

**ORDINANCE NO. 2020\_0526**  
**AN INTERIM ORDINANCE TEMPORARILY**  
**ALLOWING EXPANDED OUTDOOR SEATING**

**WHEREAS**, Minnesota Governor Walz issued Executive Order 20-01 declaring an emergency due to the COVID-19 pandemic, which has been extended by Executive Orders 20-35 and 20-53; and

**WHEREAS**, the Cottonwood City Council declared an emergency on March 17, 2020; and

**WHEREAS**, the Governor's Executive Orders have prohibited sit-down, dine-in service at restaurants, which has threatened the existence of many businesses and the vitality of downtown Cottonwood; and

**WHEREAS**, the City of Cottonwood (the "City"), prior to the pandemic, has invested significant time and resources in fostering a business environment that is friendly to and supportive of small businesses, including food establishments, particularly in downtown Cottonwood; and

**WHEREAS**, small businesses, especially food establishments are an essential component of the economy within the City and have suffered greatly as a result of the closure order; and

**WHEREAS**, the City is greatly concerned about the long-term damage that the closure is causing on food establishments and the likelihood that it will undue decades of progress that Cottonwood has worked hard to achieve; and

**WHEREAS**, the Cottonwood City Council administers zoning within the City and may regulate land use as part of the City's zoning authority; and

**WHEREAS**, Minnesota Statute § 462.355, Subd. 4, provides the City with authority to adopt an interim ordinance to temporarily regulate activity; and

**WHEREAS**, under the current Cottonwood zoning ordinance, parking standards are imposed based upon occupancy of the building; and

**WHEREAS**, in light of the COVID-19 pandemic, the CDC recommends enhanced spacing and reduced capacity in food establishments; and

**WHEREAS**, when food establishments are permitted to resume sit-down, dine-in service in Minnesota, is likely that reduced occupancy levels will be required within restaurants; and

**WHEREAS**, reduced occupancy will result in excess parking under the Cottonwood zoning ordinance; and

**WHEREAS**, the City is concerned about economic suffering of reduced occupancy and wishes to provide food establishments with added flexibility to establish temporary outside seating in unnecessary parking areas; and

**WHEREAS**, the City currently permits sidewalk cafés by permit, anticipates increased demand for sidewalk cafés, and wishes to expedite and streamline the approval process; and

**WHEREAS**, the temporary nature of these measures and the urgency of the needs of affected businesses necessitates use of an interim ordinance and foregoing typical planning commission review and public hearing procedures; and

**WHEREAS**, the City will study evolving public health concerns related to COVID-19, business needs, and public input during the interim ordinance and adjust the City’s permanent ordinances accordingly and refine the interim ordinance, as necessary.

**NOW, THEREFORE**, the Cottonwood City Council adopts the following findings:

1. The recitals above are incorporated into the findings.
2. The City desires to provide flexibility and accommodations for food establishments in a manner that protects public health and safety.
3. Sidewalk cafés and outdoor seating are currently permitted by the Cottonwood City Code and making it easier for food establishments to implement outdoor seating is critical for supporting the local economy and protecting public health.
4. Temporary use of public parking spaces for sidewalk cafés is appropriate due to reduced demand that is a direct result of COVID-19 pandemic.
5. Due to social distancing requirements the ability for the City to quickly study, prepare, and implement ordinary ordinance revisions is hindered.
6. The issue is time sensitive due to the potential re-opening of businesses.
7. An interim ordinance, pursuant to Minnesota Statutes § 462.355, is necessary to allow the City to quickly implement temporary revisions to accommodate the re-opening of food establishments.

**NOW, THEREFORE**, pursuant to Minnesota Statutes § 462.355, the Cottonwood City Council hereby ordains:

**Section 1. Interim Ordinance.**

1. **Temporary Ordinance.** A temporary ordinance providing flexibility for outdoor seating for food service establishments within the City of Cottonwood is hereby established.
2. **Restricted Business.** For purposes of the interim ordinance, “Restricted Business” means any restaurant, bar, club, coffee shop, delicatessen, candy shop, or bakery with sit-down, dine-in service that have occupancy limitations imposed by the State of Minnesota due to the COVID-19 pandemic.
3. **Temporary Changes to Zoning Ordinance.** An interim ordinance.
  - a. **C-1.** Parking standards required by Article 21, Sections 2101-2104. for Restricted Businesses in the Central Commercial (C-1) District shall temporarily and proportionately be reduced by any temporary reduction in occupancy ordered by

the State of Minnesota. Restricted Businesses wishing to add onsite temporary outdoor seating may utilize temporarily unnecessary parking spaces by obtaining a Temporary Outdoor Seating Permit.

- b. C-2. Parking standards required by Article 21, Sections 2101-2104. for Restricted Businesses in the Commercial Highway (C-2) District shall temporarily and proportionately be reduced by any temporary reduction in occupancy ordered by the State of Minnesota. Restricted Businesses wishing to add onsite temporary outdoor seating may utilize temporarily unnecessary parking spaces by obtaining a Temporary Outdoor Seating Permit.

