

**TOWN OF PAGOSA SPRINGS, COLORADO**

**ADMINISTRATIVE ORDER NO 3**

**AN ADMINISTRATIVE ORDER ADOPTING POLICIES AND PROCEDURES FOR ADMINISTRATION OF TEMPORARY OUTDOOR SEATING AND USE PERMITS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended on April 3, 2012, April 23, 2013, April 22, 2014 and April 3, 2018 (the “Charter”); and

WHEREAS, pursuant to Section 1.4 (A) of the Charter, the Town has all power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, the Governor of the State of Colorado declared a disaster emergency on March 11, 2020 due to the COVID-19 pandemic; and

WHEREAS, the Town Council of the Town of Pagosa Springs declared a local disaster emergency on March 19, 2020, which has been extended by the Town Council, due the COVID-19 pandemic; and

WHEREAS, the Governor of Colorado’s Executive Order 2020-079 amends the 2020-044 Safer At Home Executive Order and provides that restaurants may begin offering outside dining and limited indoor dining in accordance with public health orders and mandatory social distancing requirements; and

WHEREAS, the Town’s Charter and Municipal Code provide for the Town Manager to make administrative decisions that further the goals of the Town Council in accordance with local and state laws; and

WHEREAS, the Town of Pagosa Springs wishes to support restaurants that have been negatively impacted by closures due to the coronavirus; and

WHEREAS, the Town of Pagosa Springs desires to provide procedures for local restaurants that wish to expand their physical premises on a temporary basis to allow for increased seating and service areas; and

WHEREAS, Article 10 Section 10.11 of the Charter provides that the Town may grant a permit or license at any time for the temporary use or occupation of any street, alley, other public way, or Town-owned place.

NOW, THEREFORE, BE IT RESOLVED by the Administration of the Town of Pagosa Springs, as follows:

1. **Adoption of Procedure.** The Procedure for Administrative Review of Temporary Outdoor Seating and Use Permits is set forth in **Exhibit A**, attached hereto and incorporated herein, is hereby adopted.

2. **Conflict.** In the event of conflict between the Pagosa Springs Charter, the Pagosa Springs Municipal Code, and the Policy for Administrative Review of Temporary Outdoor Seating and Use Permits, and any other policy, procedure, rule or regulation of the Authority, the terms of the Charter, the Municipal Code, and the Policy for Administrative Review of Temporary Outdoor Seating and Use Permits shall govern in that priority.

3. **Effective Date.** This Order shall become effective immediately upon adoption by the Town of Pagosa Springs.

4. **Severability.** If any part, section, subsection, sentence, clause or phrase of this Order is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

ADOPTED THIS 29<sup>th</sup> DAY OF May, 2020.

TOWN OF PAGOSA SPRINGS, COLORADO

By: *Andrea Phillips*  
Andrea Phillips  
Town Manager

## EXHIBIT A

### PROCEDURE FOR TEMPORARY OUTDOOR SEATING AND USE PERMITS FOR RESTAURANTS AND RETAIL ESTABLISHMENTS

The following shall serve as the procedure for administrative review of temporary use permits as further defined as “temporary outdoor seating and use permits” under provisions of the Pagosa Springs Municipal Code and shall serve as an outline of the process, as follows:

1. Use of the public right of way is being allowed on a temporary basis for adjacent commercial properties due to the social distancing requirements currently imposed during public health orders related to COVID-19. Permits may be revoked by the Town at any time in response to evolving health orders or use of public rights of way.
2. Hours of operation for restaurants shall not extend past 10 p.m. per the Governor’s order.
3. Bars or other establishments prohibited to open per the Governor’s Orders shall not be permitted to open under this Administrative Order.
4. The applicant shall comply with all current state and local public health orders in the expanded space. This includes, but is not limited to, increased disinfecting and sanitation of tables, chairs, menus, and condiments; employees shall wear facial coverings and patrons shall be encouraged to wear them as well.
5. Clear passage for the public, including compliance with ADA laws shall be provided.
6. **Application Procedures:** Prior to expanding into or planned use of adjacent public or private areas to the commercial establishment, the applicant shall first contact the Town of Pagosa Springs Planning Director for review and approval. At minimum, the application shall include the following:
  - a. Site plan or drawing depicting the area into which the applicant plans to expand. Measurements shall be provided. Location of tables and seating shall be shown.
  - b. To comply with state orders, tables shall be spaced no less than six (6) feet apart. No more than eight (8) people may occupy any one table.
  - c. Written permission by the business owner, property/building owner, and, if applicable, adjacent property owner into which the applicant desires to expand shall be included with the application.
  - d. Demonstration of location of barriers surrounding the temporary seating area shall be depicted on the site plan. Description of these barriers shall be provided.
  - e. Should the applicant desire to expand or modify the premises for a liquor license, the applicant shall receive approval from the Town of Pagosa Springs Town Council, concurrent with the State of Colorado.

- f. With the exception of liquor license fees imposed by the State of Colorado, no fee shall be collected by the Town associated with this application or review.
7. The holder of a license which authorizes the licensee to go upon public property shall indemnify and hold harmless the Town, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the licensed use, and shall maintain, during the period of the license, comprehensive general public liability and property damage insurance, naming the Town, its officers, employees and agents as insureds; providing that the insurance is primary insurance, and no other insurance maintained by the Town will be called upon to contribute a loss covered by the Town; and providing for thirty (30) days' notice of cancellation or material change to the Town.