

RESOLUTION NO. 2021 – 04

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE TEMPORARY SUSPENSION OF SPECIFIC SECTIONS OF MOSCOW CITY CODE TITLE 9, CHAPTER 12, SIDEWALK CAFÉ REGULATIONS; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

WHEREAS, the health and safety of all citizens of the city of Moscow is the greatest priority and is of the utmost importance of the Mayor and City Council; and

WHEREAS, the coronavirus (hereinafter, COVID-19), a respiratory disease caused by the SARS-CoV-2 virus, has been declared a public health emergency by the World Health Organization (WHO) since January 30, 2020. On March 11, 2020 the WHO made the assessment COVID-19 can be characterized as a pandemic; and

WHEREAS, the Centers for Disease Control and Prevention (hereinafter “CDC”) identifies the potential public health threat posed by COVID-19 both globally and in the United States as “high”, and has advised that person-to-person spread of COVID-19 will continue to occur globally, including within the United States; and

WHEREAS, on March 13, 2020, Idaho Governor Brad Little, pursuant to Idaho Code § 46-1008, declared a state of emergency due to COVID-19, which is still in effect; and

WHEREAS, since March 13, 2020, Moscow Mayor Bill Lambert and the City Council have been taking measures to protect our community due to the ongoing threat to public life and property, and have been encouraging our community members and community businesses to do their part to prevent and limit the spreading of this virus; and

WHEREAS, the City, as a municipal corporation of the State of Idaho, has the authority to exercise all powers and perform all functions of local self-government in city affairs that are not in conflict with the general laws or the constitution of the state of Idaho (I.C. § 50-301); and

WHEREAS, the City is empowered to make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the laws of the state of Idaho as may be expedient, in addition to the special powers in this act granted, to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry (I.C. § 50-302); and

WHEREAS, under Moscow City Code section 2-1-7 and Idaho Code § 50-304, the City may pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious diseases into the city; make quarantine laws for that purpose; and

WHEREAS, under Idaho Code § 50-606, the Mayor shall have such jurisdiction as may be vested in him/her by ordinance over all places within five (5) miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him/her by ordinance,

except taxation, within one (1) mile of the corporate limits of said city and over such properties as may be owned by the city without corporate limits; and

WHEREAS, under Idaho Code § 50-903, the City is empowered to revise and codify ordinances of a general and permanent nature and to make such changes, alterations, modifications, additions and substitutions therein as the City deems best; and

WHEREAS, both the CDC, the federal government, and our local public health district have recommended practices to prevent the community spread of COVID-19, including social distancing measures; and

WHEREAS, the risk of community spread throughout the city of Moscow was and is a continued threat, especially due to our unique location in Idaho and our close proximity to states and locations where there is a large number of confirmed COVID-19 cases and evidence of community spread; and

WHEREAS, the inability for certain businesses to follow the recommended social distancing guidelines due to the very nature of their business called for additional regulation to help slow the spread of COVID-19; and

WHEREAS, since Governor Little declared a state of emergency on March 13, 2020, in the State of Idaho, and said state of emergency has continued, with the most recent proclamation declaring the continuation of the state of emergency dated February 26, 2021, due to the occurrence and imminent threat to public health and safety; and

WHEREAS, Governor Little's February 26, 2021 proclamation directing all state agencies and departments to continue to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to, protect citizens from, and recover from COVID-19; and

WHEREAS, on February 26, 2021, Governor Little continued the temporary suspension of certain state regulations that are attached as an appendix to the Proclamation continuing the emergency declaration; and

WHEREAS, Idaho's Stage 3-Stay Healthy Guidelines, dated February 2, 2021, continues to recommend six-foot physical distancing and limits gatherings, which poses unprecedented and unique challenges for businesses, especially businesses that serve food and beverage and want to offer dine in service as permitted by the current order; and

WHEREAS, the Idaho State Police, Alcohol Beverage Control Unit has authorized Cities to expand the licensed area of eating and drinking establishments that serve alcohol beverages on a temporary basis to address the requirements and guidelines of the Governor's directives.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Moscow as follows:

1. Subject to the authority granted by this Resolution to the City Clerk, the requirements of the following Sections of Title 9, Chapter 12, Sidewalk Café Regulations, are suspended during the term of the state of emergency to assist in the COVID-19 response while


maintaining public safety.

