

**TOWN OF MEAD, COLORADO
ORDINANCE NO. 939**

**AN EMERGENCY ORDINANCE OF THE TOWN OF MEAD, COLORADO,
AUTHORIZING AND CONFIRMING VARIOUS ADMINISTRATIVE APPROVAL
AUTHORITIES OF TOWN STAFF AND SUSPENDING OPERATION OF CERTAIN
PROVISIONS OF THE LAND USE CODE FOR THE DURATION OF THE COVID-19
PUBLIC HEALTH EMERGENCY DISASTER DECLARATION,
FOR THE PURPOSE OF ENHANCING PUBLIC HEALTH
AND PROMOTING ECONOMIC VITALITY**

WHEREAS, the Board of Trustees of the Town of Mead (“Board of Trustees”) has the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations that may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of the Town of Mead (“Town”); and

WHEREAS, the Mayor of the Town of Mead issued that certain Disaster Declaration Declaring a Public Health Emergency Relating to COVID-19 on March 21, 2020 (the “Disaster Declaration”), declaring that a public health emergency and disaster relating to the Novel Coronavirus 2019 (COVID-19) exists within the Town of Mead (“Town”); and

WHEREAS, such Disaster Declaration regarding COVID-19 is ongoing and remains in effect; and

WHEREAS, the COVID-19 pandemic has caused detrimental impacts to the Town, and to its residents and businesses; and

WHEREAS, those detrimental impacts include not only the heightened public health risk of infection and spread of the virus, but also reduced business activity due to legal, logistical, and practical limitations resulting from various previously-issued orders and directives intended to address the pandemic; and

WHEREAS, evidence derived from studies of COVID-19 confirms the efficacy of social distancing in protecting public health during the pandemic, and also suggests that outdoor environments are generally comparatively safer than enclosed spaces, all other factors being equal; and

WHEREAS, by this Ordinance the Board desires to facilitate both social distancing and the utilization of the outdoor space to accomplish such social distancing, in the specific context of the Town’s restaurant (including food/beverage) and retail business community; and

WHEREAS, the restaurant sector has particularly, but not exclusively, experienced the detrimental effects of the ongoing pandemic; and

WHEREAS, on May 15, 2020, due to public health concerns raised by the presence of COVID-19 in the state, the Liquor Enforcement Division for the State of Colorado issued Emergency Regulation 47-302 in Bulletin 20.07 (“Emergency Regulation 47-302”) establishing procedures for a licensee seeking to temporarily modify liquor-licensed premises, including into outdoor areas contiguous or adjacent to the existing licensed premises; and

WHEREAS, pursuant to § 6-3-50 of the Mead Municipal Code (“MMC”), the Liquor Licensing Authority for the Town is the Board, and pursuant to § 6-3-90(b) of the MMC, the Town Clerk is

authorized to assist the Liquor Licensing Authority and is vested with the authority to administratively review and approve modifications or alterations to licensed premises; and

WHEREAS, pursuant to Emergency Regulation 47-302, a licensee must seek permission of the relevant Local Licensing Authority in addition to the State Licensing Authority to temporarily modify its licensed premises for the purpose of facilitating social distancing by employees and customers; and

WHEREAS, in addition to the Town Clerk's pre-existing authority pursuant to the afore-referenced § 6-3-90(b) of the MMC, the Board desires to delegate and confirm the Town Clerk's authority, acting on behalf of the Board as Local Licensing Authority, to administratively review and approve temporary modifications to liquor-licensed premises for the specific purpose of facilitating social distancing, in conjunction with Emergency Regulation 47-302; and

WHEREAS, pursuant to § 16-3-70 of the MMC, the Town Manager is authorized to approve a variety of temporary uses including, but not limited to, restaurants with outdoor seating areas, sidewalk cafes utilizing outdoor space including sidewalks and/or public rights-of-way, mobile retail food establishments (including food trucks), and other uses determined to not jeopardize the health, safety, or general welfare, or be injurious or detrimental to nearby properties; and

WHEREAS, pursuant to § 31-15-702, C.R.S., the Board is authorized to manage and regulate the use and occupation of lands dedicated to the public use as rights-of-way; and

WHEREAS, to efficiently accommodate and facilitate the needs of the Town's restaurant and retail business community during the pendency of the Disaster Declaration and thereby promote the economic vitality of the Town, the Board desires to confirm and enhance administrative review and approval of temporary land uses and outdoor components thereof, including but not limited to eating and drinking, other outdoor sales, or other outdoor commercial activities; and

WHEREAS, the Board specifically finds and declares that it is in the best interests of the health, welfare, and safety of the residents of the Town to permit, or confirm and enhance, as applicable, the ability of Town Staff to administratively review and approve the following applications or requests, as they may relate to or be necessitated by the COVID-19 pandemic (e.g., to facilitate social distancing): (1) requests for liquor-licensed premises modifications; (2) permits to encroach in the Town's rights-of-way; and (3) temporary land uses (or components thereof) for outdoor activities to accommodate businesses, for the duration of the Disaster Declaration; and

WHEREAS, the Board believes that taking the actions herein set forth will not only preserve and protect the public health, safety, and welfare of the residents of and visitors to the Town, but also promote and enhance the economic vitality of the Town; and

WHEREAS, the Board finds and determines that the actions taken or authorized hereby are necessary to the immediate preservation of public health and safety and that this Ordinance should therefore become effective upon adoption, as authorized by § 31-16-105, C.R.S.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Mead, Weld County, Colorado, that:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board.

