

**ORDINANCE NO. 874**  
**STATE OF MINNESOTA**  
**COUNTY OF RAMSEY**  
**CITY OF NEW BRIGHTON**

**AN ORDINANCE TO UPDATE TEMPORARY USE REGULATIONS IN ZONING**

**THE CITY COUNCIL OF THE CITY OF NEW BRIGHTON ORDAINS:**

**Section 1. The City Council of New Brighton hereby amends Zoning Code Chapter 8; Article 1 General Conditions; as follows:**

Sections 8-010 through 8-063 are restated and incorporated herein unchanged, and the following language is added.

**Sec. 8-064. Temporary Uses.**

**(1) Purpose**

The provisions of this Code cannot reasonably include all possible temporary uses which may be appropriate in various areas of the City, and the need for which may change very quickly due to unforeseen circumstances such as natural disasters or pandemics. This section allows for the establishment of certain temporary uses for a limited duration. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

**(2) Establishment of Temporary Uses**

Temporary uses in the City of New Brighton shall be identified and established by the City Council via resolution on a yearly basis. When establishing specific temporary uses allowed within the City, Council may identify the use as being allowed outright provided certain conditions are met, or they may require an administrative temporary use permit be acquired through the Department of Community Assets and Development before the temporary use is established.

**(3) Overlap with Other Code Provisions**

**(A) Specially Permitted Uses**

Uses authorized for approval as a temporary use by Council may overlap with uses identified as Specially Permitted within the zoning ordinance. In such cases, a landowner may choose to pursue a temporary use permit to authorize the use for a limited timeframe as may be allowed by Council, or may pursue a Special Use Permit to secure permanent approval of the use.

35                   **(B) Prohibited Uses**

36                   In response to unforeseen circumstances, it may be necessary from time to time for the  
37                   City Council to identify an otherwise prohibited use as an activity allowable via  
38                   temporary use permit. In such cases, the use shall only be allowed as a temporary use  
39                   while authorized by City Council via the most current resolution establishing  
40                   temporary uses. Once removed from the list of allowed temporary uses, a prohibited  
41                   use will once again be considered prohibited.

42                   **(4) Temporary Use Permits**

43                   **(A) Initiation of Proceedings**

44                   A request for a Temporary Use Permit shall be initiated by application of the property  
45                   owner or other person having authority to file an application pursuant to this ordinance.

46                   **(B) Application**

47                   A request for a Temporary Use Permit shall include at least the following (except as  
48                   may be exempted by the Department of Community Assets and Development) to be  
49                   considered complete:

- 50                   1. A complete application form.
- 51                   2. The required fee established for temporary use permits.
- 52                   3. A written narrative which includes a description of the proposed temporary use,  
53                   how it will function on the property, hours and dates of operation, and any other  
54                   information necessary to fully describe the request; and an explanation of how the  
55                   proposed temporary use will meet any special criteria established by Council for  
56                   the proposed use.
- 57                   4. A site plan of the property showing all information necessary to accurately depict  
58                   how the proposed use will function on the site. Information required on the site  
59                   plan shall include but not be limited to:
  - 60                   a) The location of all existing and proposed structures;
  - 61                   b) Driveways and parking areas;
  - 62                   c) Proposed storage areas;
  - 63                   d) Proposed additional parking spaces or number of spaces to be lost to the  
64                   temporary use (as may be applicable).
- 65                   5. Any other information that may be reasonably required by the Department of  
66                   Community Assets and Development to evaluate the application.

67 **(C) Review**

68 Approval of a Temporary Use Permit may be granted by the Department of  
69 Community Assets & Development upon finding that the use shall:

- 70 1. Not be detrimental to the public health (per best practices), safety, or general  
71 welfare;
- 72 2. Be compatible with the principal use on the site, and not interfere with the normal  
73 operations of the property's permanent use(s);
- 74 3. Not have substantial adverse effects or noise impacts on nearby residential  
75 neighborhoods;
- 76 4. Not include permanent alterations to the site;
- 77 5. Not maintain temporary signs associated with the use or structure after the activity  
78 ends;
- 79 6. Not violate the applicable conditions of approval that apply to the site or as may be  
80 established by the City Council for the specific use type;
- 81 7. Contain sufficient land area to allow the temporary use, structure, or special event  
82 to occur; as well as adequate land to accommodate the parking and traffic  
83 movement associated with the temporary use.

