, I have further determined that a temporary modification and suspension of Grand Forks City Code of 1987 § 21-0221(1) and the terms and conditions of licenses issued under Grand Forks City Code Article 2 of Chapter XXI for the sale of alcoholic beverages is justified as a measure to prevent or control the spread of disease is in the best interests of the City of Grand Forks and that I reasonably believe is required or appropriate to protect the health, safety, and welfare of persons or property within the City.

3.3 Therefore, under the authority granted to me by Grand Forks City Code of 1987 §2-0301, I hereby immediately and temporarily modify and suspend Grand Forks City Code of 1987 § 21-0221(1), and such Grand Forks City Code of 1987 § 21-0221(1) shall from and after the issuance of this Emergency Order read and provide the following:

No on-sale license holder shall be open for any business and shall not dispense or permit the consumption of alcoholic beverages on licensed premises: (1) before 11:00 a.m. or after 11:00 p.m. on Sundays, (2) before 8:00 a.m. or after 11:00 p.m. on all other days of the week (including Thanksgiving Day), (3) on Christmas Day or (4) before 8:00 a.m. or after 6:00 p.m. on Christmas Eve.

No license holder shall be open for any business and shall not dispense off-sale: (1) before 11:00 a.m. or 11:00 p.m. on Sundays, (2) before 8:00 am. and after 11:00 p.m. on all other days of the week, (3) on Christmas Day, (4) before 8:00 a.m. and after 6:00 p.m. on Christmas Eve or (5) on Thanksgiving Day.

3.4 Further, under the authority granted to me by Grand Forks City Code of 1987 §2-0301, I hereby immediately and temporarily modify the terms and conditions of any and all licenses for the sale of alcoholic beverages under Grand Forks City Code of 1987 Article 2 of Chapter XXI, including but not limited to all license classifications as set forth Grand Forks City Code of 1987 § 21-0205, by incorporating into and making a part of all of such licenses, the terms and conditions of the suspended and modified Grand Forks City Code of 1987 § 21-0221(1) as described and set out in Section 3.3 of this Emergency Order, and to the extent any inconsistency or conflict exists as between the hours a license holder may sell or dispense alcoholic beverages under such license and this Emergency Order, the terms of this Emergency Order shall apply and prevail, provided however, if the terms and conditions of a license issued

for the sale of alcoholic beverages under Grand Forks City Code of 1987 Article 2 of Chapter XXI is more restrictive as to hours of operation than described in this Emergency Order, then no inconsistency or conflict exists between this Emergency Order and the subject license, and the more restrictive hours of operation under the subject license shall apply. Without in any manner limiting anything herein, all licenses for any sale or dispensing of alcoholic beverages are immediately and temporarily modified so as to provide the following:

- (a) The on-sale license holder shall close its doors, require all patrons to leave its premises, and be closed for any and all business and there shall be no sale, dispensing or otherwise permit the consumption of alcoholic beverages on licensed premises: (1) before 11:00 a.m. or after 11:00 p.m. on Sundays, (2) before 8:00 a.m. or after 11:00 p.m. on all other days of the week (including Thanksgiving Day), (3) on Christmas Day or (4) before 8:00 a.m. or after 6:00 p.m. on Christmas Eve.
- (b) The off-sale license holder shall close its doors, require all patrons to leave its premises, and be closed for any and all business and there shall be no sale or dispensing of alcoholic beverages off-sale (1) before noon or after 11:00 p.m. on Sundays, (2) before 8:00 am. and after 11:00 p.m. on all other days of the week, (3) on Christmas Day, (4) before 8:00 a.m. and after 6:00 p.m. on Christmas Eve or (5) on Thanksgiving Day.

3.5 Nothing herein waives or alters any other provision of Grand Forks City Code of 1987 or any resolution, policy or procedure of the City, or any other order, provided, however, if there is any conflict exists, the terms of this Emergency Order shall prevail.

3.6 If any provision of this Emergency Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Emergency Order, including the application of such part or provision to other persons or circumstances shall not be affected and shall continue in full force and effect. To this end, the provisions of this Emergency Order are severable.

3.7 This Emergency Order is intended to restate and supersede Emergency Order 2020-19, Emergency Order 2020-19.1, Emergency Order 2020-19.2 and Emergency Order 2020-19.3.

3.8 This Emergency Order shall be effective at 6:00 a.m. central time on November 7, 2020 and shall continue until 6:00 a.m. central time on December 1, 2020, unless modified, suspended, or revoked by further order beforehand.

DATE: November 5th, 2020
TIME: 4:58 PM


BRANDON BOCHENSKI, Mayor