- a. Sec. 12-1.B. “Licensed Area. The area or location upon public property and/or right-of-way and abutting an eating and/or drinking establishment within which a licensed Sidewalk Café may operate.” The portion of this section being suspended is the requirement that the right-of-way upon which the Sidewalk Café operates abuts the eating and/or drinking establishment. This requirement is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution to allow temporary expansion of Licensed Areas when the applicant has obtained the permission to expand the Sidewalk Café in front of a neighboring property.
- b. Sec. 12-3.B. “A Sidewalk Café license shall be issued for one (1) year, commencing on the date of license issuance and ending at midnight on December 31st of the year of issuance.” This section is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution, to issue temporary Sidewalk Café licenses from the effective date of this Resolution until its expiration.
- c. Sec. 12-3.C. “An annual fee to be paid upon issuance of a Sidewalk Café license shall be set from time to time by Resolution duly passed and adopted by the Council.” This section is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution, to issue temporary Sidewalk Café licenses without the requirement of collecting a fee from applicants.
- d. Sec. 12-4.F.4. “The licensee shall amend its existing State, County, and City alcohol license information to include the Licensed Area.” This section is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution and the Idaho State Police, Alcohol Beverage Control Unit, to allow temporary expansion of Licensed Area’s in appropriate circumstances.
- e. Sec. 12-4.F.5. “Delineation of the Licensed Area shall consist of a non-permanent physical barrier such as a railing, potted plants, decorative chain, fence, rope or other physical barrier, as required and approved by the City.” This section is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution, in appropriate circumstances, to waive the requirement that a Licensed Area maintain a physical barrier, while requiring delineation of the Licensed Area by other means.
- f. Sec. 12-6.G. “No Sidewalk Café located within Friendship Square shall operate during Farmer’s Market hours of operation.” This section being suspended also effectively temporarily modifies Resolution 2012-05 regarding the regulations of the designated “Speakers Space.”
- g. Sec. 12-6.C. “If liquor is served or allowed to be consumed in a Licensed Area, the establishment shall be a “full service restaurant”, as that term is defined in this Chapter.” This section is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution, to allow the serving of liquor by a duly licensed establishment without the necessity of being a full-service restaurant.

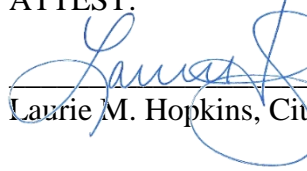
- h. Sec. 12-6.D. "The Sidewalk Café shall be specifically limited to the Licensed Area shown in the Sidewalk Café license and accompanying diagram and shall take up no more than fifty percent (50%) of the unobstructed portion of the abutting Sidewalk, except in accordance with specific regulations adopted by the Council by Resolution or as otherwise authorized or permitted by City." The portion of this section being suspended is the limitation of 50% of the unobstructed portion of the abutting right-of-way, if the City Clerk determines that the proposed configuration of the Licensed Area protects the four (4) contiguous feet of pedestrian access as required by Sec. 12-6 E. This requirement is being suspended in order to allow the City Clerk, in exercising the authority granted by this Resolution to allow temporary expansion of Licensed Areas.
2. The suspension of this requirement is necessary to permit eating and drinking establishments located in the Central Business District to provide increased opportunities for social distancing in order to comply with the Idaho Governor's and Idaho Director of Department of Health and Welfare's Stay Healthy Guidelines and aid in achieving compliance with the Business Protocols and Guidelines issued through Rebound Idaho.
 3. The City of Moscow encourages citizens to continue to practice appropriate social distancing, wearing a face covering when social distancing is difficult, and to employ increased hygiene measures in order to maintain the reduced COVID-19 infection rate that has been the result of their conscientious efforts during this outbreak.
 4. The City Clerk will be responsible for reviewing and approving Sidewalk Café Applications or Modifications consistent with this Resolution.
 5. All other requirements of the Sidewalk Café remain intact and are not impacted by this Resolution.
 6. This Resolution is in effect until December 1, 2021, unless terminated earlier by the Moscow City Supervisor pursuant to a determination by the City Supervisor that changing climate and weather conditions pose a risk to the public for the safe use of the public right-of-way. The City Supervisor will make this determination after consultation with City staff charged with maintaining the public right-of-way.
 7. This Resolution may be terminated, extended or modified by a subsequent Resolution.

That this Resolution shall become effective as of the 15th day of March, 2021.

PASSED BY THE CITY COUNCIL AND APPROVED by the Mayor of the City of Moscow, Idaho, this 15th day of March, 2021.


 Bill Lambert, Mayor

ATTEST:


 Laurie M. Hopkins, City Clerk