84 **(D) Decision**

- 85 1. Applications determined to conform with all required approval criteria shall be  
86 approved by the Department of Community Assets & Development with any  
87 conditions deemed necessary. A copy of the approved permit shall be provided to  
88 the applicant which includes all conditions and comments.
- 89 2. Applications not conforming with approval criteria shall be denied by the  
90 Department of Community Assets & Development. A notice of denial shall be  
91 provided to the applicant which includes all identified reasons for denial.
- 92 3. If an application for a temporary use permit is denied, the applicant may appeal the  
93 decision of the Department of Community Assets & Development to the City  
94 Council. The applicant shall submit a written notice of appeal to the Department of  
95 Community Assets & Development within seven days of receiving notice of denial  
96 of the application.

97 **(E) Reasonable Conditions**

98 In approving a Temporary Use Permit, the Department of Community Assets &  
99 Development may impose such reasonable conditions and requirements as deemed  
100 necessary and appropriate to ensure continued compliance with requirements for the  
101 use.

102                   **(F) Effect of a Temporary Use Permit Approval**

- 103                   1. The issuance of a Temporary Use Permit shall authorize only the specific
- 104                   temporary use approved by the Department of Community Assets & Development
- 105                   over the timeframe specified within the permit or resolution authorizing the
- 106                   temporary use.
- 107                   2. Approval of a temporary use permit shall not require future approval of another
- 108                   temporary use permit or special use permit for the same use at a later time.
- 109                   3. An authorized temporary use permit for a use that would otherwise be prohibited
- 110                   shall become void upon expiration of the permit, or removal of the use from the
- 111                   authorized temporary uses resolution.

112                   **(G) Time Limit**

113                   The time limit for each temporary use shall be as outlined in the Council resolution

114                   establishing allowed temporary uses, or for a timeframe specified by the Department of

115                   Community Assets & Development as a condition of permit approval.

116                   **(H) Amendments**

117                   All requested amendments to a Temporary Use Permit shall be processed in the same

118                   manner as a new application.

119                   **(I) Revocation**

120                   The City Council may revoke a Temporary Use Permit if any of the conditions are

121                   being violated or there are any other violations of state, federal, or local laws or

122                   regulations. The City shall notify the holder of the Temporary Use Permit of the

123                   violation in writing and provide a reasonable amount of time to the holder to correct the

124                   violation. If the violation is not corrected within the time specified in the notice, the

125                   City Council may revoke the Temporary Use Permit after providing the holder with an

126                   opportunity to address the City Council.

127 **Section 2. Effective Date.** This ordinance shall be in full force and effect from and upon its adoption and  
128 publication according to law.

129 ADOPTED this 26<sup>th</sup> day of May, 2020 by the New Brighton City Council with a vote of 5 ayes  
130 and 0 nays.

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133 Valerie Johnson, Mayor

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137 Devin Massopust, City Manager

138 ATTEST:

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141 Terri Spangrud, City Clerk  
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**RESOLUTION 2020-048**  
**CITY COUNCIL**  
**CITY OF NEW BRIGHTON**

**RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 874 BY TITLE AND SUMMARY**

**WHEREAS**, the city council of the City of New Brighton has adopted Ordinance No. 873, an ordinance to amend the New Brighton zoning ordinance by creating temporary use regulations; and

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of New Brighton, that the City Clerk shall cause the following summary of Ordinance No. 874 be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the City of New Brighton has adopted Ordinance No. 874, an ordinance establishing temporary use regulations within the City of New Brighton. Given the unprecedented challenges facing the City's residents and businesses during the COVID-19 pandemic, the City must be nimble and be able to quickly respond to the needs of those we serve. To that end, Ordinance 874 allows for the identification of "temporary uses" that can be administratively reviewed and approved by staff. The specific temporary uses that can utilize this approval option must be identified by the City Council via resolution. At the present time, these regulations are needed to allow a quick response to requests from the business community to help them be successful in their re-opening efforts. Without these new provisions, the City would have no mechanism to fast-track such reviews. The full ordinance text is available for inspection at City Hall during regular business hours, and will be emailed or sent to any party upon request.

