

Commissioner Gjerdevig introduced the following resolution and moved its adoption:

**RESOLUTION ADOPTING A TEMPORARY MORATORIUM RELATING TO THE
RETAIL SALE OF ALCOHOLIC BEVERAGES**

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WEST FARGO, NORTH DAKOTA:

WHEREAS, on March 16, 2020, the Mayor of the City of West Fargo, North Dakota, (the “City”) declared a state of emergency as a result of the Coronavirus Disease 2019 (“COVID-19”) pandemic; and

WHEREAS, on March 19, 2020, the Governor of the State of North Dakota issued Executive Order 2020-06, declaring that, “Effective at 12:00 p.m., Friday March 20, all restaurants, bars, breweries, cafes and similar on-site dining establishments are closed to onsale/on-site patrons; take-out, delivery, curbside, drive-through or off-sale services may continue; this requirement will continue through Monday, April 6, 2020.”; and

WHEREAS, pursuant to Chapter 40-05.1 of the North Dakota Century Code and the Home Rule Charter of the City, the City Commission has the authority to provide for the public health, safety, and morals of the City by regulating the sale and consumption of alcoholic beverages (Section 10-0101 of the Revised Ordinances of 1990 of the City of West Fargo); and

WHEREAS, section 40-05-01, subd. 1 and 29, permit the governing body of a municipality, “to enact or adopt all such ordinances, resolutions, and regulations, not repugnant to the constitution to the constitution and laws of this state, as may be proper and necessary to carry into effect the powers granted to such municipalities or as the general welfare of the municipality may require...” which includes the power “to regulate the use and sale of alcoholic beverages...”; and

WHEREAS, the City Commission finds that a resolution adopting a moratorium relating to the retail sale of alcoholic beverages will benefit the health, safety, and welfare of the City by providing appropriate means for the delivery of meals, including beverages, to individuals and families while fostering appropriate social distancing measures.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of West Fargo as follows:

1. Any sale of sealed cans or bottles of alcoholic beverages to customers taking delivery of prepared food from a restaurant within the City, also licensed to serve on-sale alcoholic beverages by way of “take-out,” “curbside delivery,” “drive-through,” or by other lawful means of delivery shall be deemed to be “on-sale” service or sale of such alcoholic beverages. Delivery of prepared food without any accompanied sale of alcoholic beverages may be delivered by agents or third party delivery services. Employees who deliver alcoholic beverages must be at least twenty-one (21) years old and be able to provide proof of age if asked by the City of West Fargo.

2. The definition of the term, “on-sale,” as set forth in Section 10-0102 (15) of the Revised Ordinances of 1990 of the City of West Fargo, limiting the “sale of alcoholic beverages

for consumption only on the Licensed Premises where sold,” shall be enforced such that sealed cans or bottles of alcoholic beverages along with such food or meals sold by the restaurant and served or delivered by means such as “take-out,” “curbside delivery,” “drive-through,” or other such lawful means are hereby deemed to have been consumed on the licensed premises so long as said alcoholic beverages are accompanied by food purchased from the restaurant.

3. The Commission President is hereby authorized to promulgate and issue one or more executive orders as may be necessary to implement and clarify the terms of this moratorium, under the authority of the Section 10-0101 of the Revised Ordinances of 1990 of the City of West Fargo and hereof, which executive orders may be further ratified or amended by the Board of City Commissioners as necessary or appropriate.

4. This moratorium as to the enforcement of certain regulations or ordinances of the City shall serve to instruct, order, and limit law enforcement officers and prosecutors of the City, or any other officer or agent to refrain from enforcing City ordinances contrary to the terms of this Resolution and to refrain from charging or citing persons, firms, or other entities accordingly. Said instruction, order, and limitation in enforcement shall survive the termination of this moratorium, whether such termination occurs by lapse of time or by an affirmative act of the City Commission.

5. This moratorium shall take effect immediately upon its adoption and shall extend until 11:59 p.m. on the 27th day of April, 2020, unless otherwise terminated or extended by resolution or motion of the Board of City Commissioners.

Dated this 25th day of March, 2020.

APPROVED:



Bernie L. Dardis, President of the Board of City Commissioners

ATTEST:



Tina M. Fisk, City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner Olson, and upon vote being taken thereon, the following voted in favor thereof: Gjerdevig, Olson, Simmons, Thorstad, and Dardis. The following commissioners were absent and not voting: none. The following commissioners voted nay: none. The majority having voted aye, the motion carried and the resolution was duly adopted.