

EMERGENCY ORDINANCE NO. 1012

AN EMERGENCY ORDINANCE TEMPORARILY PERMITTING LIMITED SALES OF GOODS AND DELIVERY OF SERVICES WITHIN PUBLIC RIGHTS-OF-WAY, PRIVATE OPEN SPACE AND PARKING LOT AREAS AND WAIVING CERTAIN ZONING RESTRICTIONS DURING THE COVID-19 LOCAL EMERGENCY

THE CITY COUNCIL OF THE CITY OF NORTHFIELD DOES ORDAIN THAT:

SECTION 1. PREAMBLE - STATEMENT OF EMERGENCY. An emergency exists due to the COVID-19 pandemic, which has resulted in the declaration of a local emergency by the Mayor and City Council of the City of Northfield by adoption of Resolution No. 2020-039 on March 17, 2020, which Resolution is incorporated herein by reference. The COVID-19 pandemic has also resulted in the declaration of a Peacetime Emergency and the issuance of successive executive orders by Minnesota Governor Walz. The COVID-19 pandemic and the requirements of Governor Walz's executive orders have limited or otherwise affected the operation of many commercial and not-for-profit establishments in the City of Northfield. There is a pressing and emergent need for these establishments to expeditiously, safely and efficiently sell goods and deliver services to the public so that the businesses may continue to generate revenues and the public may maintain access to necessary products and services to the greatest extent possible while limiting close personal exchanges between customers and employees and practicing physical and social distancing between persons during the COVID-19 pandemic.

SECTION 2. TEMPORARY USE OF PUBLIC RIGHTS-OF-WAY AND PRIVATE OPEN SPACE AND PARKING LOT AREAS. Notwithstanding anything to the contrary contained in the City of Northfield City Code, or any special ordinance or policy of the City, but subject to the requirements and restrictions contained in Section 4 of this ordinance, retail businesses having a brick and mortar location within the City of Northfield may place and sell their goods or deliver services, including but not limited to by establishing drive-up or drive-thru areas, customer ordering, waiting or pick-up areas, or customer seating or service areas on the businesses' property, including private open space and parking lot areas owned by the business or for which the business otherwise has the permission of the owner without the need to comply with zoning standards, or within the following portions of public rights-of-way:

- A. upon the sidewalk located directly adjoining the business and equal to the width of the business adjacent to the sidewalk; and
- B. upon any public parking spaces immediately adjoining the building where the business is located, to an equal extent as any other businesses adjoining the same parking spaces who wish to make use thereof pursuant to this ordinance.

The requirements herein shall be read in conjunction with Northfield City Code, Sections 6-70, Temporary expansion of licensed premises; outdoor sales and service, and 14-90, Outdoor food and beverage service, except that the requirements herein shall supersede and requirements in Section 6-70 or 14-90, which are inconsistent with or conflict with this ordinance.

SECTION 3. TEMPORARY STREET CLOSURES. The City Council, in their respective judgment and discretion, may close City streets or any portions of City streets (including only one lane) for events to facilitate the purposes of this ordinance and the uses hereby granted by their own initiative or by request of business seeking closure. A written plan for street closure for an event(s) shall be submitted by the business or businesses seeking closure to the City Clerk for review and approval. The written plan shall contain the information in this Section and a map showing the location of the event/street closure. The requirements in Section 4 shall be applicable to street closure events. The determination whether to close any street for a request/event(s) under this Section shall be based on, in the judgment and discretion of the City Council, factors including but not limited to the following: the operational needs of the City; the public health, safety, and welfare; weather conditions; the number of events previously scheduled; the number of streets closed at any given time and the interrelation of such streets; and the needs of and burden upon the traveling public and pedestrians resulting from a proposed street closure. The business making application for street closure shall make arrangements with the City for placement and removal of street closure barricades. The City Administrator will schedule any business request for a street closure, by request of two or more City Councilors, or by recommendation of the City Administrator to the City Council for consideration by the City Council.

SECTION 4. REQUIREMENTS AND RESTRICTIONS.

- A. All businesses shall at all times preserve a minimum of five (5) feet in width for pedestrian traffic on sidewalks in addition to the area presently occupied by trees, transformer boxes or other permanent installations, shall not block disabled person parking spaces or ramps and shall otherwise meet the requirements of the Americans with Disabilities Act as the same pertains to the portion of the sidewalk being used by such business pursuant to this ordinance.
- B. Personal property, including but not limited to umbrellas, signs, displays, tables and chairs placed within a public parking area shall be demarcated by bright, highly visible partitions placed within the parking space(s), including but not limited to cones, removable fencing or ropes. The means of demarcation shall not extend beyond the parking spaces and a 12-foot driving lane shall be maintained at all times, unless the City Council otherwise closes the street for an event. The means of demarcation shall be temporary and removable and shall not be lower than 30 inches nor higher than 48 inches.
- C. The use of the public rights-of-way, except as specifically provided for in this ordinance, shall remain subject to any other applicable laws, regulations, and license and permit requirements.
- D. No food or beverages shall be sold within public rights-of-way under this ordinance for immediate consumption except by a licensed bar or restaurant and only in compliance with all state and local regulations for such establishments, except as otherwise provided in this ordinance.