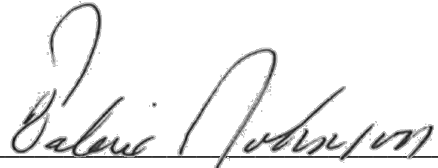
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Mayor Valerie Johnson

**BE IT FURTHER RESOLVED** by the City Council of the City of New Brighton that the City Clerk keep a copy of the ordinance at city hall for public inspection, and that a full copy of the ordinance be posted in a public place within the city.

Adopted this 26th day of May, 2020, by the New Brighton City Council with a vote of 4 ayes and 0 nays (Fynewever absent).



  
Valerie Johnson, Mayor

  
Devin Massopust, City Manager

ATTEST:

  
Terri Spangrud, City Clerk

**RESOLUTION No. 2020-049**

**STATE OF MINNESOTA**

**COUNTY OF RAMSEY**

**CITY OF NEW BRIGHTON**

A RESOLUTION ESTABLISHING TEMPORARY USES THAT MAY BE APPROVED BY  
THE DEPARTMENT OF COMMUNITY ASSETS AND DEVELOPMENT

**WHEREAS**, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

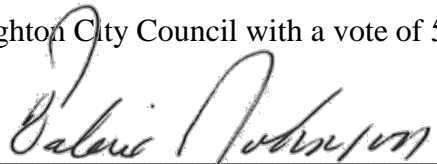
**WHEREAS**, the City of New Brighton has adopted Ordinance 874 which established Temporary Use regulations for the City; and

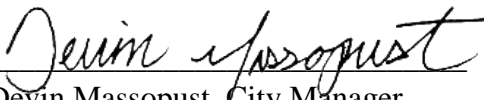
**WHEREAS**, Ordinance 874 allows the City Council to identify temporary uses that can be administratively approved by the Department of Community Assets and Development; and

**WHEREAS**, the current COVID-19 pandemic presents economic challenges to residents and businesses which demand that some uses historically authorized via SUP can also be temporarily approved via temporary use permit;

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the City Council of New Brighton adopts the list of authorized 2020 temporary uses outlined in Exhibit A.

**ADOPTED** this 26<sup>th</sup> day of May 2020, by the New Brighton City Council with a vote of 5 ayes and 0 nays.

  
Valerie Johnson, Mayor

  
Devin Massopust, City Manager

ATTEST:

  
Terri Spangrud, City Clerk





## Exhibit A

2020 AUTHORIZED TEMPORARY USES & STRUCTURES			
Temporary Use or Structure	Allowable Duration (per site)	Permit(s) Required	Additional Requirements
<b>Temporary Structure</b>			
Construction Dumpsters (not associated with a valid building permit)	60 days	Yes if in ROW	(1)
Construction Trailer	Until issuance of certificate of occupancy	Yes	(2)
Outdoor Dining in Conjunction with a Licensed Food Establishment	As noted in the Temporary Use Permit by the Department of Community Assets & Development; or if not noted, the current calendar year	Yes	(3)
Real Estate Office / Model Sales Home	Until 85% occupancy of the phase is reached	Yes + Building Permit	(4)
Temporary Signs	30 days, or as specifically allowed as a component of another validly issued temporary use permit	Yes	Zoning Section 9-046
Temporary Storage in a Portable Container	14 days per year	No	(5)
Use of Mobile Homes, Trailers, Campers, etc	90 days	Yes	(6)

