

ORDER NO. 2020- 09

AN ORDER OF THE INTERIM MANAGER OF THE CITY OF DURANGO PURSUANT TO THE EMERGENCY DECLARATION RELATED TO THE COVID-19 HEALTH CRISIS DEFINING CERTAIN PORTIONS OF CITY RIGHT OF WAY TO BE USED FOR TEMPORARY OUTDOOR COMMERCE AND PROVIDING FOR LICENSING PROCEDURES FOR THOSE AREAS DURING THE PERIOD WHEN THE EMERGENCY DECLARATION IS IN EFFECT

WHEREAS, the Interim City Manager of the City of Durango entered an Emergency Declaration under the provisions of Chapter 9 of the City Code related to the COVID-19 health crisis on March 16, 2020 (the Emergency Declaration); and

WHEREAS, the Durango City Council adopted Resolution No. 2020-07 on March 17, 2020 which ratified and extended the Emergency Declaration (the Resolution); and.

WHEREAS, Governor Polis has lifted the Stay at Home orders and has issued “Safer at Home” Orders allowing for the phased re-opening of businesses and in-person dining at restaurants at a reduced capacity; and

WHEREAS, in conjunction with this re-opening schedule, the Governor is encouraging cities and counties to pass rules that allow for expanded outdoor space for eligible restaurants and retail establishments so they can operate safely by adhering to the social distancing requirements of the local and state health department orders; and

WHEREAS, on June 5, 2020 Governor Polis issued an Order that temporarily suspended the statutory limitation that prohibits public consumption of alcoholic beverages on any public right of way that has been authorized to allow such consumption by ordinance, resolution, or rule adopted by a municipality, city and county or county; and

WHEREAS, on May 27, 2020, the Colorado Department of Public Health and Environment issued COVID-19 Guidance for Restaurants and Food Services to allow restaurants to open subject to health and safety requirements; and

WHEREAS, among the rules are requirements related to creating safe distances between patrons and staff members. The order requires that restaurants take steps to make sure that people do not congregate in higher densities; and

WHEREAS, San Juan Basin Public Health Department amended their “Safer La Plata” orders to strengthen requirements and to be in alignment with the Colorado Department of Public Health and Environment’s orders; and

WHEREAS, these public health orders provide guidelines for the phased re-opening of businesses, restaurants, retail establishments, and other types of businesses; and

WHEREAS, the provisions of the City Code provide a wide range of authority to the Interim City Manager to adopt orders designed to help mitigate the impacts of the COVID-19 virus within the City, including the authority to suspend any City process or to amend other function of the City in a manner that abates or mitigates the effects of the emergency; and

WHEREAS, the health crisis has and will continue to have a severe economic impact on local business that may threaten the continued existence of many those businesses with locations within the City. It is the intent of this Order to define portions of City rights of way for use as Temporary Outdoor Commerce areas and to allow for the issuance of Temporary Outdoor Commerce License Agreements and other necessary permits to businesses to allow them to conduct outdoor commerce on those areas to protect public safety and to maximize revenues during the time the Emergency Declaration is in effect.

ORDER:


Based on the foregoing, and pursuant to the authority described in Chapter 9 of the City Code and as affirmed in the Resolution, it is ORDERED as follows:

1. Those portions of the City Streets and sidewalk rights of way within the Central Business District, Mixed Use Arterial and Mixed Use Neighborhood zone districts hereby designated as being available for use by businesses as temporary outdoor commerce locations, subject to the requirement that such areas are found to be lawful and appropriate for such uses by the City's Land Use Administrator and that the businesses seeking such uses have otherwise received all approvals and permits as described herein, and that they execute and comply with the terms of an approved Temporary Outdoor Commerce License Agreement. The use of sidewalks to cross into temporary outdoor commerce areas or to serve liquor in approved modified premises or other approved temporary uses may be included in a Temporary Outdoor Commerce License Agreement.
2. This Order may be amended to either include additional rights of way to be designated as temporary outdoor commerce locations or to otherwise modify or amend any designation contained herein or to modify approval processes.
3. Any person who desires to use portions of the street or sidewalk rights of way as defined herein for temporary outdoor commerce shall submit an application for such use to the City's Community Development Department. The authority to review and approve those applications is hereby delegated to the City's Land Use Administrator, or their designee. The City shall create an application and guidelines for the temporary uses which assure that the public health, safety and welfare is maintained, including the following items:
 - a. Access to infrastructure, storm inlets, fire hydrants, communications, electrical equipment, utilities and other similar uses are protected and maintained.
 - b. Maintenance of ADA access as otherwise required by law.
 - c. Adequate and safe access by the public and emergency providers is maintained to all properties along Main Avenue.

- d. Traffic safety is maintained.
 - e. The health, safety and convenience of other business is maintained.
 - f. Limitation on operations are used to mitigate impacts to neighboring properties.
4. Any temporary use of City right of way or other property that includes the sale, service or furnishing of alcoholic beverages of any kind shall require local and state approval for the modification of an existing liquor licensed premises or other temporary modifications to or provisions to share the use of the premises as permitted under state law or other orders and regulations to allow for those uses. The local portion of that review and approval for a modification of premises or shared use of a premises is hereby delegated to the City Clerk, or their designee. State approval is required prior to any use of the right of way or other expanded or shared area by a Licensee as a modified liquor licensed premises.
 5. Upon the receipt of all approvals required herein, the City Manager or their designee may approve a Temporary Outdoor Commerce License Agreement for those approved uses.
 6. Licensees must comply with all applicable state and local public health orders regarding operation of the business, any self-certification requirements and any other laws, regulations or rules imposed by any entity with jurisdiction.
 7. Nothing in this Order or any Temporary Outdoor Commerce License Agreement is intended to allow for the operation of any business or to conduct any activity which is not otherwise authorized under the City Code, or under any local or state health orders or executive orders.

This Order shall remain in effect until further written action of the Interim City Manager.

Date: 6/10/2020



Interim City Manager, City of Durango, Colorado