- E. No alcoholic beverages shall be sold or otherwise served for on-premises consumption within public rights-of-way under this ordinance, for immediate consumption or otherwise, except by an establishment pursuant to a license agreement with the City, which agreement shall be on the form provided by the City and may be administratively approved by the City Administrator or the City Administrator's designee, or otherwise by an establishment holding a valid license encompassing such public rights-of-way pursuant to, and only in compliance with, all state and local regulations for the sale of alcoholic beverages. The license agreement shall include a depiction of the temporary expanded service area and the same shall be compact and contiguous to the business holding the liquor license and otherwise must be in compliance with all state and local regulations for the sale of alcoholic beverages. In such cases, barriers must be established so as to designate a compact and contiguous additional licensed service area within the public rights-of-way for inclusion in the licensed premises.
- F. Alcohol shall only be consumed upon the licensed premises from which the alcohol was sold.
- G. No personal property, including but not limited to umbrellas, signs, displays, tables and chairs, may be placed within any public right-of-way so as to cause damage to or the physical alteration of such public right-of-way or any permanent facilities located therein.
- H. No personal property, including but not limited to umbrellas, signs, displays, tables and chairs, may be placed within any public right-of-way so as to obstruct or interfere with building exits, fire hydrants, standpipes, or other public safety equipment.
- I. If the business is not the fee owner of the public right-of-way, such business may only make temporary outdoor use thereof pursuant to this ordinance with the written approval from the fee owner of the premises.
- J. All businesses using the public right-of-way for the purposes herein stated shall make immediate adjustments to said use area in the event City staff notifies them either verbally or in writing that some use by the business is not in compliance with the requirements of this ordinance.
- K. Any business using a public right-of-way pursuant to this ordinance shall fully indemnify, defend, hold harmless, and release the City, its officers, agents, and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with said business' use or operations within the public rights-of-way.
- L. No business may make use of a public right-of-way pursuant to this ordinance without first submitting a certificate of insurance to the City Clerk evidencing commercial general liability insurance coverage for property damage and personal injury or death that includes premises and operations insurance and products and completed operations insurance with minimum coverage amounts of \$1,000,000 per occurrence and \$2,000,000 annual aggregate for businesses not serving alcohol and \$2,000,000 per occurrence and

\$4,000,000 annual aggregate for businesses serving alcohol, and which names the City of Northfield as an additional insured.

- M. All business seeking to operate under the permitted use granted hereby, prior to the use thereof, shall complete an application, complete with a detailed drawing, and submit the certificate of insurance required in Paragraph L and sign a license agreement with the City. A copy of this ordinance shall be provided to all businesses submitting an application.
- N. Any business using a public right-of-way pursuant to this ordinance is responsible for ensuring the area is litter free at all times during such use.
- O. On-site signage and storage are authorized, as well as limited on-site directional signage. Temporary tables, tents and sun shelters may be erected, but any structure requiring state building and fire code permits must submit plans and permit applications for accelerated review by city staff.
- P. No placement of personal property of any kind or nature, including but not limited to umbrellas, signs, displays, tables or chairs, upon a public right-of-way pursuant to this ordinance, shall be for a period longer than 15 hours within any 24-hour period.]
- Q. No placement of personal property of any kind or nature, including but not limited to umbrellas, signs, displays, tables or chairs as described herein shall be made or remain on a public right-of-way pursuant to this ordinance overnight between the hours of 10:00 p.m. and 6:00 a.m. daily.]
- R. COVID-19 Requirements. All businesses operating under the permitted authority granted herein shall have read and shall follow the protocols, practices, and guidelines as applicable to their businesses, specified by the State of Minnesota and any potential amendments to operating orders during the COVID-19 Peacetime Emergency and related executive orders and legislation. Violations of this section shall result in the licensee receiving a verbal warning and an opportunity to comply with this section within the time specific by the City notice thereof. If a second violation occurs, the permission granted hereby may be revoked immediately by written notice from the City Administrator or City Administrator's Designee and the business shall immediately cease operations within the public right-of-way upon receipt of such notice.

SECTION 5. PENALTY; ENFORCEMENT. Any person using public rights-of-way in violation of the requirements and restrictions contained in Section 4 of this ordinance shall be subject to a civil penalty in an amount not to exceed \$100. Each day on which a violation occurs shall be a separate offense and may be otherwise enforced in the same manner as any violation of City Code.

SECTION 6. EFFECTIVE DATE. Pursuant to Northfield Charter, Section 4.11, this emergency ordinance shall be effective from and after its adoption.

SECTION 7. EXPIRATION DATE. This emergency ordinance shall expire upon the earlier of (1) the date on which the local emergency due to the COVID-19 pandemic expires or is repealed.

Passed by the City Council of the City of Northfield, Minnesota, this 2nd day of June 2020.

ATTEST:

City Clerk

Mayor

VOTE: ___ POWNELL ___ DELONG ___ GRABAU ___ NAKASIAN
 ___ NESS ___ PETERSON WHITE ___ ZWEIFEL