### (1) Construction Dumpster

- (a) All temporary trash receptacles or dumpsters, regardless of location, shall adhere to the following standards:
  - (i) Not be placed within five feet of a fire hydrant or mailbox, or be within a required landscaping area;
  - (ii) Be secured with a cover to prevent litter and debris from escaping the dumpster; and
  - (iii) Be promptly removed once full.
- (b) Temporary trash receptacles or dumpsters located **outside public rights-of-way** are not required to obtain a temporary use permit, but shall comply with the following additional standards:
  - (i) Be located on the driveway, or to the side or the rear of the site to the maximum extent practicable;

- (c) Temporary trash receptacles or dumpsters that cannot reasonably be kept on private property under subdivision (b) above may be placed **in the right-of-way** subject to the following additional standards:
  - (i) A temporary use permit shall be obtained prior to placement of the dumpster; and
  - (ii) The maximum timeframe for keeping a trash receptacle or dumpster within the ROW shall be seven (7) calendar days, or if supported by the project, a longer timeframe as agreed to with the Department of Community Assets & Development.

## **(2) Construction Trailer**

- (a) Construction trailers may be permitted on a construction site provided that the trailer is:
  - (i) Approved by the Community Development Department for location, safety, and compatibility with adjacent properties;
  - (ii) Located on the same site or in the same development as the related construction;
  - (iii) Not located within a required landscape area; and
  - (iv) Associated with development for which a valid Building Permit has been or will be issued.
- (b) The applicant shall be required to restore the trailer site to its previous condition if the trailer is located off the construction site.

## **(3) Outdoor Dining in Conjunction with a Licensed Food Establishment**

Outdoor dining areas may be temporarily permitted for licensed food establishments provided the following conditions can be met:

- (a) Adequate screening, fencing, and/or other requirements may be required as needed to ensure the dining area does not have a detrimental impact on adjoining properties or the general public.
- (b) Temporary encroachment into the front yard setback may also be permitted subject to the following:
  - (i) The outdoor dining area is adjacent to the principal building, and primary access is provided from within the principal building;
  - (ii) The design of the patio area and any fencing and landscaping are such that sight lines in and out of existing or proposed access points are not obstructed;
  - (iii) Temporary structures are not erected within the outdoor dining area;
  - (iv) Banners, streamers or other types of permanent or temporary signs are not placed or displayed in the outdoor dining areas;
  - (v) The patio does not take on characteristics of a building having a roof and/or walls
  - (vi) The applicant adheres to any other conditions deemed necessary by the Department of Community Assets & Development.

#### **(4) Real Estate Sales Office/Model Sales Home**

One temporary real estate sales office or model sales home per builder or developer may be temporarily permitted in a section or phase of a new residential or nonresidential development provided the office or model home:

- (a)** Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;
- (b)** Complies with the applicable standards in the approved development plan (if applicable);
- (c)** Is operated by a developer or builder active in the same phase or section where the use is located; and
- (d)** Is removed or the model home is converted into permanent residential use once 85 percent occupancy in the section or phase of the development is reached.

#### **(5) Temporary Storage in a Portable Shipping Container**

Temporary storage in a portable shipping container shall be permitted to serve an existing use subject to the following standards:

- (a)** The location shall be subject to approval by the Department of Community Assets and Development; and
- (b)** The storage container shall not impede ingress, egress, or emergency access to the property or structure being served.
- (c)** The storage container shall not be used as living quarters at any time.

#### **(6) Use of Mobile Homes, Trailers, or Campers**

- (a)** A Mobile Home, Trailer, or Camper designed for habitation; owned by a non-resident, guest, or visitor; may be parked or occupied by the guest or visitor on private property containing a permanent dwelling unit for a period not to exceed ninety (90) days if authorized via temporary use permit.
- (b)** The Mobile Home, Trailer, or Camper shall have self-contained sanitary facilities or standard on-site facilities meeting all requirements outlined by the Department of Community Assets & Development in the temporary use permit.
- (c)** The temporary use permit authorizing the use shall be displayed in a conspicuous location on the outside of the vehicle.