Section 2. Delegations of Administrative Authority. To the extent such authority does not already exist, and specifically for the purposes set forth herein with regard to the COVID-19 pandemic, the Board delegates to Town Staff the authority to administratively review and approve applications and requests as follows:

- (1) The Town Clerk is authorized to administratively review and approve temporary modifications of liquor-licensed premises pursuant to Article III of Chapter 6 of the MMC, in accordance with Emergency Regulation 47-302.
- (2) The Town Manager (or designee) is authorized to administratively review and approve temporary use permits to encroach upon the Town's right-of-way to facilitate expansion of outdoor seating areas for dining, in accordance with the requirements and orders issued by the Colorado Department of Public Health and Environment and by Weld County Public Health.
- (3) The Town Manager (or designee) is authorized to administratively review and approve temporary land uses for eating and drinking, outdoor sales, or other outdoor commercial activities or establishments to facilitate social distancing in accordance with the recommendations and orders issued by the Colorado Department of Public Health and Environment and by Weld County Public Health.

In addition, the Town Manager or designee shall be authorized to execute any right-of-way encroachment license agreements, or such other letters or agreements as necessary to properly document the approval or conditional approval of the applications or requests set forth above.

Section 3. Compliance. Notwithstanding the foregoing, nothing herein shall excuse a liquor licensee from complying with all other applicable provisions of Article III of Chapter 6 of the MMC, state law (§§ 44-3-101 et seq. and 44-4-101 et seq., C.R.S.), or other conditions of the liquor license, or excuse any individual or entity who receives an administrative approval referenced in Section 2 of this Ordinance from complying with all other applicable provisions of the MMC including, specifically, Chapter 16 thereof.

Section 4. Suspension of Operation. The following provisions of the Land Use Code (Chapter 16 of the MMC) are suspended from operation (subject to the limitations below), such suspension to automatically expire upon the expiration of the Disaster Declaration, or upon action of the Board to terminate such suspension, whichever occurs first:

- (1) MMC §16-3-150(e) (Board's ratification by ordinance of Town Manager's approval of Waiver from Land Use Code provisions); provided that such Waiver or need therefor is specifically attributable to the COVID-19 pandemic, is consistent with the purpose and intent of this Ordinance, and derives from or relates to one or more of the delegations of authority set forth in Section 2 of this Ordinance;
- (2) MMC §16-3-150(f) and -150(g) (Only as to requirement to memorialize each Waiver in an ordinance of the Board ("Waiver Ordinance") and record a Waiver Ordinance with the Weld County Clerk and Recorder); provided that

such Waiver or need therefor is specifically attributable to the COVID-19 pandemic, is consistent with the purpose and intent of this Ordinance, and derives from or relates to one or more of the delegations of authority set forth in Section 2 of this Ordinance.

For purposes of this Ordinance only, and for no other purpose, the term “special conditions and circumstances” as referenced in MMC §16-3-150(a) shall be deemed to include the COVID-19 pandemic during the pendency of the Town’s Disaster Declaration. All other applicable requirements of MMC §16-3-150, including the satisfaction of approval criteria, shall be required to be met for the issuance of a Waiver.

Section 5. Automatic Expiration. Any additional authority delegated to Town Staff by this Ordinance (i.e., any Town Staff authority beyond that pre-existing this Ordinance, and specifically granted by this Ordinance) automatically expires upon the expiration of the Disaster Declaration, or upon action of the Board to revoke the delegation of authority, whichever occurs first.

Section 6. No Amendment of Codification. Notwithstanding pre-existing Town Staff authority, any additional authority to Town Staff specifically delegated by this Ordinance is deemed temporary; therefore, this Ordinance does not amend the MMC and is not codified.

Section 7. Certification. The Town Clerk shall certify to the passage of this Ordinance and make not less than one copy thereof available for inspection by the public during regular business hours.


Section 8. Severability. Should any one or more sections or provisions of this Ordinance or of the MMC provisions affected hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such MMC provision, the intention being that the various sections and provisions are severable.


Section 9. Emergency declaration. Pursuant to C.R.S. § 31-16-105, the Board hereby finds and determines that the delegations of authority and other actions as are set forth herein are necessary to the immediate preservation of public health and safety. The Board further declares that a special emergency exists, and that this Ordinance is necessary for the immediate preservation of the public health and safety and shall therefore become effective upon adoption.


INTRODUCED, READ, PASSED, AND ADOPTED THIS 27TH DAY OF JULY, 2020.

ATTEST:

TOWN OF MEAD

By: 
Mary E. Strutt, MMC Town Clerk



By: 
Colleen G. Whitlow, Mayor