

**BOARD OF TRUSTEES  
TOWN OF NORWOOD, COLORADO  
ORDINANCE NO. 0205  
SERIES OF 2020**

**AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF NORWOOD, COLORADO APPROVING AMENDMENTS TO NORWOOD MUNICIPAL CODE TITLE 7, “LAND USE CODE” FOR THE REGULATION OF FORMULA BUSINESSES AND SPECIFICALLY AMENDING SECTION 1.06, “NONCONFORMING PROVISIONS”, SECTION 2.00, “DEFINITIONS”, SECTION 3.05, “USE REGULATIONS”, AND SECTION 3.10, “B-1 BUSINESS DISTRICT.**

**WHEREAS**, the Town of Norwood has developed a unique community character in its B-1, Business District and the Town desires to maintain this unique character and protect the community’s economic vitality by ensuring a diversity of businesses with sufficient opportunities for independent entrepreneurs; and

**WHEREAS**, at a public hearing held on December 16, 2019, the Norwood Planning and Zoning Commission recommended the Town regulate Formula Business Establishments within the B-1, Business District and further that Formula Business Establishments only be allowed if approved as a Conditional Use; and

**WHEREAS**, the Board of Trustees for the Town of Norwood, Colorado FINDS that there exists a substantial and compelling public interest for amendments to the Norwood Land Use Code for the regulation of formula businesses and that the amendments are necessary to protect the public health, welfare and safety of the Town and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF NORWOOD, COLORADO as follows:**

**Section One.**

A. Norwood Municipal Code Title 7 be amended at Section 1.06, “Nonconforming Provisions” by the addition of a new paragraph (e) to read as follows:

(e) Nonconforming Formula Business Establishment. No businesses that exist within the Town as of the February 5, 2020 meet the definition of a Formula Business Establishment, and furthermore, if it could be construed that any business that exists within the Town as of Norwood did meet the definition of a Formula Business, any such business in operation prior to February 5, 2020 is exempt from these regulations, and may relocate, expand, sell or otherwise modify same exempt from these regulations and otherwise in compliance with the Land Use Ordinance.

B. Norwood Municipal Code Title 7 be amended at Section 2.02, “Definitions” by the addition of a new definition “Formula Business Establishment” to read as follows:

**Formula Business Establishment** means a business which is required by contractual or other arrangement: (1) to conform generally to a certain business model with standardized features that may include exterior façade, architecture, layout, signage, array of services, array of

merchandise, trademarks, logos, servicemarks, symbols, color scheme, interior decor, uniforms, and/or centralized corporate control with minimal local autonomy; **and** (2) which causes it to be substantially identical to more than five other businesses regardless of ownership or location. Formula businesses can include, but are not limited to restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B. For purposes of this definition, the following also apply:

- (i) Array of merchandise means fifty percent (50%) or more of the in-stock merchandise is from a single manufacturer or distributor bearing uniform markings, AND/OR the type, arrangement and pricing of the inventory is generally standardized.
- (ii) Array of services means a substantially similar set of services or food and beverage menus that are priced, prepared and performed in a consistent manner that distinguishes the source of a service of one party from those of others.
- (iii) Color scheme means the selection of colors used throughout the business, such as on the walls, furnishings, permanent fixtures or on the building façade.
- (iv) Décor means the interior design and furnishings that may include style of furnishings, shelving, display shelving/racks, wall coverings or other permanent fixtures.
- (v) Façade means the principal exterior face or front of a building, including awnings that are oriented towards a public area (including without limitation a street, alley or parking lot).
- (vi) Servicemark means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service of one party from those of others.
- (vii) Standardized means there is a basis for comparison against which items can be evaluated for similarity in order to assure consistency and regularity; to conform to a standard set by the business.
- (viii) Substantially identical means identical in most fundamental and material aspects. For example, a sign may be substantially identical to another if the color, font, and style are fundamentally identical even if the size is not identical; or a building may be substantially identical to another if the general construction methods, materials and architecture are fundamentally identical even if the exterior façade materials and/or size of the structure is not identical.
- (ix) Trademark means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs legally registered or established by use that distinguishes the source of the product of one party from those of others.
- (x) Uniform apparel means standardized items of clothing, including but not limited to standardized aprons, pants, shirts, vests, smocks or dresses, and hat and pins (other than name tags) with standardized colors and fabrics.

C. Norwood Municipal Code Title 7 be amended at Section 3.05, Use Regulations, as follows:

1. By the addition of the following statement as the second sentence at Sections 3.05(c)(1), (2) and (5): "In the event that any use, regardless of classification, meets the definition of Formula Business Establishment it may only be permitted as a conditional use subject to special use conditions 13 and 21 of Section 3.05(d) in addition to any other special use condition applicable to that certain use.
2. Section 3.05(d), Special use conditions, is amended by the addition of a new paragraph (21) to read as follows:

(21) Formula Business Establishment.

a. Any approval of a Conditional Use Permit for a Formula Business Establishment shall be, at a minimum, subject to:

i) Section 6.10, Conditional Use Permits; and

ii) A determination of whether the business can be operated and managed in a manner compatible with Norwood's Master Plan, including without limitation Norwood's small-town scale and rural character by assessing how well it will:

- provide for town residents in supplying jobs and services
- provide for local management authority
- support the community; i.e. ensure it supports economic cooperation with existing small, locally owned businesses
- put long-term community interest over short-term economic gain
- tie its future economic success to that of the community
- work with the town to resolve conflicts
- provide living wages and benefits for its employees
- use best management practices to meet applicable environmental standards

iii) Consideration of architectural design, building materials, color scheme, signage, landscaping and other site development aspects to fit the Town's character and be compatible with the Master Plan.

iv) Consideration of potential requirements for bonding and/or decommissioning any building or other improvement as part of the approval process.

v) Compliance with all other Land Use Ordinance provisions and other applicable laws.

D. Norwood Municipal Code Title 7 be amended at Sections 3.10(b) and (c) to add the following statement after the sentence proceeding the lists in the respective sections: "Further, notwithstanding any contrary term or provision herein, in the event that any use, regardless of classification, meets the definition of Formula Business Establishment it may only be permitted as a conditional use subject to special use conditions 13 and 21 of Section 3.05(d) in addition to any other special use condition applicable to that certain use.

E. The Town Planner is authorized to correct typographical errors, conform cross-references and make other non-substantial revisions such as formatting as necessary.

**Section Two. Severability.**

The provisions of this ordinance are severable and the invalidity of any section, phrase, clause or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

**Section Three.**

This ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.

**Section Four. February Fifth, 2020.**

The effective date of this Ordinance shall be February 5, 2020 at the time of its adoption.


**APPROVED, ADOPTED AND ORDERED PUBLISHED this 5<sup>th</sup> day of February, 2020.**

**ATTEST:**

By:

  
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C. Kieffer Parrino, Mayor

By:

  
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Gretchen R. Wells, Town Clerk