4. **Temporary Outdoor Seating Permit.** In order to utilize onsite temporary outdoor seating, a Restricted Businesses shall obtain a Temporary Outdoor Seating Permit as follows (the provisions of Section 10.12B, Subd. 2.C are temporarily stayed):

- a. Site Plan. The Restricted Business submits a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations. The site plan is not required to be prepared by a civil engineer.
- b. Access. Access to the outdoor dining area, to the extent possible, is limited to access from the principal building.
- c. Screening from Residential. The dining area should be located in a manner that maximizes screening from view from adjacent residential uses.
- d. Pedestrian Safety. The Restricted Business shall minimize pedestrian circulation disruption as a result of the outdoor dining area by providing physical or signed separation and a clear passage zone for pedestrians; umbrellas or other structures extending in to the pedestrian clear passage zone shall have a minimum clearance of seven (7) feet above sidewalk.
- e. Surface. The dining area is surfaced with a hard surface that provides a clean and non-slip surface.
- f. Garbage. Refuse containers, designed to prevent spillage and blowing litter, are provided for self-service outdoor dining areas.

Temporary Outdoor Seating Permits shall be issued administratively by the City Administrator. ***No fee is required for a Temporary Outdoor Seating Permit.***

Temporary Outdoor Seating Permits shall terminate with this interim ordinance and create no vested rights for Restricted Businesses. Temporary Outdoor Seating Permits may be revoked by the City Council.

5. **Temporary Changes to Sidewalk Café Permits.** Sidewalk café permits issued under Section 4.26 of the Cottonwood City Code shall temporarily be altered as follows:

- a. All Zoning Districts. Sidewalk Café Permits are not limited to the Central Commercial Business (D-1) zoning district and may be issued in any non-residential zoning district.
- b. Issuance. The City Administrator may issue Sidewalk Café Permits to Restricted Businesses. Sidewalk Café Permits issued under authority of this interim

ordinance shall terminate with this interim ordinance and create no vested rights for Restricted Businesses.

- c. **Public Parking Areas May Be Included.** Sidewalk Café Permits may be issued for public parking areas immediately adjacent to a Restricted Businesses. The inclusion of public parking areas in a Sidewalk Café Permit shall only be permitted where other public parking is reasonably available. In order to utilize public parking areas, temporary physical barriers are required to separate diners from vehicles. For safety reasons, no public parking may be utilized on principal arterial or minor arterial roads as identified in the City's transportation plan (i.e. Main Street, Barstad Road). Use of public parking areas for sidewalk cafés may be denied or rescinded for safety reasons by the City Administrator without notice.
  - d. **Standards.** Sidewalk Café Permits shall be reviewed administratively by the same standards as required by Article 5 and 6. Implementation of sidewalk cafés shall be subject to same restrictions of Article 5 and 6.
  - e. **No Permanence.** No alteration of public right of way or installation of permanent improvements is permitted by a Sidewalk Café Permit.
  - f. **Suspension and Revocation.** The City Administrator may suspend a Sidewalk Café Permit if violations occur or safety issues arise, pending a hearing before the Cottonwood City Council. The Cottonwood City Council may revoke a Sidewalk Café Permit after a hearing.
  - g. **No Fee.** Fees for Sidewalk Café Permits shall be waived while this interim ordinance is in effect.
6. **Liquor License.** All Restricted Businesses are required to comply with liquor licensing requirements when utilizing a Temporary Outdoor Seating Permit or Sidewalk Café Permit.
  7. **Duration.** This temporary ordinance shall be in effect for a period of one year, or until such earlier time as the Cottonwood City Council determines the interim ordinance is no longer necessary.
  8. **Effective Date.** This Ordinance shall be effective immediately upon its adoption.
  9. **Validity.** Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Interim Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

## **Section 2. Summary Publication.**

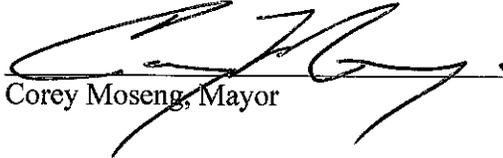
At least four-fifths of the City Council's members direct the Administrator to publish only the title and a summary of this Ordinance as follows:

“AN INTERIM ORDINANCE TEMPORARILY ALLOWING EXPANDED OUTDOOR SEATING FOR RESTAURANTS WITHIN THE CITY OF COTTONWOOD. It is the intent and effect of this Ordinance to temporarily allow

expanded outdoor seating in order to accommodate restaurants affected by the COVID-19 pandemic.”

A printed copy of the ordinance is available for inspection by any person during regular office hours at City Hall.

Adopted this Twenty Sixth day of May 2020.



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Corey Moseng, Mayor

ATTEST:



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Teather Bliss, Clerk-Administrator



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